

## Complaint

## IN THE MATTER OF

## HELEN HARRISON CANDIES, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

*Docket 4467. Complaint, Feb. 21, 1941—Decision, June 11, 1941*

Where a corporation engaged in the manufacture and the competitive interstate sale and distribution of candy, including certain assortments which were so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers; a typical assortment including thirty boxes of candy and a punchboard for use in sale thereof under a plan, as thereon explained, by which a purchaser paid one to five cents or nothing for a punch depending on the last digit of the number of the slip he secured from the 500-hole punchboard, and whether he received a box of candy or nothing for his money was similarly determined;

Sold such assortments to wholesalers, jobbers, and retailers, by whom, as direct or indirect purchasers, they were exposed and sold to the purchasing public, in accordance with aforesaid sales plan, involving game of chance to procure candy at price much less than normal retail price thereof; and thus supplied to and placed in the hands of others means of conducting lotteries in the sale of its products, contrary to the established public policy of the United States Government; and in competition with many who are unwilling to use such or other method contrary to public policy, and refrain therefrom;

With result that many persons were attracted by its said sales plan and the element of chance involved therein and were thereby induced to buy and sell its candy in preference to that of its said competitors, whereby trade was unfairly diverted to it from such competitors and substantial injury was done to competition:

*Held*, That such acts and practices were all to the prejudice and injury of the public, and its competitors, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

*Mr. J. W. Brookfield, Jr.*, for the Commission.

*Latimer, Donovan & Brown*, of Chicago, Ill., for respondent.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Helen Harrison Candies, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

## Complaint

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PARAGRAPH 1. Respondent Helen Harrison Candies, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 325 North Wells Street, Chicago, Ill. Respondent is now and for more than one year last past has been engaged in the manufacture and in the sale and distribution of candy to wholesale dealers, jobbers, and retail dealers located at points in the various States of the United States and in the District of Columbia. Respondent causes and has caused said candy, when sold, to be transported from its place of business in the city of Chicago, Ill., to purchasers thereof at their respective points of location in various States of the United States other than Illinois and in the District of Columbia. There is now and has been for more than six months last past a course of trade by respondent in such candy in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of said business, respondent is and has been in competition with other corporations and with partnerships and individuals engaged in the sale and distribution of candy in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent sells and has sold to wholesale dealers, jobbers, and retail dealers certain assortments of candy so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold and distributed to the consumers thereof. One of said assortments is hereinafter described for the purpose of showing the method used by respondent, and is as follows:

This assortment includes 30 boxes of candy and a punchboard. Appearing on the face of the punchboard is the following legend:

## CHATTERBOX ASS'T

With Helen Harrison Candies

Nos. 11—22—33—44—55—

66—77—88—99—100

RECEIVE A 1 LB.

## WINDMILL ASSORTMENT

Nos. 25—50—125—150—

225—250—325—425—450

RECEIVE A 1 LB.

## VICTORIAN ASSORTMENT

LAST SALE IN EACH OF FIRST

9 SECTIONS COMPLETED

RECEIVE A 1 LB. FLORAL BOX

LAST SALE ON BOARD RECEIVES THE  
BEAUTIFULLY LITHOGRAPHED 3 LB. TIN

50 FREE  
NUMBERS

All Numbers  
Ending In

1—PAY—1¢

2—PAY—2¢

3—PAY—3¢

4—PAY—4¢

5—6—7—8—9

PAY 5c

"0" are FREE

Said candy is distributed to the purchasing public in accordance with the foregoing legend and in the following manner:

The punchboard contains 500 punches, each concealing a number; said numbers are not arranged in numerical sequence. Whether a purchaser pays 1, 2, 3, 4, or 5 cents, or receives his chance free, is determined by the last digit of the number of the slip punched by him from the punchboard, and whether he receives a box of candy or nothing for his money is determined by the number appearing on the slip punched by him from said board. Persons who qualify by receiving one of the designated numbers receive a box of candy. Persons not obtaining one of the designated numbers receive nothing. The numbers are effectively concealed from purchasers and prospective purchasers until a punch selection has been made and a particular punch separated from the board. The candy is thus distributed to purchasers of punches from the board wholly by chance, and the amount to be paid for each punch or purchase is also determined wholly by chance.

The respondent furnishes and has furnished various punchboard and candy assortments for use in the sale and distribution of its candy by means of a game of chance, gift enterprise, or lottery scheme. Such punchboards and candy assortments are similar to the one herein described, and vary only in detail.

PAR. 3. Retail dealers who purchase respondent's candy directly or indirectly, expose and sell the same to the purchasing public in accordance with the sales plan aforesaid. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its products in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale of its candy and the sales of said candy by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States and in violation of the criminal laws.

PAR. 4. The sale of candy to the purchasing public by the method or plan hereinabove set forth involves a game of chance or the sale of a chance to procure candy at prices much less than the normal retail price thereof. Many persons, firms, and corporations who sell and distribute candy in competition with respondent, as above alleged, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondent in the sale and dis-

## Findings

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tribution of its candy and in the element of chance involved therein, and are thereby induced to buy and sell respondent's candy in preference to candy of said competitors of respondent who do not use the same or equivalent methods. The use of said method by respondent because of said game of chance has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from its said competitors who do not use the same or equivalent methods, and as a result thereof substantial injury is being and has been done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

## REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on February 21, 1941, issued and on February 24, 1941, served its complaint in this proceeding upon the respondent Helen Harrison Candies, Inc., a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 31, 1941, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to the said facts. Thereafter the proceeding regularly came on for final hearing before the Commission upon the said complaint and the answer thereto, and the Commission having duly considered the matter and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Helen Harrison Candies, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 325 North Wells Street, Chicago, Ill. Respondent

is now and for more than six months last past has been engaged in the manufacture and in the sale and distribution of candy to wholesale dealers, jobbers, and retail dealers located at points in the various States of the United States and in the District of Columbia. Respondent causes and has caused said candy, when sold, to be transported from its place of business in the city of Chicago, Ill., to purchasers thereof at their respective points of location in various States of the United States other than Illinois and in the District of Columbia. There is now and has been for more than 6 months last past a course of trade by respondent in such candy in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of said business, respondent is and has been in competition with other corporations and with partnerships and individuals engaged in the sale and distribution of candy in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent sells and has sold to wholesale dealers, jobbers, and retail dealers certain assortments of candy so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold and distributed to the consumers thereof. One of said assortments is hereinafter described for the purpose of showing the method used by respondent, and is as follows:

This assortment includes 30 boxes of candy and a punchboard. Appearing on the face of the punchboard is the following legend:

CHATTERBOX ASS'T  
 With Helen Harrison Candies  
 Nos. 11—22—33—44—55  
 —66—77—88—99—100  
 RECEIVE A 1 LB.  
 WINDMILL ASSORTMENT  
 Nos. 25—50—125—150—  
 225—250—325—425—450  
 RECEIVE 1 LB.  
 VICTORIAN ASSORTMENT  
 LAST SALE IN EACH OF FIRST  
 9 SECTIONS COMPLETED  
 RECEIVE A 1 LB. FLORAL BOX  
 LAST SALE ON BOARD RECEIVES THE  
 BEAUTIFULLY LITHOGRAPHED 3 LB. TIN

|                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------------------|
| 50 FREE<br>NUMBERS<br>All Numbers<br>Ending in<br>1—PAY—1¢<br>2—PAY—2¢<br>3—PAY—3¢<br>4—PAY—4¢<br>5—6—7—8—9<br>PAY 5¢ |
| "0" are FREE                                                                                                          |

Said candy is distributed to the purchasing public in accordance with the foregoing legend, and in the following manner:

The punchboard contains 500 punches, each concealing a number; said numbers are not arranged in numerical sequence. Whether a purchaser pays 1, 2, 3, 4, or 5 cents, or receives his chance free, is determined by the last digit of the number of the slip punched by him from the punchboard, and whether he receives a box of candy or nothing for his money is determined by the number appearing on the slip punched by him from said board. Persons who qualify by receiving one of the designated numbers receive a box of candy. Persons not obtaining one of the designated numbers receive nothing. The numbers are effectively concealed from purchasers and prospective purchasers until a punch selection has been made and a particular punch separated from the board. The candy is thus distributed to purchasers of punches from the board wholly by chance, and the amount to be paid for each punch or purchase is also determined wholly by chance.

The respondent furnishes and has furnished various punchboard and candy assortments for use in the sale and distribution of its candy by means of a game of chance, gift enterprise, or lottery scheme. Such punchboards and candy assortments are similar to the one herein described, and vary only in detail.

PAR. 3. Retail dealers who purchase respondent's candy, directly or indirectly, expose and sell the same to the purchasing public in accordance with the sales plan aforesaid. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its products in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale of its candy and the sales of said candy by and through the use thereof and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of candy to the purchasing public by the method or plan hereinabove set forth involves a game of chance or the sale of a chance to procure candy at prices much less than the normal retail price thereof. Many persons, firms, and corporations who sell and distribute candy in competition with respondent, as above found, are unwilling to adopt and use said method or any method involving a game of chance or the sale of a chance to win something by chance, or any other method contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by said sales plan or method employed by respondent in the sale and distribution of its candy and in the element of chance involved therein, and are thereby induced to buy and sell respondent's candy in preference to candy of said competitors of respondent who do not use the same or equiva-

lent methods. The use of said method by respondent because of said game of chance has a tendency and capacity to, and does, unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from its said competitors who do not use the same or equivalent methods, and as a result thereof substantial injury is being and has been done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

#### CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

#### ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That respondent, Helen Harrison Candies, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing candy or any merchandise so packed and assembled that sales of such candy or other merchandise to the general public are to be made, or may be made, by means of a game of chance, gift enterprise, or lottery scheme.

2. Supplying to, or placing in the hands of others, punchboards, push or pull cards or other lottery devices either with assortments of candy or other merchandise or separately, which said punchboards, push or pull cards or other lottery devices are to be used, or may be used, in selling or distributing such candy or other merchandise to the public.

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3. Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise, or lottery scheme.

*It is further ordered*, That the respondent shall, within 60 days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

## Complaint

IN THE MATTER OF  
SANDERS MANUFACTURING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

*Docket 3526. Complaint, Aug. 4, 1938—Decision, June 12, 1941*

Where a corporation engaged in the manufacture and the competitive interstate sale and distribution of advertising novelties, rulers, calendars, fans, flyswatters, punchboards, and various other articles—

Furnished purchasers various plans and devices which involved the operation of games of chance, gift enterprises, or lottery schemes by means of which said merchandise was distributed to the ultimate consumers wholly by lot or chance, and included, as typical, combination of one of the aforesaid articles of merchandise together with a punchboard for use under a sales plan providing that the purchaser of a "punch" who punched certain concealed number, received the article without additional payment, and purchasers of all other punches received nothing for their 5 cents except the "punch"; placing thereby in the hands of others various devices involving games or schemes of chance for distribution of its said merchandise to the ultimate consumer wholly by lot or chance, contrary to established public policy of the United States Government;

With result that many persons were attracted by aforesaid sales method and the element of chance involved therein and were thereby induced to purchase its merchandise in preference to that of its competitors who were unwilling to and did not use any such methods, and trade was unfairly diverted from them to it:

*Held*, That such acts and practices were all to the prejudice and injury of the public, and its competitors, and constituted unfair methods of competition in commerce.

Before *Mr. Arthur F. Thomas, Mr. John W. Addison, Mr. Miles J. Furnas* and *Mr. W. W. Sheppard*, trial examiners.

*Mr. D. C. Daniel* for the Commission.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Sanders Manufacturing Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows: