

IN THE MATTER OF
JOSEPH COHEN, TRADING AS PRESS RADIO SERVICE
AND AS PRESS SUPPLIES

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

Docket 4783. Complaint, July 14, 1942—Decision, Dec. 8, 1942

Where an individual, engaged in the interstate sale and distribution of printed cards designated by him as "press" cards, automobile "press" tags, and other so-called "press" supplies—

- (a) Represented, through statements in newspapers, periodicals, circulars, leaflets, and letters of general circulation, and in the classified columns of the papers, directly and by implication, that he was affiliated with press associations, newspaper syndicates, or other outlets for amateur writers; and that persons desiring employment in spare time at good pay could obtain the same from him;

The facts being he was not thus affiliated or connected; had no means of assisting amateur writers profitably to dispose of their work; and at no time had any employment of any nature to offer anyone;

- (b) Falsely represented, as aforesaid, that his press cards afforded to amateur and free-lance writers and photographers means of access through police and fire lines and to otherwise inaccessible locations;

The facts being that in cases in which his cards had secured or might secure such access, such had been and would be through deception of police officers and other public officials into the belief that the bearers were properly accredited press representatives; and

- (c) Falsely represented, as aforesaid, that his business had long been nationally and prominently established; that he carried an unlimited stock of press supplies from which all press needs could be furnished; and that his business was headquarters for the Nation's press supplies;

The facts being that his stock in trade, aside from the so-called "press" cards and tags referred to, consisted only of a few other insignificant items in small quantities; and he did not furnish the press generally, or reporters, photographers, or writers, with any of their supplies; and

- (d) Made misleading and deceptive use of trade name "Press Radio Service" to engender false belief that he performed substantial services or functions for the press or radio industry;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such false statements were true, thereby causing its purchase of said products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. R. P. Bellinger 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 Joseph Cohen, an individual, trading as Press Radio Service and as Press Supplies, 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:

PARAGRAPH 1. Respondent, Joseph Cohen, is an individual, trading as Press Radio Service and as Press Supplies, with his principal place of business located at 713 Otis Place NW., Washington, D. C., and having an address for receiving mail at 1934 Eleventh Street NW., Washington, D. C., which is the location of a negro secretarial service bureau.

PAR. 2. Respondent is now and for several years last past has been engaged in the business of selling and distributing printed cards, which he designates as press cards, automobile press tags, designed for attachment to automobile license plates, and other so-called press supplies.

Respondent causes and has caused the said products, when sold, to be transported from his place of business in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia.

Respondent maintains and, at all times mentioned herein, has maintained a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his said products, the respondent has falsely represented through the use of statements in circulars, pamphlets, magazines, newspapers, and other periodicals having general circulation throughout the various States of the United States that his press card will entitle the holder to gain admittance through police and fire lines and will secure for him the same courtesies and privileges extended regular newspaper correspondents.

Respondent's method of getting into communication with prospective purchasers is to insert advertisements in newspapers, magazines, and other periodicals having general circulation throughout the various States of the United States. Among and typical of the false representations and statements thus used by respondent in circulars, leaflets, letters, newspaper, and magazine advertisements are the following:

The card will get you through police and fire lines and secure for you the same courtesies extended regular correspondents.

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35 F. T. C.

AMATEUR NEWSPAPER REPORTERS in town, cities, world over; men, women; all ages; good pay; spare-time work. Press Radio Service, 1934 11th Washington, D. C.

PRESS CARDS.

AUTO PRESS TAGS, etc.

Press Supplies, 1934 Eleventh, Washington, D. C.

PRESS RADIO SERVICE HAS FOR LONG BEEN NATIONALLY, PROMINENTLY ESTABLISHED AND SERVES THE FREE-LANCER WITH EXCLUSIVENESS IN QUALITY AND INFORMATION ADVANTAGEOUS TO FINE PRESS REPORTING * * *. REQUEST YOUR NEEDS. WE HAVE IT. OUR STOCKS ARE UNLIMITED AND WE CAN SERVE YOU IN YOUR PRESS SUPPLY NEEDS.

RUSH ALL ORDERS VIA AIR-MAIL ADDRESSED TO CHIEF PRESS SUPPLIES, PRESS RADIO SERVICE, 1934 ELEVENTH STREET, NORTHWEST, WASHINGTON, D. C.

Press Radio Service "Nation's Press Supplies Headquarters" Request complete catalog.

The foregoing and similar advertisements have appeared in many instances in the classified advertising columns of newspapers. In response to inquiries or replies from prospective customers whose interest has been aroused by such advertisements, the respondent sends further advertising literature designed to induce such person to purchase respondent's press cards, automobile press tags, and other so-called press supplies. As a further means of contacting prospective purchasers of his supplies, respondent has also made false and misleading representations in the classified columns of newspapers, indicating that he has employment to offer amateur writers and photographers and can assist them in securing publication of their work.

PAR. 4. Through the use of the aforesaid statements and advertisements, and others of similar import and meaning, not specifically set out herein, the respondent has represented, directly and by implication, that he is affiliated or connected with press associations, newspaper syndicates, or other publications which serve as a market or outlet for the work of prospective amateur writers; that his said press card affords to amateur and free-lance writers and photographers, means of access through police and fire department lines and to otherwise inaccessible locations; that people desiring employment in spare time at good pay could obtain the same from him; that respondent's business has long been nationally and prominently established; that respondent carries an unlimited stock of press supplies from which all press needs can be furnished; that respondent's business is headquarters for the Nation's press supplies and respondent is actually engaged in operating an enterprise which is equipped to, and does, furnish and sell supplies to the press as its primary business activity.

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PAR. 5. The aforesaid representations, as well as others of similar import or meaning which are not specifically set out herein, are exaggerated, false, and misleading. In truth and in fact, respondent is neither affiliated nor connected with any press association, newspaper syndicate, or other publication, and the respondent has no means of assisting and does not attempt to assist amateur writers to profitably dispose of their work. Respondent's press card reads substantially as follows:

Officials of the Police
and Fire Departments and to
those whom it may concern

Effective to
December 31, 1942

The Bearer Is An Accredited

PRESS ASSOCIATE

procuring photographs and news for periodicals cooperating in free-lance press service. All courtesies extended will be appreciated. Bearer assumes all risks of injury or accident incident to the use of this card.

Credential

PRESS RADIO SERVICE.

No. -----

Across the face of the cards there appears in large red letters the word "Press." Respondent's press cards ordinarily would not be honored by police or other officers and do not afford means of access for their holders through police and fire department lines and to otherwise inaccessible locations. Where such cards do secure or have secured such access, it is and has been by reason of the police officers and other public officials having been deceived into believing that the bearers were properly accredited representatives of the press. Respondent does not have and has not had at any time employment of any nature to offer anyone, either on a part or full-time basis. Respondent's business is not nationally and prominently established; respondent does not carry an unlimited stock of press supplies from which all press needs can be supplied, but aside from the so-called press cards and press tags mentioned herein, respondent's stock in trade consists of only a few other insignificant items in small quantities; respondent's business is not headquarters for the Nation's press supplies, and respondent does not furnish the press generally or established newspapers or bona fide news reporters, photographers or writers, with any of their supplies.

PAR. 6. Respondent's use of the trade name Press Radio Service and Press Supplies is further misleading and deceptive in that respondent does not operate any press or radio service, and his business

is limited to the sale of the so-called press cards and tags referred to herein, and a few other items of minor importance. The use of these names in connection with the sale of respondent's said products has the tendency and capacity to engender the belief that the said products are furnished to newspapers for the use of their reporters, and that respondent performs substantial services or functions for the press or for the radio industry. In truth and in fact, respondent's said products are not furnished to newspapers for the use of their reporters, nor for any other purpose. Respondent performs no function whatever for the press generally or for the radio industry.

PAR. 7. The use by respondent of the foregoing false, deceptive, and misleading statements and advertisements has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements and advertisements are true, and causes a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said products.

PAR. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute 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 July 14, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Joseph Cohen, an individual, trading as Press Radio Service and as Press Supplies, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. On November 9, 1942, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to the facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the 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. The respondent, Joseph Cohen, is an individual, trading as Press Radio Service and as Press Supplies, with his principal place of business located at 713 Otis Place, NW., Washington, D. C.,

and having an address for receiving mail at 1934 Eleventh Street, NW., Washington, D. C., which is the location of a negro secretarial service bureau.

PAR. 2. Respondent is now and for several years last past has been engaged in the business of selling and distributing printed cards which he designates as "press" cards, automobile "press" tags (designed for attachment to automobile license plates), and other so-called "press" supplies. Respondent causes and has caused these products, when sold, to be transported from his place of business in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in his products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the purchase of his products, respondent has falsely represented, through the use of statements in circulars, pamphlets, magazines, newspapers, and other periodicals having general circulation throughout the various States of the United States, that respondent's press card will entitle the holder to gain admittance through police and fire lines and will secure for him the same courtesies and privileges extended regular newspaper correspondents.

Respondent's method of getting into communication with prospective purchasers is to insert advertisements in newspapers, magazines, and other periodicals having general circulation throughout the various States of the United States. Among and typical of the false representations and statements thus used by respondent in circulars, leaflets, letters, and newspaper and magazine advertisements are the following:

PRESS CARDS.

The card will get you through police and fire lines and secure for you the same courtesies extended regular correspondents.

AMATEUR NEWSPAPER REPORTERS in town, cities, world over; men, women; all ages; good pay; spare-time work. Press Radio Service, 1934 11th, Washington, D. C.

PRESS RADIO SERVICE HAS FOR LONG BEEN NATIONALLY PROMINENTLY ESTABLISHED AND SERVES THE FREE LANCER WITH EXCLUSIVENESS IN QUALITY AND INFORMATION ADVANTAGEOUS TO FINE PRESS REPORTING * * * REQUEST YOUR NEEDS. WE HAVE IT. OUR STOCKS ARE UNLIMITED AND WE CAN SERVE YOU IN YOUR PRESS SUPPLY NEEDS.

RUSH ALL ORDERS VIA AIR-MAIL ADDRESSED TO CHIEF PRESS SUPPLIES, PRESS RADIO SERVICE 1934 ELEVENTH STREET, NORTHWEST WASHINGTON, D. C.

Press Radio Service "Nation's Press Supplies Headquarters" Request complete catalogue.

The foregoing and similar advertisements have appeared in many instances in the classified advertising columns of newspapers. In response to inquiries or replies from prospective customers whose interest has been aroused by such advertisements, the respondent sends further advertising literature designed to induce such person to purchase respondent's press cards, automobile press tags and other so-called press supplies. As a further means of contacting prospective purchasers of his supplies, respondent has also made false and misleading representations in the classified columns of newspapers, indicating that he has employment to offer amateur writers and photographers and can assist them in securing publication of their work.

PAR. 4. Through the use of the foregoing statements and advertisements, and others of similar import and meaning not specifically set out herein, respondent has represented, directly and by implication, that he is affiliated or connected with press associations, newspaper syndicates, or other publications which serve as a market or outlet for the work of amateur writers; that his press card affords to amateur and free lance writers and photographers means of access through police and fire department lines, and to otherwise inaccessible locations; that people desiring employment in spare time at good pay can obtain the same from him; that his business has long been nationally and prominently established; that he carries an unlimited stock of press supplies from which all press needs can be furnished; and that his business is headquarters for the Nation's press supplies.

PAR. 5. The above representations, as well as others of similar import or meaning which are not specifically set out herein, are exaggerated, false, and misleading. In truth and in fact, respondent is neither affiliated nor connected with any press association, newspaper syndicate, or other publication, and respondent has no means of assisting and does not attempt to assist amateur writers to profitably dispose of their work. Respondent's press card reads substantially as follows:

Officials of the Police
and Fire Departments and to
those whom it may concern

Effective to
December 31, 1942

The Bearer Is An Accredited

PRESS ASSOCIATE

procuring photographs and news for periodicals cooperating in free-lance press service. All courtesies extended will be appreciated. Bearer assumes all risks of injury or accident incident to the use of this card.

Credential

PRESS RADIO SERVICE.

No.-----

Across the face of the card there appears in large, red letters the word "Press." Respondent's press cards ordinarily would not be honored by police or other officers, and do not afford means of access for their holders through police and fire department lines and to otherwise inaccessible locations. Where such cards do secure or have secured such access, it is and has been by reason of the police officers and other public officials being or having been deceived into believing that the bearers are or were properly accredited representatives of the press. Respondent does not have and has not had at any time employment of any nature to offer anyone, either on a part or full-time basis. Respondent's business is not nationally and prominently established. Respondent does not carry an unlimited stock of press supplies from which all press need can be supplied, but, aside from the so-called press cards and press tags mentioned herein, his stock in trade consists of only a few other insignificant items in small quantities. Respondent's business is not headquarters for the Nation's press supplies, and he does not furnish the press generally, or established newspapers or bonafide new reporters, photographers, or writers, with any of their supplies.

PAR. 6. Respondent's use of the trade name "Press Radio Service" is further misleading and deceptive in that respondent does not operate any press or radio service. His business is limited to the sale of the so-called press cards and tags referred to herein, and a few other items of minor importance. The use of such name in connection with the sale of respondent's products has the tendency and capacity to engender the belief that respondent performs substantial services or functions for the press or for the radio industry. In truth and in fact, respondent performs no function whatever for the press generally or for the radio industry.

PAR. 7. The use by respondent of the foregoing false, deceptive, and misleading statements and advertisements has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements and advertisements are true, and causes a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's products.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice and injury of the public, and constitute unfair and deceptive 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 the answer of respondent, in which answer respondent admits all of the material allegations of fact set forth in the complaint and states that he waives all intervening procedure and further hearing as to the facts; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Joseph Cohen, individually, and trading as Press Radio Service and as Press Supplies, or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of respondent's so-called press supplies in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name "Press Radio Service," or any other name of similar import, to designate or describe respondent's business; or otherwise representing, directly or by implication, that respondent operates or is affiliated or connected with any press or radio service.

2. Selling or distributing so-called press cards purporting to carry any authorization or credentials from respondent which will afford the holders of such cards passage through police or fire lines, or to any other place; or otherwise representing, directly or by implication, that respondent is able to grant such authorization or credentials.

3. Representing, directly or by implication, that respondent is affiliated or connected with the radio industry or with any press association, newspaper syndicate, or publisher; or that respondent is able to offer employment to or obtain employment for writers or reporters, either on a part or full time basis.

4. Representing that respondent's business is nationally or prominently established.

5. Representing that respondent's business is headquarters for the Nation's press supplies, or that respondent's stock of press supplies is unlimited.

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

Syllabus

IN THE MATTER OF

UNITED STATES MALTSTERS ASSOCIATION, ET AL.

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

Docket 3555. Complaint, Aug. 24, 1938—Decision, Dec. 29, 1942

Where a substantial number of corporations which manufactured more than 65 percent of all the malt made and sold in the United States and engaged in interstate sale thereof, and were, prior to 1930, in price competition with one another and would subsequently have been so but for agreements and practices below set forth; acting through their Association—

- (a) Entered into and carried out certain understandings and agreements with intent and effect of fixing and maintaining uniform prices, terms, and conditions of sale in the sale and distribution of malt, and of otherwise restraining and eliminating competition in the sale thereof in commerce; and maintained the prices thus fixed until changed by notice from their Association, as more particularly below set forth; and

Where such corporations, pursuant to said agreements, acting under the direction of a certain firm to which was paid \$30,000 per annum, collected through assessments against each member—

- (b) Organized and operated said unincorporated voluntary trade Association, to promote their mutual interests and serve as an instrument for their joint action in restricting and eliminating competition in sale and distribution of malt in commerce; and

Where said Association, directed by aforesaid firm and its business manager and secretary who participated in the regular meetings of its Executive Committee—

- (c) Collected and disseminated information as to prices, terms, and conditions of sale, and statistical data used in carrying out said agreements; and

Where its said members—

- (d) Agreed, through resolutions passed at the regular meetings of the Association and its Executive Committee, upon various details in connection with the conduct of their respective businesses, and abided by them, including such matters as uniform application of freight rates; uniform reporting of delinquent accounts; grading standards; quotation of prices on delivery or f. o. b. final destination basis only; grading specifications for use where a "guaranty" of specifications was required; refusal of sales to purchasers who would not agree not to resell; use of seller's contracts only; exclusion of sales agents handling domestic malt from sale of imported; the supplying of their current price lists to the Association for distribution; the inclusion with the daily sales reports to members of a record of cancellations of unfilled contracts; and the adoption of a uniform discount of $\frac{1}{4}$ cent per bushel for cash;

- (e) Agreed upon and carried out a method of price reporting under which they daily reported the delivered prices, which they employed at all times, on an "f. o. b. Chicago basis"; whereby the Association and members—by reason