

Compl'snt

IN THE MATTER OF
MONO SERVICE COMPANY

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

Docket 4834. Complaint, Sept. 16, 1942—Decision, Jan. 19, 1943

Where a corporation, engaged in the manufacture of paper cups, and in the competitive interstate sale and distribution thereof, including certain ice cream cups, lids of some of which, bearing star on inside thereof, entitled chance ice cream purchaser securing a cup enclosed therewith to extra cup—
Sold its said cups and lids so marked to wholesalers, jobbers, and ice cream manufacturers who resold them, so packed, to retailers for sale to the purchasing public in accordance with aforesaid sales plan, involving game or sale of chance to procure additional cup for original purchase money, and use of a lottery scheme or game of chance in distribution of ice cream to consuming public; and thereby

Supplied to and placed in the hands of others the means of conducting lotteries, contrary to an established public policy of the United States Government, and in competition with many who do not use any such plan or method;

With the result that many dealers and ultimate purchasers of ice cream were attracted by its said sales plan and the element of chance involved therein, and were induced thereby to buy and sell its merchandise in preference to that of its competitors aforesaid; and with tendency and capacity to divert trade in commerce unfairly to it from them:

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

Mr. J. W. Brookfield, Jr. 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 Mono Service Co., a corporation, hereinafter referred to as respondent, has violated the provisions of the 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:

PARAGRAPH 1. Respondent, Mono Service Co., is a corporation, organized and operating under the laws of the State of New Jersey with its principal office and place of business located at 349 Oraton Street, Newark, N. J. Respondent is now and for sometime last past has been engaged in the manufacture of paper cups including cups

for the packing of ice cream and in the sale and distribution thereof to dealers, jobbers, and ice cream manufacturers in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said cups when sold to be transported from its aforesaid place of business in Newark, N. J., to purchasers thereof at their respective points of location in the various States of the United States other than the State of New Jersey and in the District of Columbia. There is now and has been for sometime last past a course of trade by respondent in said paper cups 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 now and has been in competition with other corporations and with individuals and firms engaged in the sale and distribution of like or similar articles of merchandise 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 manufactures and sells, and has manufactured and sold and distributed, to ice cream manufacturers and dealers certain of its ice cream cups so printed, packed, and assembled as to involve the use of a lottery scheme or game of chance when used by retail dealers to distribute ice cream to the purchasing and consuming public.

Respondent's methods of printing and packing its ice cream cups are as follows:

Its cups are packed with an unattached lid for each cup. Some of the said lids have printed on the reverse side thereof a "star." Its cups are sold to manufacturers or packagers of ice cream who fill the cup with ice cream and affix the lids. Retail dealers, and others, who sell ice cream packed in respondent's cups award an extra cup of ice cream to the purchaser of a cup of ice cream having a star appearing under the lid. The consuming purchaser is unable to determine whether the ice cream cup has a star appearing under the lid until after the cup has been purchased and the lid removed; whether a purchaser of the ice cream will receive an additional cup of ice cream for his original purchase money is therefore decided wholly by lot or chance.

Respondent has printed and packed and distributed other ice cream cups to be used as a means of conducting lotteries or games of chance which vary in detail but are the same in principle as those above described.

PAR. 3. The wholesale dealers and jobbers and ice cream manufacturers to whom respondent sells the above described ice cream cups,

the lids of which are marked with a star, resell said cups as packed by respondent to retail dealers and said retail dealers sell and distribute said cups to the purchasing public in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its products and ice cream in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale and distribution of its merchandise and the sale of said merchandise 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 said ice cream cups to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure an additional cup of ice cream. Many individuals, firms, and corporations who manufacture, sell or distribute merchandise in competition with the respondent, as above alleged, do not use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other sales plan or method that is contrary to public policy. Many dealers and ultimate purchasers of ice cream cups are attracted by respondent's said method and sales plan and by the element of chance involved therein and have been and are induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent sales plans or methods. The use of said sales plan or method by respondent because of said game of chance has the tendency and capacity to 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 sales plans or methods.

PAR. 5. The aforesaid acts and practices of respondent, as hereinabove 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 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 Commission on September 16, 1942, issued, and thereafter served, its complaint in this proceeding upon respondent, Mono Service Co., a corporation, charging it with the use of unfair methods in competition in commerce and unfair acts and practices in commerce in violation of the provisions of said act. On September 29, 1942, the re-

spondent 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 said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint and answer thereto; and the Commission, having duly considered this 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, Mono Service Co., is a corporation, organized and operating under the laws of the State of New Jersey with its principal office and place of business located at 349 Oraton Street, Newark, N. J. Respondent is now and for sometime last past has been engaged in the manufacture of paper cups including cups for the packing of ice cream and in the sale and distribution thereof to dealers, jobbers and ice cream manufacturers in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said cups when sold to be transported from its aforesaid place of business in Newark, N. J., to purchasers thereof at their respective points of location in the various States of the United States other than the State of New Jersey and in the District of Columbia. There is now and has been for sometime last past a course of trade by respondent in said paper cups 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 now and has been in competition with other corporations and with individuals and firms engaged in the sale and distribution of like or similar articles of merchandise 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 manufactures and sells, and has manufactured and sold and distributed, to ice cream manufacturers and dealers certain of its ice cream cups so printed, packed, and assembled as to involve the use of a lottery scheme or game of chance when used by retail dealers to distribute ice cream to the purchasing and consuming public.

Respondent's methods of printing and packing its ice cream cups are as follows:

Its cups are packed with an unattached lid for each cup. Some of the said lids have printed on the reverse side thereof a "star."

Its cups are sold to manufacturers or packagers of ice cream who fill the cup with ice cream and affix the lids. Retail dealers, and others, who sell ice cream packed in respondent's cups award an extra cup of ice cream to the purchaser of a cup of ice cream having a star appearing under the lid. The consuming purchaser is unable to determine whether the ice cream cup has a star appearing under the lid until after the cup has been purchased and the lid removed; whether a purchaser of the ice cream will receive an additional cup of ice cream for his original purchase money is therefore decided wholly by lot or chance.

Respondent has printed and packed and distributed other ice cream cups to be used as a means of conducting lotteries or games of chance which vary in detail but are the same in principle as those above described.

PAR. 3. The wholesale dealers and jobbers and ice cream manufacturers to whom respondent sells the above described ice cream cups, the lids of which are marked with a star, resell said cups as packed by respondent to retail dealers and said retail dealers sell and distribute said cups to the purchasing public in accordance with the aforesaid sales plan. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its products and ice cream in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plan or method in the sale and distribution of its merchandise and the sale of said merchandise 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 said ice cream cups to the purchasing public in the manner above found involves a game of chance or the sale of a chance to procure an additional cup of ice cream. Many individuals, firms, and corporations who manufacture, sell, or distribute merchandise in competition with the respondent, as above found, do not use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other sales plan or method that is contrary to public policy. Many dealers and ultimate purchasers of ice cream cups are attracted by respondent's said method and sales plan and by the element of chance involved therein and have been and are induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent sales plans or methods. The use of said sales plan or method by respondent because of said game of chance has the tendency

Order

36 F. T. C.

and capacity to 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 sales plans or methods.

CONCLUSION

The aforesaid acts and practices of respondent as hereinabove 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 the 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 the respondent, Mono Service Co., 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 ice cream cups or other similar containers in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing to jobbers or wholesale dealers or to retail dealers direct, ice cream cups, or other similar containers, so printed or assembled that sales of ice cream or other merchandise to the general public, when packed in said cups or other similar containers, are to be made or, due to the manner in which such cups or other similar containers are printed and assembled at the time they are sold by respondent, may be made by means of a game of chance, gift enterprise, or lottery scheme.

2. Packing or assembling cup lids in packages or assortments of ice cream cups or other similar containers for sale with ice cream or other merchandise to the public at retail, which cup lids are printed for use, or which may be used, in distributing or selling ice cream cups or other similar containers together with ice cream or other merchandise by means of a lottery scheme, game of chance, or gift enterprise.

3. Furnishing to retail or wholesale dealers or jobbers, cup lids or containers, some of which are so printed as to be used in distributing extra cups or containers of ice cream or other merchandise to purchasers of cups or containers containing ice cream or other merchandise when the distribution of such extra cups or containers is determined by lot or chance.

It is further ordered, That the respondent, Mono Service Co., a corporation, 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 the order to cease and desist hereinabove set forth.

IN THE MATTER OF
HAROLD M. MAY, DOING BUSINESS AS UNITED INHERITANCE BUREAU AND GUARDIAN SERVICE BUREAU

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914

Docket 4874. Complaint, Dec. 3, 1942—Decision, Jan. 19, 1943

Where an individual, engaged in interstate sale and distribution of envelopes and questionnaire forms designed to be used by creditors and collection agencies in obtaining information concerning debtors, which bore the trade name, United Inheritance Bureau, and address of said individual, and which contained such statements as "Real Estate Title and Mortgage Reports," "Unclaimed Assets Recovered," "Affiliations in the Principal Cities of the United States, Canada, and Correspondents in Europe," "Genealogical Analysis," "Estate Researching," and statement that the Bureau was "endeavoring to contact a person bearing your name" and that in order for it "to make further progress" recipient was asked to supply certain information, including his name, address, and previous address, and names of his present and former employers and banks;

Making use of a plan under which said questionnaires were (1) assigned a code number identifying the customer involved, (2) had inserted the names and addresses of the debtors or others, from whom information was sought for said customer, (3) were signed by the customer, usually with some fictitious name, (4) were placed in stamped envelopes addressed to debtors or other persons, (5) had enclosed a reply envelope addressed to the trade name and place of business of aforesaid individual, and (6) were delivered, stamped, and with said enclosure, by the customer to said individual, who mailed them at his city, and who was further compensated by an additional fee of 50 cents for replies thus secured which gave such information as the debtor's current address and disclosed that he was employed and the name of his employer—

- (a) Falsely represented, and placed in the hands of his customers the means of falsely representing through said letters and envelopes, directly and by implication, to customers' debtors and others from whom information concerning debtors was sought, that the "United Inheritance Bureau" had affiliations in the principal States of the United States and Canada, and correspondents in Europe;
- (b) Falsely represented, etc., as above set forth, that said "Bureau" was engaged in genealogical research, examined real estate titles, was engaged in locating heirs to estates or interests therein, and was in a position to advise persons of their ownership of assets of which they were unaware; and
- (c) Falsely represented, etc., as above set forth, that the persons concerning whom information was sought had, or might have had, interests in estates or land or other property which might be of financial benefit to them;

When in fact, as above set out, said various representations were false, and sole purpose of said questionnaires and letters was to secure information concerning debtors of his customers in aid of the collection of alleged delinquent accounts; and