

Syllabus

IN THE MATTER OF

DAN TRAINOR, TRADING UNDER THE NAME NATIONAL ADMINISTRATORS ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4870. Complaint Nov. 12, 1942—Decision, May 8, 1943

Where an individual engaged in interstate sale and distribution of forms, form letters and envelopes for use by creditors and collection agencies in obtaining information concerning debtors, which were employed by two mail-order houses and a collection agency, among others, and which—calling, under the subterfuge below set out, for such information as a debtor's name, nickname, address, description, occupation, employer, income, home ownership or that of farm or car, and other details with respect to debtor's operations, status, etc.—displayed trade name "National Administrators," and such other matter as "ANSWER ALL THE FOLLOWING QUESTIONS IMMEDIATELY SO THAT WE CAN DETERMINE WHETHER YOU ARE THE PERSON TO WHOM THE MONEY SHOULD BE SENT," "Have you inherited any money recently?" and "It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly," and in the letter employed displaying aforesaid trade name "Money is being held for * * * We believe that you are this person" and "To make it possible for us to send you this money at once fill out the enclosed form and return it to us without delay. * * * There is real money waiting for you";

Making use of a scheme under which said mail-order concerns, collection agency, and other purchasers inserted in the appropriate places names and addresses of persons concerning whom information was sought, placed the form letters and questionnaires, together with stamped reply envelopes addressed to said "National Administrators," in large envelopes purporting to be from said "National Administrators," and sent them to said individual, who mailed them and sent to said purchasers such replies as were received, and also sent to those replying a penny each accompanied by the statement that such was the total held for such person and a request not to communicate further with said individual;

- (a) Falsely represented, directly and by implication, through use of name "National Administrators" that his business functioned as administrator of estates of decedents; and
- (b) Falsely represented, and placed in the hands of aforesaid and other purchasers means of falsely representing, to many persons, that funds of more than trivial amount were being held for them by said National Administrators as administrators of decedents' estates, and that information sought was to identify the recipient as the proper person to receive such funds; and

Where (1) aforesaid mail-order houses, Chicago concerns with extensive businesses, selling household furnishings and other merchandise at retail on credit to purchasers in various States, and, in efforts to collect amounts claimed due from purchasers, making use of letters, forms and envelopes acquired from aforesaid individual; and two individuals engaged in the collection of delinquent accounts for retail merchants in various States and in the course of their said business employing said individual's letters, forms, and envelopes—

Complaint

36 F. T. C.

(c) Falsely represented, directly and by implication, to many persons that funds of more than trivial amounts were being held for such persons by "National Administrators" as administrators of decedents' estates;

The facts being that said representations were false, information called for by the questionnaires and letters was sought solely for the purpose of assisting said Chicago mail-order concerns, collection agents, etc., and others, in the collection of alleged delinquent accounts, and name "National Administrators" was merely a disguise for the true nature of respondent Trainor's business;

With effect of misleading and deceiving, and with capacity and tendency to mislead and deceive, many of the persons to whom the letters, etc., were sent into the erroneous belief that such representations were true, and to cause them, by reason thereof, to give information which they otherwise would not supply:

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

Mr. Randolph W. Branch for the Commission.

Comfort, Comfort & Irish, of Des Moines, Ia., for Dan Trainor, John A. Janssen and Lloyd L. Hill.

Fischel, Kahn & Heart, of Chicago, Ill., for Chicago Mail Order Co., W. L. Schnadig and Ralph L. Arnheim.

Mr. J. L. Alexander, of Chicago, Ill., for Spiegel, Inc., Modie J. Spiegel, Frederick W. Spiegel, Earl D. Weil, Edward L. Swikard, H. G. Meinig, Bernadette Saindon, and Walter A. Gatzert.

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 Dan Trainor, an individual, trading under the name National Administrators, John A. Janssen and Lloyd L. Hill, individually, and trading under the name Consumer Distribution Consultants, Chicago Mail Order Co., a corporation, Spiegel, Inc., a corporation, W. L. Schnadig and Ralph L. Arnheim, individually, and as officers of Chicago Mail Order Co., Modie J. Spiegel, Frederick W. Spiegel, Earl D. Weil, Edward L. Swikard, H. G. Meinig, Bernadette Saindon, and Walter A. Gatzert, individually, and as officers of Spiegel, Inc., hereinafter referred to as respondents, have 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, Dan Trainor, is an individual, trading under the name National Administrators, with an office and principal place of business at 423 Grand Street, Winona, Minn.

Respondents, John A. Janssen and Lloyd L. Hill, are copartners, trading under the name Consumer Distribution Consultants, with an office and principal place of business at 520 North Michigan Avenue, Chicago, Ill.

Respondent, Chicago Mail Order Co., is a corporation, organized and existing under the laws of the State of Illinois, with an office and principal place of business at 511 South Paulina Street, Chicago, Ill. Respondents, W. L. Schnadig and Ralph L. Arnheim, are, and at all times mentioned herein, have been, respectively, the president and the secretary-treasurer, of said corporation and in control of the management, policies and operation thereof, particularly in respect to the acts and practices herein alleged.

Respondent, Spiegel, Inc., is a corporation, organized and existing, under the laws of the State of Delaware, with an office and principal place of business at 1061 West Thirty-fifth Street, Chicago, Ill. Respondents, Modie J. Spiegel, Bernadette Saindon and Walter A. Gatzert, are, and at all times mentioned herein have been, respectively, president, secretary and treasurer, of respondent Spiegel, Inc., and respondents, Frederick W. Spiegel, Earl D. Weil, Edward L. Swikard, and H. G. Meinig are, and at all times mentioned herein have been, vice presidents, of respondent, Spiegel, Inc.; said officers are now, and at all times mentioned herein have been, in control of the management, policies and operation of said corporate respondent, particularly in respect to the acts, practices, and methods herein alleged.

PAR. 2. Respondent, Dan Trainor, is now, and has been for more than 6 months last past, engaged in the business of selling and distributing envelopes, printed form letters, and questionnaire forms, said letters and questionnaire forms being as exemplified by copies thereof, marked respectively exhibits A, B, and C attached hereto, and by this reference incorporated herein and made a part hereof, designed and intended to be used as hereinafter set forth by creditors and collection agencies in obtaining information concerning delinquent debtors. Respondent, Trainor, causes the said envelopes, form letters and questionnaire forms, when sold, to be transported from his aforesaid place of business in the State of Minnesota to respondents, Chicago Mail Order Co., Spiegel, Inc., and Janssen and Hill, all located in the State of Illinois, and others in various States of the United States, and at all times mentioned herein has maintained, a course of trade therein in commerce between and among the various States of the United States.

PAR. 3. Respondent, Spiegel, Inc., is now, and has been for more than 6 months last past, engaged in the business of selling at retail household furnishings and other merchandise of various sorts and

Complaint

36 F. T. C.

kinds. The business of said respondent is what is generally known as a "mail-order business," in the course and conduct of which orders for various articles are received through the mails from various persons located in States of the United States other than the State of Illinois, and the articles so ordered are caused to be transported by said respondent from its aforesaid place of business in the State of Illinois to the persons ordering the same. Said respondent's business is extensive and it maintains, and at all times mentioned herein has maintained, a course of trade in its said wares in commerce between and among the various States of the United States and in the District of Columbia. In connection with a large number of its sales said respondent extends credit to purchasers located in various States of the United States other than the State of Illinois. In many cases purchasers on credit from said respondent fail to meet their obligations when due, and said respondent in such cases exerts itself affirmatively to effect collection of the amounts which it claims are due it from such purchasers. In the course of its efforts to collect, it frequently desires to ascertain the current locations and addresses of many of such purchasers and for the purpose of so doing it employs the letters, forms, and envelopes acquired from respondent Trainor as hereinabove stated, in the manner hereinafter set forth.

PAR. 4. Respondents, John A. Janssen and Lloyd L. Hill, are now, and have been for more than 6 months last past, engaged in the business of collecting delinquent accounts for retail merchants located in various States of the United States. In the course of their efforts to collect such delinquent accounts, they frequently desire to ascertain the current locations and addresses of many such delinquent debtors and for the purpose of so doing employ the letters, forms, and envelopes acquired from respondent Trainor as hereinabove stated, in the manner hereinafter set forth.

PAR. 5. Respondent, Chicago Mail Order Co., is now, and has been for more than 6 months last past, engaged in the business of selling at retail goods and wares of various sorts and kinds. The business of said respondent is what is generally known as a "mail-order business" in the course and conduct of which orders for various articles are received through the mails from various persons located in States of the United States other than the State of Illinois and articles so ordered are caused to be transported by said respondent from its aforesaid place of business in the State of Illinois to the persons ordering the same. Said respondent's business is extensive and it maintains, and at all times mentioned herein has maintained, a course of trade in its said wares in commerce between and among the various States of the United States and in the District of Columbia. In connection with a large number of its sales said respondent extends credit to purchasers located

in various States of the United States other than the State of Illinois. In many cases purchasers on credit from respondent, Chicago Mail Order Co., fail to meet their obligations when due, and said respondent in such cases exerts itself affirmatively to effect collection of the amounts which it claims are due from such purchasers. In the course and conduct of its efforts to collect, it frequently desires to ascertain the current locations and addresses of many of such purchasers and for the purpose of so doing it employs the letters, forms, and envelopes acquired from respondent Trainor as hereinabove stated, in the manner hereinafter set forth.

PAR. 6. In the blank space which appears at the tops of the forms as exemplified by exhibits A and B and below the words "Money is being held for" in the letter exemplified by exhibit C, said respondents, Chicago Mail Order Co., Spiegel, Inc., Janssen and Lloyd, and others who purchase said forms, letters, and envelopes from respondent Trainor, insert the names, and such addresses as they have available, of the persons concerning whom information is sought. Said respondents and other purchasers then place the letters exemplified by exhibit C, and one of the questionnaire forms exemplified by either exhibit A or exhibit B in large envelopes upon which appear in the upper left hand-corners:

Return in 5 days to
National Administrators,
Winona, Minn.

together with stamped reply envelopes addressed to

National Administrators,
Winona, Minn.

The large envelopes with the necessary postage attached, and their contents, are then sent by respondents, Spiegel, Inc., Chicago Mail Order Co., John A. Janssen and Lloyd L. Hill, and other purchasers of the said articles from respondent, Trainor, from their various places of business to respondent, Trainor, at Winona, Minn., usually in bundles containing a number of such filled envelopes.

Upon receipt of the said large addressed envelopes, with enclosures, by respondent, Trainor, at Winona, Minn., said respondent causes them to be deposited in the United States mails.

The questionnaires returned to respondent, Trainor, at Winona, Minn., are transmitted by him to respondents, Spiegel, Inc., Chicago Mail Order Co., and Janssen and Hill at their Chicago, Ill., addresses, and to the other purchasers from respondent, Trainor, who have purchased the said material from him. Respondent, Trainor, also sends to those who return the said questionnaires one penny each, together

Complaint

36 F. T. C.

with a statement that this is the total amount held for such person and requesting that such person do not communicate with him further.

PAR. 7. Through the use of the name National Administrators said respondents have represented directly and by implication that the said concern functions in the capacity of an administrator of estates of decedents.

PAR. 8. By means of the aforesaid envelopes, form letters, and questionnaires, respondent, Trainor, has falsely represented, and has placed in the hands of the other respondents, and others, means of falsely representing, and said other respondents, and others, have falsely represented to many persons, directly and by implication, that funds are being held for such persons by National Administrators; that such funds are of more than trivial amount; that National Administrators holds the said fund in the capacity of administrator of decedent estates and that the information sought by means of said letters and questionnaires is for the purpose of identifying the recipients thereof as the proper persons to receive said funds.

PAR. 9. The said representations were false and misleading. In truth and in fact, the said respondent, Trainor, trading under the name National Administrators, was not acting in the capacity of administrator of the estate of any decedent, was not administrator of any estate in which any recipient of said letters and questionnaires had an interest, and has not had in his possession any sums of money rightfully due to any such person. Respondent, Trainor, trading under the name National Administrators, has not acted in the capacity of administrator of any decedent estate. The information called for by the said questionnaires and letters was not sought for the purpose of identifying the recipients as the persons entitled to funds from estates or from any other source, but was sought solely for the purpose of assisting respondents, Speigel, Inc., Chicago Mail Order Co., John A. Janssen and Lloyd L. Hill, and others, in the collection of alleged delinquent accounts. The said name National Administrators was merely a disguise for the true nature of respondent's business.

PAR. 10. The use, as hereinabove set forth, of the foregoing false and misleading statements and representations has had the tendency and capacity to, and has, misled and deceived many persons to whom the said letters, questionnaires, and envelopes were sent, into the erroneous and mistaken belief that said statements and representations were true and that the said name, National Administrators, truthfully indicated and described the capacity and character of the concern purportedly requesting the information and by reason thereof gave information which they would not otherwise have supplied.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and consti-

721

Exhibits

tute unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

EXHIBIT A

ANSWER ALL THE FOLLOWING
QUESTIONS IMMEDIATELY SO
THAT WE CAN DETERMINE
WHETHER YOU ARE THE PERSON
TO WHOM THE MONEY SHOULD
BE SENT:

1. Is name above your full correct name? -----
2. Are you referred to by any "nickname" (state name) -----
3. To what address should money be sent? -----
4. Have you inherited any money recently? -----
5. What is your age?---- Height?---- Color of hair? ----- Color of eyes? ----
6. What is your occupation? -----
7. By whom employed (employer's name and address) -----
8. If insured, give name and address of local agent -----
9. What is your income from present employment? (weekly) -----
10. Do you have any other sources of income? (Insurance, annuities, pensions, disability compensations, etc.) -----
11. Do you own your home? -----
12. Do you own a car? -----
13. Give mother's birthplace and maiden name -----
14. When were you born? ----- Where? -----
15. Do you have any dependents?----- How many?-----
16. Give names and addresses of personal references: -----

All answers furnished are, to the best of my ability, truthful and complete. It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly.

Your signature -----

If any additional remarks, please write on other side.

EXHIBIT B

ANSWER ALL THE FOLLOWING
QUESTIONS IMMEDIATELY SO
THAT WE CAN DETERMINE
WHETHER YOU ARE THE PERSON
TO WHOM THE MONEY SHOULD
BE SENT:

1. Is name above your full correct name? -----
2. Are you referred to by any "nickname" (state name) -----
3. To what address should money be sent? -----
4. Have you inherited any money recently? -----

Exhibits

5. What is your age? ____ Height? ____ Color of hair? ____ Color of eyes? ____
6. What is your occupation? _____
7. By whom employed (employer's name and address) _____

8. What is your income from present employment? (weekly) _____

9. Is your occupation farming? Yes -- No. -- If so answer following questions:
 - a. Yearly income _____ b. Location of your farm _____
 - c. Number of acres you are farming ____ d. Do you own your own farm? ____
 - Renter? _____ Share cropper _____ e. Is your farm mortgaged? _____
 - f. Number of acres under cultivation _____ Wheat _____ Corn _____
 - Oats _____ Tobacco _____ Cotton _____ Potatoes _____ Other _____
 - g. Number of cattle _____ Hogs _____ Chickens _____
 - h. What is your income from eggs and milk? _____
 - i. Do you own your own equipment? _____
10. Do you have any other sources of income? (Insurance, annuities, pensions, disability compensations, etc.) _____
11. If insured, give name and address of local agent _____
12. Do you own your home? _____ 13. Do you own a car? _____
14. Give mother's birthplace and maiden name _____
15. When were you born? _____ Where? _____
16. Do you have any dependents? _____ How many? _____
17. Give names and addresses of personal references: _____

All answers furnished are, to the best of my ability, truthful and complete. It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly.

Your signature _____

If any additional remarks, please write on other side.

EXHIBIT C

NATIONAL ADMINISTRATORS

WINONA, MINNESOTA

Money is being held for _____
We believe that you are this person.

This money will be sent you the moment we are absolutely certain that you are really the person for whom it is intended.

To make it possible for us to send you this money at once, fill out the enclosed form and return it to us without delay.

There is no obligation whatever nor expense to you. Merely answer the questions truthfully and thus enable us to place the cash money we are holding in your hands immediately.

If you are the person we are looking for—and we think you are—use the stamped self-addressed envelope to return the form to us now. There is real money waiting for you.

Sincerely yours,

NATIONAL ADMINISTRATORS.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 12, 1942, issued and subsequently served its complaint in this proceeding upon the respondents, Dan Trainor, trading under the name National Administrators, John A. Janssen and Lloyd L. Hill, individually, and trading under the name Consumer Distribution Consultants, Chicago Mail Order Company, a corporation, E. L. Schnadig (referred to in the complaint as W. L. Schnadig) and Ralph L. Arnheim, individually, and as officers of Chicago Mail Order Company, Spiegel, Inc., a corporation, and Modie J. Spiegel, Frederick W. Spiegel, Earl D. Weil, Edward L. Swikard, H. G. Meinig, Bernadette Saindon, and Walter A. Gatzert, individually, and as officers of Spiegel, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. Subsequently, the respondents filed their answers to the complaint, in which answers they admitted all of 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 answers 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, Dan Trainor, is an individual, trading under the name National Administrators, with an office and principal place of business at 423 Grand Street, Winona, Minn.

Respondents, John A. Janssen and Lloyd L. Hill, are copartners trading under the name Consumer Distribution Consultants, with an office and principal place of business at 520 North Michigan Avenue, Chicago, Ill.

Respondent, Chicago Mail Order Company, is a corporation, organized and existing under the laws of the State of Illinois, with an office and principal place of business at 511 South Paulina Street, Chicago, Ill. Respondents, E. L. Schnadig and Ralph L. Arnheim are, and at all times mentioned herein have been, the president and the secretary-treasurer, respectively, of said corporation, and in control of the management, policies and operation thereof, particularly in respect to the acts and practices hereinafter set forth.

Respondent, Spiegel, Inc., is a corporation, organized and existing under the laws of the State of Delaware, with an office and principal

place of business at 1061 West Thirty-fifth Street, Chicago, Ill. Respondents, Modie J. Spiegel, Bernadette Saindon, and Walter A. Gatzert are, and at all times mentioned herein, have been, president, secretary, and treasurer, respectively, of respondent, Spiegel, Inc.; and respondents, Frederick W. Spiegel, Earl D. Weil, Edward L. Swikard, and H. G. Meinig are, and at all times mentioned herein, have been, vice presidents of respondent, Spiegel, Inc. These officers are now, and at all times mentioned herein have been, in control of the management, policies, and operation of said corporate respondent, particularly in respect to the acts, practices, and methods hereinafter set forth.

PAR. 2. Respondent, Dan Trainor, is now, and has been for more than 6 months last past, engaged in the business of selling and distributing envelopes, printed form letters, and questionnaire forms (copies of such letters and questionnaire forms being attached hereto as Exhibits A, B, and C, and made a part hereof) designed and intended to be used, as hereinafter set forth, by creditors and collection agencies in obtaining information concerning delinquent debtors. Respondent, Trainor, causes the envelopes, form letters, and questionnaire forms, when sold, to be transported from his place of business in the State of Minnesota to respondents, Chicago Mail Order Co., Spiegel, Inc., and Janssen and Hill, all located in the State of Illinois, and others in various States of the United States, and at all times mentioned herein respondent Trainor has maintained a course of trade therein in commerce between and among the various States of the United States.

PAR. 3. Respondent, Spiegel, Inc., is now, and has been for more than 6 months last past, engaged in the business of selling at retail household furnishings and other merchandise of various sorts and kinds. The business of said respondent is what is generally known as a mail-order business, in the course and conduct of which, orders for various articles are received through the mails from various persons located in States of the United States other than the State of Illinois and the articles so ordered are caused to be transported by respondent from its place of business in the State of Illinois to the persons ordering the same. Respondent's business is extensive, and it maintains and at all times mentioned herein has maintained a course of trade in its wares in commerce between and among the various States of the United States and in the District of Columbia. In connection with a large number of its sales, the respondent extends credit to purchasers located in various States of the United States other than the State of Illinois. In many cases, purchasers on credit from respondent fail to meet their obligations when due, and the respondent in such cases exerts itself affirmatively to effect collection

of the amounts which it claims are due it from such purchasers. In the course of its efforts to collect, it frequently desires to ascertain the current locations and addresses of many of such purchasers, and for the purpose of so doing it employs the letters, forms, and envelopes acquired from respondent, Trainor, as hereinabove stated, in the manner hereinafter set forth.

PAR. 4. Respondents, John A. Janssen and Lloyd L. Hill, are now, and have been for more than 6 months last past, engaged in the business of collecting delinquent accounts for retail merchants located in various States of the United States. In the course of their efforts to collect such delinquent accounts, they frequently desire to ascertain the current locations and addresses of many of such delinquent debtors, and for the purpose of so doing, employ the letters, forms, and envelopes acquired from respondent, Trainor, as hereinabove stated, in the manner hereinafter set forth.

PAR. 5. Respondent, Chicago Mail Order Co., is now, and has been for more than 6 months last past, engaged in the business of selling at retail goods and wares of various sorts and kinds. The business of said respondent is what is generally known as a mail-order business, in the course and conduct of which orders for various articles are received through the mails from various persons located in States of the United States other than the State of Illinois and articles so ordered are caused to be transported by respondent from its place of business in the State of Illinois to the persons ordering the same. Respondent's business is extensive, and it maintains and at all times mentioned herein has maintained a course of trade in its wares in commerce between and among the various States of the United States and in the District of Columbia. In connection with a large number of its sales the respondent extends credit to purchasers located in various States of the United States other than the State of Illinois. In many cases purchasers on credit from respondent, Chicago Mail Order Co., fail to meet their obligations when due, and respondent in such cases exerts itself affirmatively to effect collection of the amounts which it claims are due from such purchasers. In the course and conduct of its efforts to collect, it frequently desires to ascertain the current locations and addresses of many of such purchasers, and for the purpose of so doing it employs the letters, forms, and envelopes acquired from respondent, Trainor, as hereinabove stated, in the manner hereinafter set forth.

PAR. 6. In the blank space which appears at the top of the forms as exemplified by exhibits A and B, and below the words "Money is being held for" in the letter exemplified by exhibit C, respondents,

Findings

36 F. T. C.

Chicago Mail Order Co., Spiegel, Inc., and Janssen and Hill, and others who purchase such forms, letters, and envelopes from respondent, Trainor, insert the names and such addresses as they have available of the persons concerning whom information is sought. These respondents and other purchasers then place the letters exemplified by exhibit C, and one of the questionnaire forms exemplified by either exhibit A or exhibit B, in large envelopes upon which appears in the upper left-hand corner—

Return in 5 days to
National Administrators,
Winona, Minnesota,

together with stamped reply envelopes addressed to—

National Administrators,
Winona, Minnesota.

The large envelopes, with the necessary postage attached, and their contents are then sent by respondents, Spiegel, Inc., Chicago Mail Order Co., and Janssen and Hill, and by other purchasers of respondent, Trainor's material, from their various places of business to respondent, Trainor, at Winona, Minn., usually in bundles containing a number of such filled envelopes. Upon receipt by respondent, Trainor, of these large addressed envelopes with enclosures, he causes them to be deposited in the United States mail.

The questionnaires returned to respondent, Trainor, at Winona, Minn., are transmitted by him to respondents, Spiegel, Inc., Chicago Mail Order Co., and Janssen and Hill, at their Chicago, Ill., addresses, and to the other purchasers of his material at their various locations. Respondent, Trainor, also sends 1 penny each to those who return the questionnaires, together with a statement that this is the total amount held for such persons and a request that they do not communicate with him further.

PAR. 7. Through the use of the name "National Administrators," the respondents have represented, directly and by implication, that such concern functions in the capacity of an administrator of estates of decedents.

PAR. 8. By means of the aforesaid envelopes, form letters, and questionnaires, respondent, Trainor, falsely represents and places in the hands of the other respondents and others the means of falsely representing, and such other respondents and others falsely represent, to many persons, directly and by implication, that funds are being held for such persons by National Administrators; that such funds are of more than trivial amount; that National Administrators holds the funds in the capacity of administrator of decedent estates; and that

721

Exhibits

the information sought by means of the letters and questionnaires is for the purpose of identifying the recipients thereof as the proper persons to receive such funds.

PAR. 9. These representations are false and misleading. In truth and in fact, respondent, Trainor, trading under the name "National Administrators," is not acting in the capacity of administrator of the estate of any decedent, is not administrator of any estate in which any recipient of the letters and questionnaires has an interest, and does not have in his possession any sum of money rightfully due to any such person. The information called for by the questionnaires and letters is not sought for the purpose of identifying the recipients as the persons entitled to funds from estates or from any other source, but is sought solely for the purpose of assisting respondents, Spiegel, Inc., Chicago Mail Order Co., and Janssen and Hill, and others, in collection of alleged delinquent accounts. The name "National Administrators" is merely a disguise for the true nature of respondent Trainor's business.

PAR. 10. The use as hereinabove set forth, of the foregoing false and misleading statements and representations has the tendency and capacity to, and does, mislead and deceive many of the persons to whom the letters, questionnaires, and envelopes are sent into the erroneous and mistaken belief that such statements and representations are true, and that the name "National Administrators" truthfully indicates and describes the capacity and character of the concern purportedly requesting the information; and the tendency and capacity to cause such persons, by reason thereof, to give information which they otherwise would not supply.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

EXHIBIT A

ANSWER ALL THE FOLLOWING
QUESTIONS IMMEDIATELY SO
THAT WE CAN DETERMINE
WHETHER YOU ARE THE PER-
SON TO WHOM THE MONEY
SHOULD BE SENT:

1. Is the name above your full correct name? _____
2. Are you referred to by any "nickname"? (state name) _____
3. To what address should money be sent? _____
4. Have you inherited any money recently? _____

Exhibits

36 F. T. C.

5. What is your age? _____ Height? _____ Color of hair? _____ Color of eyes? _____
6. What is your occupation? _____
7. By whom employed? (employer's name and address) _____

8. If insured, give name and address of local agent _____

9. What is your income from present employment? (weekly) _____
10. Do you have any other sources of income? (insurance, annuities, pensions, disability compensations, etc.) _____
11. Do you own your home? _____
12. Do you own a car? _____
13. Give mother's birthplace and maiden name _____

14. When were you born? _____ Where? _____
15. Do you have any dependents? _____ How many? _____
16. Give names and addresses of personal references: _____

All answers furnished are, to the best of my ability, truthful and complete. It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly.

Your signature _____

If any additional remarks, please write on other side.

EXHIBIT B

ANSWER ALL THE FOLLOWING
QUESTIONS IMMEDIATELY SO
THAT WE CAN DETERMINE
WHETHER YOU ARE THE PER-
SON TO WHOM THE MONEY
SHOULD BE SENT:

1. Is name above your full correct name? _____
2. Are you referred to by any "nickname"? (state name) _____
3. To what address should money be sent? _____
4. Have you inherited any money recently? _____
5. What is your age? _____ Height? _____ Color of hair? _____ Color of eyes? _____
6. What is your occupation? _____
7. By whom employed? (employer's name and address) _____

8. What is your income from present employment? (weekly) _____

721

Exhibits

9. Is your Occupation farming? Yes ----- No ----- If so answer following questions: a. Yearly Income ----- b. Location of your farm ----- c. Number of acres you are farming ----- d. Do you own your own farm? ----- Renter? ----- Share Cropper? ----- e. Is your farm mortgaged? ----- f. Number of acres under cultivation ----- Wheat ----- Corn ----- Oats ----- Tobacco ----- Cotton ----- Potatoes ----- Other ----- g. Number of cattle ----- Hogs ----- Chickens ----- h. What is your income from eggs and milk? ----- i. Do you own your own equipment? -----
10. Do you have any other sources of income? (insurance, annuities, pensions, disability compensations, etc.) -----
11. If insured, give name and address of local agent -----
12. Do you own your home? -----
13. Do you own a car? -----
14. Give mother's birthplace and maiden name -----
15. When were you born? ----- Where? -----
16. Do you have any dependents? ----- How many? -----
17. Give names and addresses of personal references: -----

All answers furnished are, to the best of my ability, truthful and complete. It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly.

Your signature -----

If any additional remarks, please write on other side.

EXHIBIT C

NATIONAL ADMINISTRATORS

WINONA, MINNESOTA

Money is being held for -----

We believe that you are this person.

This money will be sent you the moment we are absolutely certain that you are really the person for whom it is intended.

To make it possible for us to send you this money at once fill out the enclosed form and return it to us without delay.

There is no obligation whatever nor expense to you. Merely answer the questions truthfully and thus enable us to place the cash money we are holding in your hands immediately.

If you are the person we are looking for—and we think you are—use the stamped self-addressed envelope to return the form to us now. There is real money waiting for you.

Sincerely yours,

NATIONAL ADMINISTRATORS.

DT

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents, in which answers respondents admit all the material allegations of fact set forth in the complaint and waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

1. *It is ordered*, That respondent, Dan Trainor, individually, and trading under the name, National Administrators, 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of his form letters and questionnaires, or any other printed or written material of a substantially similar nature, do forthwith cease and desist from:

(a) Using the words "National Administrators," or any other word or words of similar import, to designate, describe, or refer to respondent's business; or otherwise representing, directly or by implication, that respondent acts in the capacity of an administrator of estates of decedents, or that respondent's business bears any other relation to such estates.

(b) Representing, directly or by implication, that any funds or other property are being held by respondent for persons concerning whom information is sought through respondent's letters, questionnaires, or other material.

(c) Representing, directly or by implication, that the information sought through respondent's letters, questionnaires, or other material is for the purpose of determining whether the person concerning whom such information is sought is entitled to receive funds or any other property from the estate of a decedent.

(d) Using, or placing in the hands of others for use, form letters, questionnaires, or other material which represent, directly or by implication, that respondent's business is other than that of obtaining information for use in the collection of debts, or that the information sought through such letters, questionnaires, or other material is for any purpose other than for use in the collection of debts.

2. *It is further ordered*, That respondents, Chicago Mail Order Co., a corporation, and its officers; E. L. Schnadig and Ralph L. Arnheim, individually, and as officers, of Chicago Mail Order Co.; Spiegel, Inc., a corporation, and its officers; Modie J. Spiegel, Frederick W. Spiegel,

Earl D. Weil, Edward L. Swikard, H. G. Meinig, Bernadette Saindon, and Walter A. Gatzert, individually, and as officers, of Spiegel, Inc.; and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the sale and distribution of respondents' merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, including the collection or attempted collection of the purchase price of such merchandise, do forthwith cease and desist from:

(a) Using any form letters, questionnaires, or any other printed or written material which contain any representation prohibited in paragraph 1 hereof.

(b) Using, in connection with the collection or attempted collection of the purchase price of merchandise, any form letters, questionnaires, cards, or any other printed or written material which represent, directly or by implication, that the information sought through such means is for any purpose other than for use in the collection of debts.

3. *It is further ordered*, That respondents, John A. Janssen and Lloyd L. Hill, individually, and trading as Consumer Distribution Consultants, or trading under any other name, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the carrying on of respondents' collection business in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using any form letters, questionnaires, or any other printed or written material which contain any representations prohibited in paragraph 1 hereof.

(b) Using, in connection with the collection or attempted collection of debts, any form letters, questionnaires, cards, or any other printed or written material which represent, directly or by implication, that the information sought through such means is for any purpose other than for use in the collection of debts.

It is further ordered, That all of the respondents named herein shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
CHARLOTTE NOVELTY COMPANY

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

Docket 3457. Complaint, June 16, 1938—Decision, May 12, 1943

Where an individual engaged in competitive interstate sale and distribution of various articles of merchandise, including manicure sets, electric lamps, wallets, pictures, silverware, chinaware, clocks, watches, cameras, dolls, and cosmetic preparations—

- (a) Sold his said merchandise by means of explanatory and descriptive circulars and pull cards under a sales plan by which the particular article secured by a customer and the price paid therefor were determined by chance by the particular tab pulled and matter revealed thereunder; and thereby

Supplied to and placed in the hands of operators—and notwithstanding "Notice to Purchaser" giving option to refuse purchase of article secured at price shown, which, not ordinarily called to customer's attention, was inconsistent with the successful operation of the plan and operator's compensation in cash or merchandise after remission of money secured through sale of all the chances—means of conducting lotteries in the sale and distribution of his merchandise in accordance with plan in question, under which the facts as to whether the customer secured an article of greater retail value than the price designated therefor, and which specific article, were determined wholly by lot or chance, contrary to an established public policy of the United States Government and in competition with those unwilling to use any such method and refraining therefrom;

With result that many persons were attracted by said sales method and the element of chance involved therein, and were thereby induced to buy and sell his merchandise in preference to that of his aforesaid competitors, thereby diverting trade from them to him; and

- (b) Represented through use in his circulars of such legends as "Gifts or Cash Yours absolutely Without Cost" and "How to get your Gifts without any cost to you," that the articles offered to his sales representatives were free, when in fact none was given away free but all were supplied only as compensation for services rendered in sale of merchandise, and price of such articles was included in that of those which representative was required to sell;

With tendency and capacity to mislead and deceive a substantial portion of the public into the erroneous belief that such articles of merchandise were given by him to his representatives free, and to cause such portion of the public to undertake the sale of his merchandise in preference to that of his competitors, as a consequence whereof, substantial trade was diverted unfairly from competitors to him:

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

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. D. C. Daniel and *Mr. J. W. Brookfield, Jr.*, for the Commission.

Mr. Charles Cohen, Mr. S. Alfred Mund and Aaron & Aaron, of Baltimore, Md., 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 Jack Salup, individually, and trading as Charlotte Novelty Co., 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 public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is an individual, trading under the name of Charlotte Novelty Co., with his principal office and place of business located at 2631 Pennsylvania Avenue, Baltimore, Md. He is now, and for some time last past, has been, engaged in the sale and distribution of manicure sets, electric lamps, leather wallets, pictures, silverware and chinaware, clocks, watches, cameras, dolls, cosmetics, and other articles of novelty merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said products, when sold, to be shipped or transported from his place of business in the State of Maryland to purchasers thereof located in the various States of the United States other than the State of Maryland, and in the District of Columbia at their respective points of location. There is now, and has been for some time last past, a course of trade by said respondent in such merchandise 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 in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of 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 his business as described in paragraph 1 hereof, respondent sells and distributes said articles of merchandise by means of a lottery scheme or game of chance. The respondent distributes or causes to be distributed to representatives and prospective representatives certain advertising literature including, among other things, a sales circular. Respondent's merchandise is distributed to the purchasers thereof in the following manner: A portion of said sales circular consists of a list on which are designated a number of items of merchandise and the respective prices thereof. Adjacent to the list is printed and set out a device commonly called a pull card. Said pull card consists of a number of tabs under each of which is concealed the name of an article of merchandise and the price thereof. The name of the article of merchandise and the price

Complaint

36 F. T. C.

thereof are so concealed that the purchasers and prospective purchasers of the tabs or chances are unable to ascertain which article of merchandise they are to receive or the price which they are to pay until after the tab is separated from the card. When a purchaser has detached a tab and learned what article of merchandise he is to receive and the price thereof, his name is written on the list opposite the named article of merchandise. Some of said articles of merchandise have purported and represented retail values and regular prices greater than the prices designated for them, but are distributed to the customer for the price designated on the tab which he pulls. The apparent greater values and higher regular prices of some of said articles of merchandise as compared to the prices the customer will be required to pay in the event he secures said articles, induces members of the purchasing public to purchase the tabs or chances in the hope that they will receive articles of merchandise having greater values and higher regular prices than the designated prices to be paid therefor. The facts as to whether a purchaser of one of said pull card tabs receives an article of greater value than the price designated for same on said tab, which of said articles of merchandise a purchaser is to receive, and the amount of money which a purchaser is required to pay, are determined wholly by lot or chance.

When a person or representative operating a pull card has succeeded in selling all of the tabs or chances, collected the amounts called for and remitted the said sums to the respondent, the said respondent thereupon ships to said representative the merchandise sold by means of said card, together with a premium for the representative as compensation for operating the pull card and selling the said merchandise. Said operator delivers the merchandise to the purchasers of tabs from said pull card in accordance with the list filled out when the tabs were detached from the pull card.

Respondent sells and distributes various assortments of said merchandise and furnishes various pull cards for use in the sale and distribution of such merchandise by means of a game of chance, gift enterprise, or lottery scheme. Such plan or method varies in detail, but the above-described plan or method is illustrative of the principle involved.

PAR. 3. The persons to whom respondent furnishes the said pull cards use the same in purchasing, selling, and distributing respondent's merchandise 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 such merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said method in the sale of his merchandise and the sale of such merchandise by and through the use thereof and by the aid of said method is a

practice of the sort which is contrary to an established public policy of the Government of the United States and which is in violation of the criminal laws.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the apparent normal retail price thereof. Many persons, firms, and corporations who sell and distribute merchandise in commerce as herein defined 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 which is contrary to public policy, and such competitors refrain therefrom. Many persons are attracted by respondent's said method and by the element of chance involved in the sale of said merchandise in the manner above described, and are thereby 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 an equivalent method. The use of said method by respondent, because of said game of chance, has the capacity and tendency to and does unfairly divert trade and custom to respondent from his said competitors and to exclude from the novelty merchandise trade all competitors who are unwilling to and who do not use the same or an equivalent method because the same is unlawful. As a result thereof 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. In the course and conduct of his business as hereinabove related, respondent has caused various false, deceptive, and misleading statements and representations to appear in his advertising matter as aforesaid, of which the following are examples but are not all-inclusive:

Gifts or cash yours absolutely without cost.

How to get your gifts without any cost to you.

The effect of the foregoing false, deceptive, and misleading statements and representations of the respondent in selling and offering for sale such items of merchandise as hereinabove referred to is to mislead and deceive a substantial part of the purchasing public in the various States of the United States and in the District of Columbia, by inducing them to mistakenly believe that respondent gives away certain of his said articles of merchandise without cost to his said representatives.

PAR. 6. In truth and in fact, none of respondent's premiums or so-called gifts are given away "without cost," but said premiums or

so-called gifts which are represented as being "without cost" to said representatives are either purchased with labor by them, or the price of said premiums or so-called gifts is included in the price of other articles of merchandise which the representatives must sell or procure the sale of before said premiums or so-called gifts can be procured by them.

PAR. 7. The use by respondent of the false, deceptive, and misleading statements and representations set forth herein, has had, and now has, the capacity and tendency to mislead and deceive and has misled and deceived a substantial portion of the purchasing public into the erroneous belief that such statements and representations are true, and into the purchase of substantial quantities of said respondent's products as the result of such erroneous belief. There are among the competitors of respondent as mentioned in paragraph 1 hereof, manufacturers and distributors of like or similar products who do not make such false, deceptive, and misleading statements and representations concerning the method of sale and distribution of their products. By the statements and representations aforesaid, trade is unfairly diverted to respondent from such competitors, and as a result thereof substantial injury is being done 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. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition 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 June 16, 1938, issued and subsequently served its complaint in this proceeding upon the respondent, Jack Salup, individually, and trading as Charlotte Novelty Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of that act. After the filing of respondent's answer, testimony and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission before a trial examiner of the Commission theretofore duly designated by it (no evidence being offered by respondent), and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answer thereto, testimony and other evidence, report of the trial exami-

ner upon the evidence, and brief in support of the complaint (no brief having been filed by respondent and oral argument not having been requested); 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, Jack Salup, is an individual, trading under the name Charlotte Novelty Co., with his office and principal place of business located at 2631 Pennsylvania Avenue, Baltimore, Md. He is now and for a number of years last past has been engaged in the sale and distribution of various articles of merchandise, including among others, manicure sets, electric lamps, wallets, pictures, silverware, chinaware, clocks, watches, cameras, dolls, and cosmetic preparations.

PAR. 2. In the course and conduct of his business respondent causes and has caused his merchandise, when sold, to be transported from his place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in his merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent is and has been in substantial competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar articles of merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In promoting the sale of his products, respondent has distributed advertising or sales circulars through the United States mails to prospective sales representatives located at various points throughout the United States. These circulars contained pictorial representations and descriptive matter with respect to certain articles of merchandise offered by respondent as compensation for the sale of his products, and also pictorial representations and descriptive matter as to certain of the articles of merchandise which respondent offered for sale.

Each of these circulars also contained what is commonly known as a pull card. This pull card consisted of a number of tabs, under each of which was concealed the name of one of the articles of merchandise offered for sale by respondent and the price thereof. Neither the name of the article nor the price thereof was disclosed to the pur-

Findings

30 F. T. C.

chaser or prospective purchaser until after the tab had been separated or removed from the card. Adjacent to the pull tabs was a list of the articles of merchandise offered for sale and the price thereof, which corresponded with the names of the articles and the prices concealed under the various pull tabs. When a purchaser detached a tab and there was thus disclosed which article he was to receive and the price to be paid therefor, his name was written on the list opposite the particular article of merchandise.

Some of the articles of merchandise thus offered for sale had retail values greater than the prices designated for them, but all of the articles were distributed to the purchaser at the prices shown on the tabs. The fact that some of the articles had values in excess of the designated prices induced members of the public to pull the tabs in the hope that they would obtain such articles. Moreover, some of the articles offered for sale were represented through pictures and reading matter in the circular as having values greater than their actual value, which fact served as a further inducement to prospective purchasers to pull the tabs in an effort to obtain such articles. The specific article which the purchaser received, the amount of money he was required to pay for such article, and the question whether the purchaser received an article having an actual or apparent value greater than the price designated therefor were thus determined wholly by lot or chance.

When the individual operating the pull card had succeeded in selling all of the articles of merchandise listed under the tabs and had collected the respective amounts charged therefor, the total of such amounts was remitted to respondent. Upon receipt of such total amount, respondent shipped to his representative the merchandise sold, together with a premium for the representative as compensation for operating the pull card and selling and distributing the merchandise, such premium having been selected by the representative from articles pictured in the circular. If the representative so desired, he was permitted to deduct from the amount of money remitted a specified cash premium in lieu of the merchandise premium. Upon receipt of the merchandise from respondent, the representative delivered the various articles to the purchasers in accordance with the list prepared when the tabs were pulled.

PAR. 5. In connection with the pull tab device, the following reading matter appeared:

NOTICE TO PURCHASER.—On the back of each slip is printed the price of an article. If after deliberation you decide that you want to buy the article, pay the holder of this book the price shown on slip. If you do not want the article you need not buy it.

The Commission finds, however, that despite this notice the articles of merchandise were in fact sold and distributed by means of the pull card device in accordance with the sales plan or method described above. The record indicates that the notice was not ordinarily called to the attention of the prospective purchaser by the sales representative. Moreover, the successful operation of the sales plan was dependent upon the ability of the representative to sell all of the articles listed, so as to permit remittance of the required amount to respondent in order to obtain the merchandise purchased and in order for the operator to obtain the premium for the sale of the merchandise. It was only in exceptional cases that partial orders were forwarded to respondent by his sales representatives.

The record discloses no instance in which a person who pulled one of the tabs from the card refused to accept and pay for the merchandise designated on the tab. Moreover, in respondent's instructions to his representatives which appeared in the circular there was no direction as to what should be done in the event all of the articles of merchandise were not sold. The circular likewise failed to contain any information as to the premium or compensation which could be obtained by the representative in the event some of the purchasers refused to accept the article listed on the particular tab pulled. On the contrary, it is apparent from the instructions that the plan contemplated that all of the articles listed were to be sold. For example, the instructions contained the following:

Our plan is very simple and interesting. Just ask your friends and neighbors to pull one or more of the slips on the back page of this folder. On the back of each slip the name of a BIG BARGAIN article and its price is plainly marked. You collect from the purchasers the price stated on the slip for which they will receive the articles mentioned on the slip. Prices of these articles range from 8¢ to 39¢—none higher. When the articles are all sold you will have collected \$7.69. Then fill out the attached Order Blank and mail to us together with your remittance.

WHAT YOU WILL RECEIVE:

As soon as we will receive your order and money order for \$7.69, we will send your Big Premium or Combination Premium, your 2 Surprise Gifts, one for sending money order with order, and the other for sending the order promptly and the 22 articles you have sold, which you will then distribute to your friends.

The order blank referred to in these instructions read in part as follows:

After you have sold the 22 articles of merchandise and collected \$7.69, fill out this blank, stating the correct number of premium you have selected, also write your name and address plainly and mail to us.

CHARLOTTE NOVELTY CO.

Please ship at once, all charges prepaid, the 22 articles of merchandise I sold amounting to \$7.69 and the following premium.

The Commission therefore finds that, as a practical matter, the so-called notice to purchasers had no substantial effect upon the operation of the sales plan and that it did not serve to remove the lottery element from respondent's sales method.

PAR. 6. The persons to whom respondent furnished his pull card device used such device in selling and distributing respondent's merchandise in accordance with the sales plan or method herein described. Respondent thus supplied to and placed in the hands of others a means of conducting lotteries in the sale and distribution of his merchandise in accordance with such sales plan or method. Respondent's merchandise was thus sold and distributed by means of a game of chance, gift enterprise, or lottery scheme, and respondent reaped the benefits therefrom. The use by respondent of this sales plan or method in the sale of his merchandise and the sale of such merchandise to the public by and through the use of such sales plan was a practice of a sort which is contrary to an established public policy of the Government of the United States.

PAR. 7. Among the individuals, partnerships, and corporations who sold and distributed merchandise in competition with respondent, as set forth in paragraph 3 hereof, were those who were unwilling to adopt and use the method herein described, or any method involving a game of chance or the sale of a chance to win something by chance, or any other method which was contrary to public policy, and such competitors refrained therefrom. Many persons were attracted by respondent's sales method and by the element of chance involved therein, and were thereby induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by those competitors of respondent who did not use the same or any equivalent method. The use of such method by respondent had the tendency and capacity to and did divert trade unfairly to respondent from such competitors.

PAR. 8. In addition to the foregoing acts and practices the respondent represented, through the use in his circulars of such legends as "Gifts or Cash Yours absolutely Without Cost" and "How to get your Gifts without any cost to you," that the articles of merchandise offered to his sales representatives were free and without cost to such representatives. These representations were deceptive and misleading. None of the articles of merchandise so designated was in fact given away free by respondent but all of such articles were sup-

plied to respondent's representatives only as compensation for services rendered in the sale of respondent's merchandise, and the price of such articles was included in the price of the other articles of merchandise which the representative was required to sell.

PAR. 9. The use by respondent of these deceptive and misleading representations had the tendency and capacity to mislead and deceive a substantial portion of the public into the erroneous and mistaken belief that such articles of merchandise were given by respondent to his representatives free and without cost, and the tendency and capacity to cause such portion of the public to undertake the sale of respondent's merchandise in preference to the products of respondent's competitors. In consequence thereof, substantial trade was diverted unfairly to respondent from his competitors.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition 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, the answer of respondent, testimony and other evidence in support of the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it (no evidence being offered by respondent), report of the trial examiner upon the evidence, and brief in support of the complaint (no brief having been filed by respondent and oral argument not having been requested); 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, Jack Salup, individually, and trading as Charlotte Novelty Co., 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 merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Supplying to or placing in the hands of agents, distributors, or members of the public, pull cards or other lottery devices which are to be used or may be used in the sale or distribution of respondent's

Order

36 F. T. C.

merchandise, or any merchandise, to the public by means of a game of chance, gift enterprise, or lottery scheme.

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

3. Using the word "gifts," or the words "without cost," or any other word or words of similar import, in connection with articles of merchandise which are furnished as compensation for services rendered in the sale or distribution of respondent's merchandise; or otherwise representing, directly or by implication, that any of respondent's merchandise is given free or without cost, when such is not the fact.

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.

Complaint

IN THE MATTER OF

DUO-TINT BULB & BATTERY COMPANY, INC., 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 4814. Complaint, Aug. 14, 1942—Decision, May 14, 1943

Where a corporation and three officers, directors and stockholders thereof, engaged in interstate sale and distribution of small glass incandescent electric light bulbs imported from Japan which had the word "Japan" stamped thereon when received in the United States—

- (a) Sold and distributed said bulbs assembled in boxes on perforated paste boards in such manner as to conceal from view the base or lower half on which was stamped "Japan", and with no marking to inform purchasers of said products' Japanese origin; and
- (b) Falsely represented that said bulbs were made in the United States, through printing on the boxes in which they were packed, and on display cards and in literature, the words "Filaments Made in U. S. A." and corporate name and Chicago address;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said bulbs, lacking the customary indication of foreign source, were wholly of domestic origin and manufacture, decidedly preferred by members of the purchasing public over those made in Japan or other foreign countries, with result of inducing purchase of said product, and with further result of placing in the hands of dealers means whereby they were enabled to mislead and deceive members of the purchasing public:

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. Carrel F. Rhodes for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondents.

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 Duo-Tint Bulb & Battery Co., Inc., a corporation, and Carrie Riggs and Helen Corts, individually, and as officers, directors and agents of said corporation, Duo-Tint Bulb & Battery Co., Inc., and Dalton W. Riggs, individually, and as president of said corporation, Duo-Tint Bulb & Battery Co., Inc., hereinafter referred to as respondents, have 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 public interest,