

IN THE MATTER OF
WILLIAM WHEELER, TRADING AS MIRACLE
MANUFACTURING COMPANY

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

Docket 4623. Complaint, Oct. 31, 1941—Decision, Nov. 2, 1943

Where an individual, engaged in the manufacture and interstate sale and distribution of his "Miracle Radio Control" and "Miracle Aerial Loop", attachments for radio receiving sets—

Represented directly or by implication that the use of his said devices would result in greatly improved radio reception, enable one to hear clearly and at all times radio broadcasts, otherwise unobtainable, both domestic and foreign and both long and short-wave, and that the results obtained through the use of such devices were "remarkable," "marvelous," and "unbelievable", through such statements in periodical advertisements and advertising circulars and leaflets as "World's Master of Airways—Miracle Radio Control. Marvelous—Unbelievable. For long and short wave amateur, police and ship calls, code, etc.—Gets them all! * * * Foreign stations every day clear and loud. Nothing like it on the market. * * * Gets stations the world over. * * * Adds many more stations you could not get before. * * * Radio's Old Reliable—Miracle Aerial Loop—Remarkable Reception—for local and foreign stations—attach direct to radio";

The facts being that examination and tests of said devices by the Bureau of Standards and the testimony of the expert by whom the examinations and tests were made disclosed that said "Miracle Radio Control" had no effect whatever upon a radio receiving set, and that said "Miracle Aerial Loop"—which was nothing more than a length of insulated copper wire attached to a wire loop—was no more effective than a length of ordinary copper wire, and aside from such value as it might have as an aerial or aerial extension, added nothing to the performance of a radio receiving set;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to his products, and to cause it to purchase substantial quantities thereof as a result of the erroneous belief so engendered:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. L. E. Creel, Jr., and *Mr. William L. Pencke* 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 William Wheeler, an individual, trading as Miracle Manufacturing Co., hereinafter

referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, William Wheeler, is an individual, trading as Miracle Manufacturing Co., having his office and place of business located in the city of Conshohocken, in the State of Pennsylvania. Respondent is now, and for more than 1 year last past has been engaged in the manufacture, sale and distribution of certain mechanical devices designated "Miracle Radio Control" and "Miracle Aerial Loop."

Respondent causes his said products, when sold, to be shipped from his said place of business to purchasers thereof located in States other than the State of Pennsylvania, and in the District of Columbia. Respondent maintains, and at all times mentioned herein, has maintained, a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, as aforesaid, and for the purpose of inducing the purchase of his said products, respondent has disseminated and now disseminates false, deceptive, and misleading statements and representations with respect to the prices of his said products, such statements and representations being made by means of advertisements appearing in newspapers, trade publications, circulars, and other written or printed matter. Among the statements and representations so disseminated by respondent with respect to his aforesaid "Miracle Radio Control" is the following:

Special factory adv. price \$2.85.

PAR. 3. The price indicated of \$2.85 as a "Special Factory adv. price" for "Miracle Radio Control" was and is not a special price, but is the usual and regular price and the only price at which he has sold said "Miracle Radio Control."

PAR. 4. In the further course and conduct of his business, as aforesaid, respondent has disseminated and now disseminates, through newspapers, trade publications, circulars, and other written or printed matter, other false, deceptive, and misleading statements and representations with respect to his aforesaid products, for the purpose of inducing the purchase of his said products, typical of which are the following:

World's Master—Airways MIRACLE RADIO CONTROL. Marvelous—Unbelievable. For long and short wave amateur; police and ship calls, code,

Complaint

37 F. T. C.

etc.,—Gets them all! Quick pick-up—no fade-out. Foreign stations every day clear and loud. Nothing like it on the market.

Gets stations the world over.

Adds many more stations you could not get before.

Can be operated without aerial or ground.

Radios's Old Reliable
MIRACLE AERIAL LOOP

Gets local and foreign stations clear as a crystal; just connect to radio; no aerial, no ground required. Most remarkable reception you have ever heard.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and other statements and representations similar thereto, not specifically set out herein, all of which purport to be descriptive of the results to be obtained through the use of respondent's aforesaid products, respondent represents, directly and by implication, that the use of the device designated "Miracle Radio Control" or the device designated "Miracle Aerial Loop" as an attachment to a radio receiving set will improve radio reception broadcast over domestic and foreign, local and long-distance stations by short and long wave frequencies; that each of said devices will prevent fade-out or diminution of sound volume in radio reception and will bring in foreign stations clear and loud; that each of said devices will make it possible to bring in radio broadcasts from stations which, without said device, could not be tuned in, and that said devices will make possible satisfactory radio reception without aerial or ground connections; and that said devices will improve radio reception in an "unbelievable" and "wonderful" manner; and that said devices will amplify and control the sound waves in radio reception.

PAR. 6. The statements and representations advertised and disseminated by respondent, as aforesaid, are grossly exaggerated, false, and misleading.

In truth and in fact, the use of respondent's said products will not improve radio reception broadcast over domestic and foreign, local and long-distance stations, by short- and long-wave frequencies. Said devices will not prevent fade-out or diminution of sound volume in radio reception or bring in foreign stations clear or loud. Said devices will not make it possible to tune in broadcast programs which could not be brought in otherwise, or amplify or control the sound waves or radio reception. Practically all radio sets manufactured within the past 6 or 8 years will give satisfactory reception without antenna or ground connections, and there is no advantage in this connection to be gained by the use of said devices. Neither of said devices, whether used singly or in combination, will improve radio reception in any manner whatsoever.

PAR. 7. The acts and practices of the respondent in using the foregoing false, deceptive, and misleading statements and representations has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and advertisements were and are true. As a result of such erroneous and mistaken belief, so induced, a substantial number of the purchasing public have purchased respondent's said products.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 31, 1941, issued and subsequently served its complaint in this proceeding upon the respondent, William Wheeler, an individual, trading as Miracle Manufacturing Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. No answer was filed by the respondent. Thereafter, testimony and other evidence in support of and in opposition to the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Subsequently, the matter came on for final hearing before the Commission on the complaint, testimony, and other evidence, 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 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, William Wheeler, is an individual, trading as Miracle Manufacturing Co., with his office and place of business located at 520 Harry Street, Conshohocken, Pa. Respondent is, and for some five years last past has been, engaged in the manufacture, sale, and distribution of certain mechanical devices designed as attachments for radio receiving sets and designated by respondent as "Miracle Radio Control" and "Miracle Aerial Loop."

PAR. 2. Respondent causes, and has caused, his products, when sold, to be shipped from his place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States. Respondent maintains and has maintained a course of trade in his products in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the purchase of his products, respondent has made various representations with respect to such products, such representations having been made by means of advertisements inserted in periodicals and also by means of advertising circulars and leaflets distributed among prospective purchasers. Among these representations were the following:

World's Master of Airways—MIRACLE RADIO CONTROL. Marvelous—Unbelievable. For long and short wave amateur; police and ship calls, code, etc.—Gets them all! Quick pick-up—fade-out. Foreign stations every day clear and loud. Nothing like it on the market.

* * * * *
Gets stations the world over.

* * * * *
Adds many more stations you could not get before.

* * * * *
Radio's Old Reliable—MIRACLE AERIAL LOOP—Remarkable Reception—for local and foreign stations—attach direct to radio.

PAR. 4. Through the use of these representations and others of similar import, respondent has represented, directly or by implication, that the use of his devices, Miracle Radio Control and Miracle Aerial Loop, will result in greatly improved radio reception, that such devices enable one to hear clearly and at all times radio broadcasts, both domestic and foreign, and both long-wave and short-wave, which otherwise would be unobtainable, and that the results obtained through the use of such devices are "remarkable," "marvelous," and "unbelievable."

PAR. 5. At the instance of the Commission both of respondent's devices were examined and tested by the National Bureau of Standards and the results of such tests form a part of the record in this proceeding. These tests, as well as the testimony of the expert who conducted them, disclose that the device Miracle Radio Control has no effect whatever upon a radio receiving set. It is wholly without value insofar as improving radio reception is concerned. The device Miracle Aerial Loop is, in fact, nothing more than a length of insulated copper wire attached to a wire loop. The device is capable of serving as an ordinary aerial or aerial extension for a radio receiving set, but is no more effective for that purpose than is a length of ordinary

546

Order

copper wire. Aside from such value as it may have as an aerial or aerial extension, the device adds nothing to the performance of a radio receiving set.

PAR. 6. The Commission therefore finds that the representations made by respondent with respect to his devices, as set forth in paragraphs 3 and 4 hereof, are erroneous and misleading.

PAR. 7. The Commission finds further that the use by respondent of these erroneous and misleading representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the value and effectiveness of respondent's products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondent, 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, 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, William Wheeler, individually, and trading as Miracle Manufacturing 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondent's devices designated "Miracle Radio Control" and "Miracle Aerial Loop," or any similar devices, whether sold under the same names or under any other names, do forthwith cease and desist from representing, directly or by implication:

1. That respondent's device Miracle Radio Control has any beneficial effect upon a radio receiving set.

Order

37 F. T. C.

2. That respondent's device Miracle Aerial Loop has any beneficial effect upon a radio receiving set in excess of that of an ordinary aerial or aerial extension.

It is further ordered, That 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
DICKSON WEATHERPROOF NAIL CO.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4700. Complaint, Feb. 5, 1942—Decision, Nov. 2, 1943*

Where an individual engaged in the manufacture and interstate sale and distribution of various kinds of roofing nails, for use principally for fastening sheet metal roofing to wooden roofs—

Represented that the holding strength of its "Dickson Lock Screw Shank Lead Head Nail" was 25 percent greater than that of plain drive screw nails, through such statements in advertising circulars and advertisements in trade journals as "Dickson Lock Screw Shank Lead Head Nail. This nail turns as it is driven. The tapered locking projections cause it to have 25 percent more holding strength than a plain drive screw";

The facts being that results of tests by the Bureau of Standards and other evidence disclosed that there was little difference, if any, in holding strength between its said product and that of plain drive screw nails;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and to cause it to purchase substantial quantities of such product as a result of the mistaken belief so engendered:

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

Before *Mr. Edward E. Reardon* and *Mr. John W. Addison*, trial examiners.

Mr. R. P. Bellinger for the Commission.

Mr. Robert B. Dickson, of Evanston, Ill., for respondent.

COMPLAINT

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

PARAGRAPH 1. Respondent, Dickson Weatherproof Nail Co., is a corporation, organized and existing by virtue of the laws of the State of Delaware, with its principal office and place of business at 1615 Sherman Avenue, Evanston, Ill., and a branch office and factory located at Birmingham, Ala. Respondent is now, and for more than 4 years