

Complaint

: IN THE MATTER OF

INDIAN RIVER FRUIT & VEGETABLE DISTRIBUTORS, INC.
AND FRANK C. SPADAROCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4730. Complaint, Mar. 16, 1942—Decision, June 6, 1944*

Where a corporation engaged in the packing of citrus fruits and in interstate sale and distribution thereof from its principal place of business at Vero Beach, Fla., in the heart of the Indian River district—citrus fruits of which are believed by many to be of superior flavor and quality—together with its president and general manager, who conducted said business in its name and in his own name—

Represented, through use of corporate name "Indian River Fruit & Vegetable Distributors, Inc.," and through use of words "Indian River" and the Indian head motif on the containers, on labels pasted thereon, and on the individual tissue wrappers, along with aforesaid corporate or trade name and in some cases words "Indian River Citrus Exclusively," that fruit in question was grown in that section of Florida known as the Indian River district, notwithstanding that a substantial part thereof was grown in other parts of Florida;

With effect of misleading and deceiving a substantial portion of the public and causing it to purchase from them substantial quantities of citrus fruits produced outside the Indian River district in the erroneous belief that such fruits were produced within said district:

Held, That said 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.

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

Mr. Robt. N. McMillen for the Commission.

Mr. A. Lloyd Layton, of Jacksonville, Fla., 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 Indian River Fruit & Vegetable Distributors, Inc., a corporation, and Frank C. Spadaro, 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, Indian River Fruit & Vegetable Distributors, Inc., hereinafter referred to as respondent corporation, is a corporation, organized and existing under and by virtue of the laws of the State of Florida, with its office and principal place of business at Vero Beach, in said State. It is now, and for more than two years last past has been, engaged in the business of packing citrus fruits and shipping them from its said place of business to consignees for resale for its account, and to other customers, located in various States of the United States and the District of Columbia. It has maintained a course of trade in said fruits in said commerce.

PAR. 2. Respondent, Frank C. Spadaro, for more than two years has been and is now the President and General Manager of the respondent corporation and has actively controlled and conducted its business and formulated and carried out its business policies and practices, and has conducted the business of packing and shipping citrus fruits in its name and in his own name and as F. C. Spadaro Company, with his place of business at Vero Beach, Fla., from whence he ships and has shipped such fruits to consignees for resale for his account, and to other customers, located in various States of the United States and in the District of Columbia. Said respondent has maintained a course of trade in said fruits in said commerce.

PAR. 3. There is an area in Florida known as the Indian River district, which extends from Daytona Beach on the north to Stuart on the south and from the Atlantic Coast on the east to the swamps on the west. In this area is found a distinctive soil, a heavy hammock soil, which many persons believe produces citrus fruits of superior flavor and quality. There exists a substantial public demand in many markets of the United States for citrus fruits grown in this district. Vero Beach is located in the heart of this district.

PAR. 4. A substantial part of the fruit packed and shipped by respondents in the course of their business, as set forth in Paragraphs One and Two hereof, has been grown in parts of Florida other than the Indian River district; nevertheless, respondents have marked and labeled the crates and other containers in which said fruit was packed and shipped and in which it was intended it should be displayed for sale to the public, and in which it has been and is displayed for sale, as follows:

On the side of the crate appear the following words, in the following arrangement:

Indian River	(In large, red script)
Fruit & Vegetable Distributors, Inc.	(In smaller, blue letters)
Vero Beach, Florida.	(In larger red letters)

Labels pasted on the crates vary, but all have the Indian motif, typical of which is a circular label of an Indian head in colors, with the brand name, such as "Chief Purple Feather," and the name and address of either the respondent corporation or "F. C. Spadaro Company, Vero Beach, Florida." On some of these labels appear, in addition, the words "Indian River Citrus Exclusively" in such position and manner as to constitute a representation that respondents handle Indian River Citrus Fruits exclusively.

The tissue paper in which the individual fruits are wrapped bear an Indian head and the address, "Vero Beach, Florida."

PAR. 5. By the use of the corporate name, "Indian River Fruit & Vegetable Distributors, Inc.," and the labels and marks described and referred to in Paragraph Four hereof, in connection with the packaging and shipment and sale of citrus fruits grown outside the Indian River district, respondents falsely represent and imply and have represented and implied that said fruit was grown in that section of Florida known as the Indian River district.

PAR. 6. The aforesaid acts and practices of respondents have the capacity and tendency to, and do, mislead and deceive a substantial portion of the public and to cause it to purchase and it purchases, substantial quantities of citrus fruits from respondents produced outside the Indian River

district in the erroneous belief that such fruits were produced within said district.

PAR. 7. Said acts and practices 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 March 16, 1942, issued and subsequently served its complaint in this proceeding upon respondents, Indian River Fruit & Vegetable Distributors, Inc., and Frank C. Spadaro, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On February 7, 1944, a hearing was held in Boston, Massachusetts, and subsequently thereto respondents filed an answer, in which answer they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter, and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Indian River Fruit & Vegetable Distributors, Inc., hereinafter referred to as respondent corporation, is a corporation, organized and existing under and by virtue of the laws of the State of Florida, and had its office and principal place of business at Vero Beach, in said State. For more than two years prior to the issuance of the complaint, it had been engaged in the business of packing citrus fruits and shipping them from its said place of business to consignees for resale for its account, and to other customers, located in various States of the United States and the District of Columbia. It had maintained a course of trade in said fruits in said commerce.

PAR. 2. Respondent, Frank C. Spadaro, for more than two years prior to 1942 was the president and general manager of the respondent corporation and actively controlled and conducted its business and formulated and carried out its business policies and practices, and conducted the business of packing and shipping citrus fruits in its name and in his own name, and as F. C. Spadaro Company, with his place of business at Vero Beach, Fla., from whence he shipped such fruits to consignees for resale for his account, and to other customers, located in various States of the United States and in the District of Columbia. Said respondent has at all times mentioned herein maintained a course of trade in said fruits in said commerce.

PAR. 3. There is an area in Florida known as the Indian River district, which extends from Daytona Beach on the north to Stuart on the south, and from the Atlantic Coast on the east to the swamps on the west. In this area is found a distinctive soil, a heavy hammock soil, which many persons believe produces citrus fruits of superior flavor and quality. There exists a substantial public demand in many markets of the United

States for citrus fruits grown in this district. Vero Beach is located in the heart of this district.

PAR. 4. A substantial part of the fruit packed and shipped by respondents in the course of their business, as set forth in paragraphs 1 and 2 hereof, had been grown in parts of Florida other than the Indian River district; nevertheless, respondents had marked and labeled the crates and other containers in which said fruit was packed and shipped and in which it was intended it should be displayed for sale to the public, and in which it had been displayed for sale as follows:

On the side of the crate appeared the following words, in the following arrangement:

Indian River	(In large, red script)
Fruit & Vegetable Distributors, Inc.	(In smaller, blue letters)
Vero Beach, Florida.	(In larger red letters)

Labels pasted on the crates varied, but all had the Indian motif, typical of which was a circular label of an Indian head in colors, with the brand name, such as "Chief Purple Feather," and the name and address of either the respondent corporation or "F. C. Spadaro Company, Vero Beach, Florida." On some of these labels appeared, in addition, the words "Indian River Citrus Exclusively" in such position and manner as to constitute a representation that respondents handled Indian River Citrus Fruits exclusively.

The tissue paper in which the individual fruits were wrapped bore an Indian head and the address, "Vero Beach, Florida."

PAR. 5. By the use of the corporate name, "Indian River Fruit & Vegetable Distributors, Inc." and the labels and marks described and referred to in Paragraph Four hereof, in connection with the packaging and shipment and sale of citrus fruits grown outside the Indian River district, respondents falsely represented and implied that said fruit was grown in that section of Florida known as the Indian River district.

PAR. 6. The aforesaid acts and practices of respondents had the capacity and tendency to, and did, mislead and deceive a substantial portion of the public and caused it to purchase substantial quantities of citrus fruits from respondents produced outside the Indian River district in the erroneous belief that such fruits were produced within said district.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer said respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Indian River Fruit and Vegetable Distributors, Inc., its officers, and Frank C. Spadaro, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of citrus fruits in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Representing in advertisements and on labels, wrappers or otherwise, through the use of the words "Indian River," that the fruit sold and shipped by them is citrus fruit grown and produced in that section of the State of Florida known as the Indian River district, unless and until such fruit has in fact been grown and produced in said district.

(b) Representing, through the use of the words "Indian River Fruits Exclusively," or any other words or phrases of similar import, that all of the citrus fruit handled or sold by respondents was produced in that section of the State of Florida known as the Indian River district, unless and until such is the fact.

(c) Using the words "Indian River" as a part of a corporate or trade name or otherwise, or the picturization of an Indian head, or any other words or picturization indicating the Indian River section of the State of Florida in connection with citrus fruit not produced in that section of the State of Florida known as the Indian River district.

It is further ordered, That the respondent 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

TRANS-PAC SERVICES, INC. AND DORLAND
INTERNATIONAL, INC.

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

Docket 5039. Complaint, Sept. 1, 1943—Decision, June 7, 1944

Where a corporation, engaged in the interstate sale and distribution of its "OCA Pinkovels" and "OCA," together with its advertising agency, in advertisements in newspapers, radio continuities and circulars and other advertising material, all in the Spanish Language—

Represented that said preparation was a remedy and competent and adequate treatment for colds, use of which prevented the developments and complications of a cold, and that it overcame persistent pains in the head and back, and was a new preparation and harmless;

The facts being it had no effect on the treatment of a cold in excess of temporarily alleviating some of the symptoms thereof; could not be depended upon to overcome persistent pains in the head and back, systemic disorders which cannot be successfully treated by an analgesic preparation; ingredients thereof had been used for many years in such products; and it was not harmless in that frequent and continuous use might be dangerous;

With effect of misleading a substantial portion of the purchasing public into the mistaken belief that said representations were true, and into the purchase of substantial quantities of said preparation as a result of such erroneous belief:

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

Mr. William L. Taggart for the Commission.

Viault & Viault, of New York City, for Trans-Pac Services, Inc.

Dannenberg & Hazen, of New York City, for Dorland International, Inc.

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 Trans-Pac Services, Inc., a corporation, and Dorland International, a corporation, 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, Trans-Pac Services, Inc., is a corporation, organized and existing under the laws of the State of New York with its principal place of business located at 233 West 14th Street in the city of New York, State of New York. It is now and has been for more than one year last past engaged in the business of offering for sale and selling a medicinal preparation known and designated as OCA Pinkovels and OCA.