

Order

IN THE MATTER OF
IMPERIAL CANDY COMPANY

MODIFIED CEASE AND DESIST ORDER

Docket 5046. Order, January 22, 1945

Modified order in proceeding in question, in which original order issued on November 29, 1944, 39 F. T. C. 459, requiring respondent, its officers, etc., in connection with the offering for sale, etc., of peanuts or other merchandise, to cease and desist from selling said peanuts, etc., through use of lottery schemes, punch boards, push cards, Whirling Derbies, etc., as in said order below set forth.

Mr. J. W. Brookfield, Jr. for the Commission.

Skeel, McKelvy, Henke, Evenson & Uhlmann, of Seattle, Wash., for respondent.

MODIFIED 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 respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Imperial Candy Company, a corporation and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of peanuts or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing peanuts or any other merchandise so packed and assembled that sales of such peanuts or other merchandise to the public are to be made or, due to the manner in which such merchandise is packed and assembled at the time it is sold by respondent, may be made by means of a game of chance, gift enterprise or lottery scheme.

2. Supplying to or placing in the hands of others punch boards, push or pull cards, Whirling Derbies, or other lottery devices, either with assortments of peanuts or other merchandise or separately, which said punch boards, push or pull cards, Whirling Derbies, or other lottery devices are to be used or may be used in selling or distributing such peanuts or other merchandise to the public.

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

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

IN THE MATTER OF

PHILLIP BARTELL TRADING AS THE EN-EX COMPANY
AND THE EN-EX DISTRIBUTING COMPANY

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

Docket 4766. Complaint, May 28, 1942—Decision, Jan. 23, 1945

Where an individual engaged in the interstate sale and distribution of a medicinal preparation which he designated as "En-Ex"; through advertisements in newspapers and other advertising literature—

- (a) Represented that said "En-Ex" was a cure or remedy for psoriasis, which would rid the skin and scalp of blotches, lesions, eruptions and pimples resulting therefrom; the facts being that no cure or remedy for psoriasis is known to the medical profession; the maximum benefit that might be obtained by the use of said "En-Ex" is that it might remove or assist in the removal of scales from psoriatic lesions, though lesions might later return at the same or other locations; and, while he stated in advertising material sent with purchases of his preparation that there is no known cure for psoriasis and that his preparation is not a cure for any skin disease, said statements reached members of the public only after they had responded to advertisements such as those set out and had purchased his preparation;
- (b) Falsely represented that said preparation was a cure or remedy and a competent and effective treatment for dandruff, which would prevent falling hair; the facts being that at most it afforded no more than temporary relief from dandruff and might aggravate the condition;
- (c) Represented that it was safe and harmless and might be used without danger of ill effects; the facts being it would, in many cases, seriously irritate the skin, and might result in secondary infections; it was particularly irritating to mucous membrane; and if it came in contact with the eyes might cause conjunctivitis; and
- (d) Failed to reveal facts material in the light of said representations and with respect to the consequences which might result from the use of their preparation under prescribed or usual conditions, and that, due to said product's irritant qualities, care should be exercised in applying it to the skin and its use discontinued if irritation resulted, and it should not be allowed to come into contact with the eyes or with any mucous membrane;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby induce it to purchase preparation in question:

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

Before *Mr. J. Earl Cox*, trial examiner.
Mr. S. F. Rose 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 Phillip Bartell, an individual, trading as The En-Ex Company, and The En-Ex Distributing Company,