

IN THE MATTER OF

J. E. DONALDSON, H. M. DONALDSON, AND L. M. HAGEMAN
TRADING AS MIRRA CHEMICAL LABORATORIES

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

Docket 5301 Complaint, Mar. 29, 1945—Decision, Oct. 30, 1945

The word "laboratories" or the words "chemical laboratories" are used by those who own, operate, or control a laboratory or place where products are tested, mixed, blended, and compounded, and where the ingredients thereof are subjected to scientific experimentation and research to determine their purity and usefulness

Where two individuals engaged in competitive interstate sale and distribution of a moth preventive product under the designation "Mirra Moth Immunizer"—

- (a) Represented through statements in advertisements in newspapers, periodicals, circulars, leaflets, pamphlets, and stickers, and on cartons and labels and in other advertising literature, that the formula for their said immunizer was given in 1928, or shortly thereafter, to one of them for use in his home in Florida, by Dr. George Washington Carver, and soon after the death of Dr. Carver in 1943, advertised and placed their said products on the market as an original formula of his and his discovery;

The facts being said formula was not an original formula of, nor discovered by said Dr. Carver, the distinguished negro scholar, and was not a new or amazing or sensational discovery; the active ingredients thereof were well known standard commercial chemicals, which had been used over a long period in combatting moths, and to which said individual had added certain inert ingredients to give the product clarity of color and agreeable odor, and to effect suspension of its chemical ingredients;

- (b) Represented as aforesaid that their said solution killed moths and carpet beetles upon contact, that one application thereof lasted for years, and that it was permanent when applied as directed, and described it as "the new scientific miracle that immunizes all fabrics and furs";

The facts being that it was not a contact spray and did not kill insects on contact, but needed to be eaten by them to cause death; and while, when properly applied, it might afford protection against moths for limited periods of time, its moth-proofing effects were not "permanent," were not applicable for the protection of all fabrics in general, but only for wool, felt and fur products, and one application thereof could not be stated accurately to moth proof articles for years, since no solution will permanently mothproof fabrics, dry cleaned or otherwise;

- (c) Advertised falsely as aforesaid, that their product was "the choice of the textile manufacturers";

The facts being that while it had been made available to some wool fabricators and textile manufacturers through the medium of respondents' larger outlets, many used other moth-proofing products; they had canvassed only a small portion of the textile manufacturers to ascertain which ones used their product;

- (d) Represented through use of word "laboratories" in their trade name "Mirra Chemical Laboratories," in advertisements and on labels and cartons as aforesaid, that they owned, operated or controlled a chemical laboratory;

The facts being that while they maintained at their address a processing and mixing plant where the various ingredients composing said product were mixed and pro-

cessed for shipment by the use of suitable equipment and where certain experiments were conducted to determine effectiveness of the product in use, they did not own, operate, or control a chemical laboratory, for the products of which a substantial portion of the purchasing public has preference;

With the effect of misleading and deceiving prospective purchasers into the mistaken belief that such representations were true, and into the consequent purchase of substantial quantities of said product; and of placing in the hands of dealers, agents, and distributors an instrument by means of which the latter might mislead and deceive, and had misled and deceived, members of the consuming public; and with result of diverting unfairly trade to them from their competitors in commerce:

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 in commerce and unfair acts and practices therein.

Mr. Marshall Morgan for the Commission.

Mr. Roy Hofheinz, of Houston, Tex., for J. E. Donaldson and H. M. Donaldson.

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 J. E. Donaldson, H. M. Donaldson, and L. M. Hageman, individually and trading as Mirra Chemical Laboratories, 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. Respondents J. E. Donaldson, H. M. Donaldson and L. M. Hageman are individuals composing a partnership trading under the name and style Mirra Chemical Laboratories, with their principal office and place of business located at Nos. 198-200 East Long Street, Columbus, Ohio.

PAR. 2. Respondents are now, and for some time past have been, engaged in the sale and distribution in commerce of a moth preventive product designated by the trade name "Mirra Moth Immunizer" or "Mirra Moth Carverizer" and a cleansing compound designated by the trade name "Mirra All Purpose Soapless Household Cleaner". Respondents cause and have caused their said products when sold by them to be transported from their said place of business in Columbus, Ohio, to the purchasers thereof in the various States of the United States other than the State of Ohio, and in the District of Columbia. Respondents maintain and at all times mentioned herein have 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. 3. In the course and conduct of their said business respondents have been and are now engaged in direct and substantial competition with various corporations, partnerships, and individuals likewise engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of products designed for similar purposes.

PAR. 4. Tuskegee Normal and Industrial Institute, generally referred to as Tuskegee Institute, located at Tuskegee, Marion county, Ala., is a well known educational institution for colored people.

Complaint

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In the year 1896, Dr. Washington Carver, a distinguished scholar of negro blood, went to Tuskegee Institute to become Director of its Department of Agricultural Research. Dr. Carver had formerly been a member of the faculty of Iowa State College for Agricultural and Mechanical Arts, was the holder of various college and honorary degrees and the recipient of various medals for noted research and scientific attainment particularly in connection with agricultural plant life and their diseases, the chemistry of plant life and the development of new and valuable articles of food and commercial utility from plant life. During the year 1935, Dr. Carver served as collaborator in the Bureau of Plant Industry, United States Department of Agriculture. His experiments and discoveries at Tuskegee Institute resulted in the development of many new uses to which plant life could be put. His valuable discoveries have, from time to time, been made available to the public by Tuskegee Institute, but throughout his long useful life of service, neither Dr. Carver nor Tuskegee Institute ever permitted the commercial use or exploitation of his name or that of Tuskegee Institute in connection with any product or discovery, or formula therefor.

PAR. 5. In the course and conduct of their said business and in connection with the sale of their said "Mirra Moth Immunizer" or "Mirra Moth Carverizer," respondents have made numerous false and misleading statements and representations to purchasers and prospective purchasers of said products by means of advertisements inserted in newspapers, magazines and other periodicals, in circulars, leaflets, pamphlets, stickers and other advertising literature, all of general circulation, and also by means of sales manuals and oral representations by their sales representatives.

Among and typical of the said statements and representations so made but not all inclusive, are the following:

Preserve to Conserve!
AMAZING DISCOVERY.
BY DR. CARVER

* * *

Dr. Carver * * * found one formula that would make wool, silk, felts and fibers immune to any insect damage.

* * *

Dr. Carver turned it over to him (Jimmy Donaldson)

* * *

Just one year ago, when war made the conservation of civilian clothing imperative, Mr. Donaldson released his formula for public use. * * *

* * *

Jimmie Donaldson, * * * a top-flight chemist * * * has established his Mirra Chemical Laboratories here in Columbus at 200 E. Long Street, * * *

* * *

Actually Makes Fabrics Non-Eatable to Moths

MIRRA MOTH IMMUNIZER

* * *

The sensational discovery of Dr. Carver, world-famous scientist, is now available to the public. * * * Prevents all moth damage.

* * *

THE AMAZING NEW

DR. GEO. WASHINGTON CARVER DISCOVERY.

Written up in the National Leading Magazines.

* * *

Mirra Moth makes Fabrics no longer food for moths and carpet beetles.

* * *

The now famous George Washington Carver Discovery "Mirra Moth Carverizer"

* * *

Mirra Moth Proof Immunizing Solution kills moths and carpet beetles upon contact.

* * *

There is only one way to effectively PREVENT moth damage—make fabrics NON-EATABLE to moths by using Mirra Moth Immunizer.

* * *

One application of Mirra Moth Proof on articles that are dry cleaned lasts for years.

* * *

Mirra Moth Proof Immunizer * * * lasts after many dry cleanings as it loses but $\frac{1}{2}$ of 1% per dry cleaning.

* * *

Mirra Moth Proofing is permanent when applied according to directions.

* * *

On cartons and labels of containers in which respondents' said product is shipped in commerce there appears and has appeared the following:

* * *

MIRRA MOTH IMMUNIZER

The Original

Dr. Carver Formula

The Choice of the Textile Manufacturers

The new scientific miracle that
immunizes all Fabrics and Furs

* * *

Formerly only available to manufacturers
of textiles—now available to the public

PAR. 6. By and through the use of the foregoing statements and representations and others similar thereto but not specifically set out herein, respondents represent and have represented, respectively, that the formula for their said preparation "Mirra Moth Immunizer" or "Mirra Moth Carverizer" is an original, new, amazing and miraculous formula for the treatment of moths, discovered by the noted scientist, the late Dr. George Washington Carver of Tuskegee Institute, Tuskegee, Ala.; that said formula was freely and knowingly given to respondents by Dr. Carver during his lifetime, with his full knowledge, understanding and permission that respondents would exploit the same commercially and would freely use his name and enjoy the benefits accruing from such use in connection with the advertisement and sale of any product compounded from said formula; that said "Mirra Moth Immunizer" will render all fabrics on which it is sprayed nonedible to moths and immune thereafter from moth attack; that one spraying of a fabric, including all articles of wool and furs, will give years of protection against moth attack; that articles sprayed with said "Immunizer" and thereafter repeatedly drycleaned will nevertheless continue to be immune from moth attack; that said preparation has been tested and tried by the textile manufacturers of the United States and has been adopted by the entire industry as their choice of a remedy to prevent moth damage to their various products; that the fame and accomplishments of respondents' said "Immunizer" have been such as to result in the publication of numerous articles descriptive thereof in leading magazines of the country; that in addition to immunizing a fabric against moth

attack, said preparation or solution will and does kill moths and carpet beetles upon contact.

PAR. 7. In truth and in fact, the formula employed by respondents in connection with their said product designated as "Mirra Moth Immunizer" and "Mirra Moth Carverizer" was not discovered by and did not originate with the late Dr. George Washington Carver, it has not been written up in leading national magazines and there is nothing new, or amazing or sensational about or in connection with said formula, the same being a well-known, standard commercial product that has been used for a hundred years or more in combatting the ravages and attacks of moths. No formula to be used in the commercial exploitation of any product to be employed in preventing or combatting moths, or otherwise, was turned over or delivered to respondents or any of them by Dr. George Washington Carver or Tuskegee Institute, and neither Dr. Carver nor Tuskegee Institute ever gave respondents or any one of them permission to use and exploit the name of Dr. Carver commercially. The fact is that while respondents claim to have obtained possession and ownership of the formula from Dr. Carver as far back as 1928, respondents have nevertheless carefully refrained from advertising or mentioning the name of Dr. Carver in connection therewith or undertaking to put the product on the market, until after the death of Dr. Carver some fifteen years later, in January, 1943.

Said product further, in truth and in fact, is not and cannot accurately be termed an "immunizer." The active ingredient in respondents' said product, namely, arsenic, does not "immunize" any woolen material against moth attack, but on the contrary merely poisons the material for moths. Moths will still eat the material but will die from having eaten it. Said product may serve to reduce moth damage but will not "prevent all moth damage," and does not render a material immune to moth attack. Said alleged "Immunizer" will not and does not kill moths and carpet beetles upon contact, it does not protect all fabrics or furs against moth attack, and one application to an object will not last and afford protection against moths for years. Respondents' said product has not been established to be and is not in fact the choice of the textile manufacturers of the country.

PAR. 8. There are many corporations, firms and individuals, competitors of respondents, engaged in the preparation and sale, or sale, of products designed to prevent damage by moths. Among such competitors are many who do not engage in unfair or deceptive acts or practices in connection with the sale of their products in said commerce. By means of the statement, "There is only one way to effectively PREVENT moth damage — make fabrics NON-EATABLE TO moths by using Mirra Moth Immunizer," respondents represent and have represented directly and by implication and inference that their said Mirra Moth Immunizer is the only product on the market that is effective in the treatment and prevention of moth damage. Said representation is misleading and deceptive to the public and defamatory of and disparaging to the products of respondents' said competitors.

PAR. 9. In advertising inserted in newspapers, magazines and other periodicals of general circulation and in manuals, circulars, leaflets, pamphlets, stickers and invoices, and on labels and cartons and containers employed in connection with the sale and shipment in commerce of respondents' said "Immunizer" appears the trade name "Mirra Chemical

Laboratories." In newspaper advertising of general circulation respondent J. E. Donaldson is designated as a "top-flight chemist." The use by respondents of the trade name "Mirra Chemical Laboratories" as aforesaid constitutes within itself a false and misleading representation to customers and prospective customers that respondents own, operate, or control a laboratory where the products sold by them are tested, mixed, blended and compounded, and where the ingredients thereof are subjected to scientific tests to determine their purity and usefulness, and where scientific research is conducted in regard to such products and the ingredients thereof, and that said products, emanating from such laboratory, are of a better quality than, and are superior to, the products sold by respondents' competitors. A substantial portion of the purchasing public has a preference for a product of the character herein described that has been produced by a chemical laboratory.

Respondents, through the use of the statement that said J. E. Donaldson is a "top-flight chemist," represent that said respondent is a graduate chemist holding the degree of Bachelor of Science in Chemistry or Doctor of Science in Chemistry and that he is thereby versed in chemistry, the science which treats of the composition of organic and inorganic substances and of the transformations which they undergo.

In truth and in fact, respondents do not own, operate, or control a laboratory where products sold by them are previously tested, mixed, blended or compounded, or where the ingredients thereof are subjected to scientific tests to determine their purity and usefulness, or where scientific research is conducted in regard to such products or the ingredients, thereof. Respondents' said "laboratories" as advertised and represented by them are in fact merely a place where three simple ingredients which compose respondents' said immunizer are measured, mixed, and prepared for shipment, and respondent J. E. Donaldson is not a graduate chemist or skilled in the science of chemistry.

PAR. 10. The use by respondents of the said false and misleading statements and representations in connection with the sale of their aforesaid product has a tendency and capacity to, and does, mislead and deceive purchasers and prospective purchasers of respondents' said product into the erroneous and mistaken belief that such statements and representations are true, and because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' said product. By these means respondents have further placed in the hands of their dealers, agents, and distributors an instrument by means of which the latter mislead and deceive and have misled and deceived members of the consuming public. In consequence of all of the foregoing, trade has been diverted unfairly to said respondents from their competitors in said commerce.

PAR. 11. The aforesaid acts and practices of said respondents, as alleged herein, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and 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 the 29th day of March, 1945, issued and thereafter served its complaint in this proceeding upon respondents J. E.

Donaldson and H. M. Donaldson, individually and trading as Mirra Chemical Laboratories, charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of that act. It was not possible to obtain service of the complaint upon respondent L. M. Hageman, whose whereabouts are unknown. After the filing of an answer by respondents J. E. Donaldson and H. M. Donaldson, a stipulation as to the facts was entered into between Richard P. Whiteley, assistant chief counsel for the Commission, and Roy Hofheinz, counsel for said respondents. Said stipulation provides that the facts set forth therein shall be taken as the facts in this proceeding and in lieu of testimony in support of, or in opposition to, the allegations of said complaint. Respondents expressly waived the filing of a report upon the evidence by the trial examiner. Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint, answer, and stipulation as to the facts, said stipulation having been accepted and approved by the Commission; 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 based thereon.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents J. E. Donaldson and H. M. Donaldson are individuals who for several years preceding April 15, 1945, traded under the name and style Mirra Chemical Laboratories, with their principal office and place of business located at numbers 198-200 East Long Street, Columbus, Ohio. Said respondents, since April 15, 1945, have been trading from the same address under the name and style Mirra Chemical Company. Respondent L. M. Hageman was formerly associated with respondents J. E. Donaldson and H. M. Donaldson in connection with the operation of said Mirra Chemical Laboratories. From March 1, 1943, to October 15, 1943, said business was operated in Columbus, Ohio, as a partnership composed of J. E. Donaldson, H. M. Donaldson, and L. M. Hageman. The said L. M. Hageman has not been connected or associated with the aforesaid business since October 15, 1943.

PAR. 2. Respondents J. E. Donaldson and H. M. Donaldson are now, and for some time past have been, engaged in the sale and distribution in commerce of a moth preventative product designated by the trade name "Mirra Moth Immunizer." Respondents cause and have caused their said product, when sold by them, to be transported from their said place of business in Columbus, Ohio, to the purchasers thereof in the various States of the United States other than the State of Ohio, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, said respondents have been and are now engaged in direct and substantial competition with various corporations, partnerships, and individuals likewise engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of products designed for similar purposes.

PAR. 4. Tuskegee Normal and Industrial Institute, generally referred

to as Tuskegee Institute, located at Tuskegee, Marion County, Ala., is a well-known educational institution for colored people.

In the year 1896, Dr. George Washington Carver, a distinguished scholar of Negro blood, went to Tuskegee Institute to become Director of its Department of Agricultural Research. Dr. Carver was the holder of various college and honorary degrees and the recipient of various medals for noted research and scientific attainment, particularly in connection with agricultural plant life and their diseases, the chemistry of plant life, and the development of new and valuable articles of food and commercial utility from plant life. During the year 1935, Dr. Carver served as co-laborator in the Bureau of Plant Industry, United States Department of Agriculture. His experiments and discoveries at Tuskegee Institute resulted in the development of many new and valuable uses to which plant life could be put, and won for him wide public acclaim.

PAR. 5. In connection with the conduct of their said business and for the purpose of inducing the sale of their said "Mirra Moth Immunizer" in commerce, respondents herein have made numerous statements and representations to purchasers and prospective purchasers of said product, by means of advertisements inserted in newspapers, magazines and other periodicals, in circulars, leaflets, pamphlets, stickers, or cartons and labels and in other advertising literature, all of general circulation, and also by means of sales manuals and oral representations by their sales representatives.

Among and typical of the said statements and representations so made but not all inclusive, are the following:

Preserve to Conserve!
AMAZING DISCOVERY
BY DR. CARVER

* * * *

Dr. Carver * * * found one formula that would make wool, silk, felts and other fibers immune to any insect damage. * * *

* * *

The sensation discovery of Dr. Carver, world-famous scientist, is now available to the public. * * *

* * *

THE AMAZING NEW
DR. GEO. WASHINGTON CARVER DISCOVERY

* * *

The now famous George Washington Carver discovery
"MIRRA MOTH CARVERIZER"

* * *

WOMEN "WISE" CARVERIZE WITH * * *
MIRRA MOTH IMMUNIZER
THE ORIGINAL FORMULA

* * *

MIRRA MOTH IMMUNIZER

The Original

Dr. Carver Formula

PAR. 6. Respondents claim and have represented that the formula for their said Mirra Moth Immunizer in the year 1928, or shortly thereafter, was given to respondent J. E. Donaldson by Dr. Carver for use in his (Donaldson's) home in Florida where said respondent's wool rugs, woollen

clothing and blankets were constantly menaced by moths. Said formula is described by, or on behalf of respondents, as an "original crude moth-preventative" solution that would repel moths and respondent J. E. Donaldson claims that as a result of "countless" experiments thereafter conducted by him in respect to the formula, he was able to produce a "crystal clear liquid with a delightful pine scent." Dr. George Washington Carver died at Tuskegee Institute, Ala., on January 5, 1943. Shortly thereafter, respondents advertised and placed on the market as an original formula of, and discovered by Dr. George Washington Carver, their product "Mirra Moth Immunizer." Respondents do not now claim, nor have they at any time represented, that there was any knowledge on the part of Dr. Carver that his name would be utilized in connection with the sale of said product, and they assert, on the other hand, that there was never any inhibition on the part of Dr. Carver against such use.

The Commission finds that the aforesaid representations of respondents to the effect that the formula for their said product "Mirra Moth Immunizer" was an original formula of, and discovered by, Dr. George Washington Carver, is misleading and deceptive. In truth and in fact, the said "Immunizer" formula, stated to have been given or turned over to respondent J. E. Donaldson by the late Dr. George Washington Carver, is not a new or amazing or sensational discovery, nor a discovery made by Dr. George Washington Carver but, on the contrary, the active ingredients of said formula are well-known, standard commercial chemicals which have been used over a long period of time in combatting the ravages and attacks of moths, respondent J. E. Donaldson having added thereto certain inert ingredients to give the product clarity of color and agreeable odor and to effect suspension of its chemical ingredients.

PAR. 7. In the further course and conduct of their said business and by the methods and through the media aforesaid, respondents have made other statements and representations to customers and prospective customers, as follows:

Mirra Moth Proof Immunizing Solution kills moths and carpet beetles upon contact. (Said representation was employed from September 1942, to May 1943.)

* * *

One application of Mirra Moth Proof on articles that are dry cleaned lasts for years. (Said representation was employed from September 1942, to May 1943.)

* * *

Mirra Moth Proofing is permanent when applied according to directions. (Said representation was employed from September 1942, to May 1943.)

* * *

MIRRA MOTH IMMUNIZER—The choice of the Textile Manufacturers. The new scientific miracle that immunizes all fabrics and furs

(Said representation was employed by respondents from September 1942, to September 1944.)

The Commission finds that the foregoing claims, statements and representations of respondents are misleading and deceptive. In truth and in fact, respondents' said product is not a contact spray and does not kill moths, carpet beetles or other insects on contact, but must be eaten by them to cause death.

While respondents' said product when properly applied may afford protection against moths for limited periods of time, its moth-proofing effects are not "permanent," are not applicable for the protection of all fabrics,

in general, but only for use in the case of wool, felt and fur products, and one application thereof cannot be stated accurately to moth-proof "for years" articles that have been dry cleaned or otherwise, there being no solution which will permanently moth-proof fabrics. Said representations are so exaggerated in character as to amount to misrepresentation.

While respondents' said product has been made available to some wool fabricators and textile manufacturers through the medium of respondents' larger outlets, many of the said manufacturers and fabricators of woollen products use other moth-proofing products in treating the goods manufactured by them; respondents have canvassed only a small portion of the textile manufacturers to ascertain which ones use their product, and respondents' product is not and has not been made "the choice of the textile industry."

PAR. 8. In further connection with the conduct of their said business, as above set forth, through various media of general circulation and the methods hereinabove mentioned, respondents have further represented, from September 1942, to May 1943, that:

"There is only one way to effectively PREVENT MOTH DAMAGE — make fabrics NON-EATABLE to moths by using Mirra Moth Immunizer."

The Commission finds that by means of this statement, respondents have represented, directly and by implication and inference, that their said "Moth Immunizer" is the only product on the market that is effective in the treatment and prevention of moth damage. The Commission finds that said representation is not true as a fact and that it is defamatory of and disparaging to the products of respondents' said competitors. During all of the times mentioned herein, there have been various other corporations, firms, partnerships, and individuals who have been engaged in the sale and distribution to purchasers located in the various States of the United States, other than the State of origin of the shipment, of various like or similar preparations or products for use in the prevention of moth damage to felt, fur, or woollen products.

PAR. 9. In advertising inserted in newspapers, magazines and other periodicals of general circulation and in manuals, circulars, leaflets, pamphlets, stickers, and invoices, and on labels and cartons and containers employed in connection with the sale and shipment in commerce of respondents' said "Immunizer" appears the trade name "Mirra Chemical Laboratories." Said trade name has been used by respondents from January 1, 1943, to April 15, 1945.

The Commission finds that respondents' use of the word "laboratories" in their trade name "Mirra Chemical Laboratories" is misleading and deceptive. The Commission finds that the word "laboratories" or the words "chemical laboratories" are used by those who own, operate, or control a laboratory or place where products are tested, mixed, blended, and compounded, and where the ingredients thereof are subjected to scientific experimentations and research to determine their purity and usefulness. The Commission finds that a substantial portion of the purchasing public has preference for a product of the character described that has been produced by a chemical laboratory. The Commission finds that while respondents have had, and now maintain at their aforesaid address in Columbus, Ohio, a processing and mixing plant where the various chemicals and ingredients composing respondents' said product are compounded, blended, mixed and processed for shipment by the use of equipment suit-

able for such purposes, and where certain experiments are conducted to determine effectiveness of respondents' product in use, respondents do not own, operate, or control a chemical laboratory.

PAR. 10. The use by respondents of the said false and misleading statements and representations in connection with the sale of their aforesaid product has a tendency and capacity to, and does, mislead and deceive purchasers and prospective purchasers of respondents' said product into the erroneous and mistaken belief that such statements and representations are true, and because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' said product. By these means, respondents have further placed in the hands of their dealers, agents, and distributors an instrument by means of which the latter mislead and deceive, and have misled and deceived, members of the consuming public. In consequence of all the foregoing, trade has been diverted unfairly to said respondents from their competitors in said commerce.

CONCLUSION

The acts and practices of said respondents as herein found are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and 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, answer of the respondents J. E. Donaldson and H. M. Donaldson, and a stipulation as to the facts entered into between counsel for the Commission and counsel for the said respondents, which provides, among other things, that without further evidence or other intervening procedure the Commission may enter and serve upon said respondents its findings as to the facts and its conclusion based thereon, and an order disposing of the proceeding; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents J. E. Donaldson and H. M. Donaldson, individually and trading as Mirra Chemical Laboratories, or trading under any other name, their representatives, agents, 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 respondents' product designated "Mirra Moth Immunizer," or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from:

1. Using the word "Laboratories," or any other word of similar import, as a part of or in connection with respondents' trade name; or otherwise representing, directly or by implication, that respondents own or operate a laboratory.

2. Representing, directly or by implication, that respondents' product was discovered by Dr. George Washington Carver or that the formula for said product originated with the said Dr. Carver.

3. Representing, directly or by implication, that said product is a "new" or "amazing" or "sensational" discovery.

4. Representing, directly or by implication, that said product kills moths, carpet beetles, or other insects upon contact or that said product will cause the death of insects unless eaten by them.

5. Representing, directly or by implication, that said product affords permanent protection against moths or other insects or that one application of said product lasts or is effective for years.

6. Representing, directly or by implication, that said product will protect or mothproof articles or fabrics other than those made from wool, felt, or fur.

7. Representing, directly or by implication, that said product is the choice of the textile industry.

8. Representing, directly or by implication, that said product is the only product on the market which is effective in preventing damage by moths.

It is further ordered, That said respondents shall, within 60 days after the 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.

Service of the complaint herein not having been obtained on respondent L. M. Hageman, it is further ordered that said complaint be, and it hereby is, dismissed as to said respondent without prejudice to the right of the Commission to institute further proceedings against said respondent.

IN THE MATTER OF

BONDED PRODUCTS CORPORATION, A. EDWARD BELDNER
AND JOSEPH BLAU

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

Docket 5367. Complaint, Aug. 14, 1945—Decision, Nov. 19, 1945

Where a corporation and two individuals, its officers and stockholders, engaged in the interstate sale and distribution to dealers or agents and members of the purchasing public, of a coal combustion device designated as "Burn-Rite," designed to spray pre-heated air over the fuel bed; through statements in circulars, leaflets, photostatic illustrations and other advertising matter—

Falsely represented and implied that the use of their said device resulted in a saving up to 35% in the cost of coal; that said product eliminated gases, gave better heating satisfaction, and saved one ton of coal or coke in every seven used; gave better combustion to coal used, saved labor in firing, lengthened the firing period, reduced clinkers and ash content; and produced clean heat, less smoke, soot or dirt, and lengthened the life of boilers and grates;

The facts being that a coal or coke furnace could, by proper use of the conventional dampers or perforated plates, be made to perform as well without the "Burn-Rite" device as with it, since said device merely tended to restrict the flow of secondary air through the fire doors of the furnace, and its regulating function was not superior or complementary to that of the conventional equipment in coal or coke furnaces;

With tendency and capacity of deceiving and misleading a substantial portion of the purchasing public into the erroneous belief that such representations were true, and into the consequent purchase of substantial quantities of their said product:

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.

Mr. B. G. Wilson 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 Bonded Products Corporation, a corporation, and A. Edward Beldner and Joseph Blau, individually and as officer of said 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 Bonded Products Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 1182 Broadway, city of New York, State of New York.

Individual respondents A. Edward Beldner and Joseph Blau are president, and secretary and treasurer, respectively, of respondent corporation