

Order

IN THE MATTER OF

RUCKER'S IMPERIAL BREEDING FARM, INC., ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 5117. Order, November 28, 1945

Modified order in proceeding in question, in which original order issued on October 21, 1944, 39 F.T.C. 386, making prohibitions of said original order requiring respondents, in connection with offer, etc. of baby chicks or other poultry, to cease representing that they are R.O.P. poultry breeders or that they operate a poultry plant under the supervision of an official State agency supervising United States Record of Performance Work; etc. as below set forth; subject to the proviso that said order's various provisions shall not be construed as prohibiting representations that respondents' baby chicks are R.O.P. sired when such chicks have actually been sired by males which have been officially banded with U.S. R.O.P. sealed and numbered official leg bands and duly registered as such; or representations that the flocks supplying the eggs from which the baby chicks are hatched are headed by R.O.P. males when the flocks concerning which such representations are made are segregated and headed by such officially banded R.O.P. males; provided, however, that such representations are not made in such manner as to represent, directly or by implication, that the baby chicks so offered for sale are U.S. R.O.P. chicks, or that the respondents are participants in the National Poultry Improvement Plan.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Rice, Miller & Hyatt and *Mr. V. E. Phillips*, of Kansas City, Kans., and *Mr. James R. Quinn*, of Chicago, Ill., for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, and a stipulation as to the facts entered into upon the record, which stipulation provided, among other things, that, without further evidence or other intervening procedure, the Commission might proceed upon the facts as stipulated to make its report, stating its findings as to the facts and its conclusions based thereon and enter its order disposing of the proceeding, the Commission, on October 21, 1944, made its findings as to the facts and its conclusion that respondents had violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist. Thereafter, on November 3, 1944, the respondents filed a motion to modify the findings as to the facts, conclusion and order to cease and desist, and the Commission, having considered said motion and the record and being of the opinion that a modified order to cease and desist should be issued, on December 21, 1944, issued its modified order to cease and desist.

On October 31, 1945, *Richard P. Whiteley*, Assistant Chief Counsel of the Commission, and *James R. Quinn*, counsel for the respondents, executed a stipulation whereby it was agreed that said order to cease and desist issued in this proceeding on December 21, 1944, without notice or hearing, might be modified in the respects set out in said stipulation. The Commission having duly considered said stipulation and the record herein,

and being of the opinion that a modified order to cease and desist should be issued in said cause, issues this its modified order to cease and desist.

It is ordered, That the respondent Rucker's Imperial Breeding Farm, Inc., a corporation, and its officers, and respondent Ross R. Salmon, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of baby chicks or other poultry in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that respondents are R. O. P. poultry breeders or that they operate a poultry plant under the supervision of an official State agency supervising United States Record of Performance Work; or in any other manner misrepresenting the egg-production record of respondents' flocks or the extent of supervisions maintained over said flocks.

2. Representing that baby chicks hatched from eggs produced on farms other than those owned and controlled by the respondents were hatched from eggs produced at the hatcheries operated by the respondents.

3. Representing that any number of chicks will be delivered free, when such delivery is contingent upon the purchase of other chicks from the respondents.

4. Representing that a certain number of chicks will be supplied with the purchase of a stated number of chicks unless the additional chicks so specified are actually delivered or authority to substitute is obtained from the purchaser prior to delivery.

5. Representing that respondents are making a special offer to a limited number of prospective purchasers for advertising or display purposes or otherwise, when such offer is made available to purchasers generally, without restriction as to number or location.

It is further ordered, That this order shall not be construed as prohibiting representations that respondents' baby chicks are R.O.P. sired when such chicks have actually been sired by males which have been officially banded with U. S. R. O. P. sealed and numbered official leg bands and duly registered as such; or representations that the flocks supplying the eggs from which the baby chicks are hatched are headed by R. O. P. males when the flocks concerning which such representations are made are segregated and headed by such officially banded R. O. P. males; provided, however, that such representations are not made in such a manner as to represent, directly or by implication, that the baby chicks so offered for sale are U. S. R. O. P. chicks, or that the respondents are participants in the National Poultry Improvement Plan.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to respondents Famous Poultry Farms, Inc., a corporation, and Hillview Poultry Farms, Inc., a corporation.

It is further ordered, That the respondents 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.

Complaint

IN THE MATTER OF

GEORGE W. COUGHLAN TRADING AS NATIONAL
ELECTRIC MANUFACTURERS COMPANY

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

Docket 5192. Complaint, July 18, 1944—Decision, Nov. 28, 1945

Where an individual engaged in competitive interstate sale and distribution of flexible shafting for the remote control of valves in ships and naval vessels —

- (a) Represented through statements in circulars, pamphlets and other advertising material, that such use of flexible shafting was originated, designed and developed by him and his engineers; and
- (b) In furtherance of such representations and for the purpose of indicating the skill and knowledge of himself and his employees, used drawings of flexible shafting and its component parts which were so presented as to represent that such drawings were the originals of, or reproductions of, drawings made by him or by his employees, and certain of which bore his name with initials of the purported drawer thereof, initials of the checker, and date upon which they were purported to have been made by his employees;

When in fact the idea of using flexible shafting for the aforesaid purpose originated with a firm of naval architectural and marine engineers, and the Bureau of Ships of the Navy Department; the designing of such shafting to make it adaptable for the purpose of remote control of valves was developed by the engineers of a manufacturing company in cooperation with them; and the drawings and designs which he included in various pamphlets and circulars as original, were in fact tracings and copies of the drawings previously prepared and used by the said manufacturing company, of which during time involved herein, he had been a sales representative and, as such, participant in conferences on the aforesaid matters;

With the effect of misleading and deceiving purchasers by creating the erroneous belief that he originated, designed, and developed flexible shafting for use in the remote control of valves in ships and naval vessels, thereby causing a substantial number of them to buy his flexible shafting, and unfairly diverting trade in commerce to him from his competitors who did not so misrepresent their accomplishments:

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

Before *Mr. Webster Ballinger*, trial examiner.

Mr. John York for the Commission.

Mr. John A. Blake, of New York City, 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 George W. Coughlan, an individual trading as National Electric Manufacturers Company, 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