

Syllabus

IN THE MATTER OF

BANNER MANUFACTURING CO., INC., TRADING AS GOLD
SEAL MANUFACTURING CO. AND NATIONAL LABORA-
TORIES CO.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5123. Complaint, Jan. 31, 1944—Decision, July 13, 1949*

Solutions known as antifreezes have long been sold to the general public throughout the United States to prevent injury to engines from the freezing of the water used in the cooling systems, and have proven dependable for such purpose and from the standpoint of not damaging the engine or vehicle concerned; and when a product is advertised as an antifreeze the public believes that it possesses the attributes found in such long used dependable products, may be used with safety in such cooling systems, will not cause rust, corrosion, clogging, or other deterioration or injury, and will protect the cooling system and other parts of the engine.

Calcium chloride when used in amounts sufficient to give protection against freezing in solutions intended for use in the cooling systems of automotive and other combustion engines will cause damage to the aluminum parts of the engine; will gradually cause damage to certain iron parts, such as pump and propeller shafts; will cause leakage in the radiator and tend to fill it with corrosion deposits to the extent that the engine will not longer cool; and tends to form deposits on ignition wires, with the result, under certain conditions, of causing short circuits. And while sodium chromate and oil are sometimes used to suppress or eliminate corrosion by the basic constituents of the antifreeze, under conditions of ordinary use of an automobile, sodium chromate, whether used alone or with oil in engines will not serve to eliminate or retard corrosion caused by calcium chloride as a basic ingredient.

Where a corporation engaged in the manufacture of various so-called antifreeze solutions containing calcium chloride, including its Gold Seal and Zero Flo preparations, recommended for use in the cooling systems of automotive and other combustion engines, and in the interstate sale and distribution of such products to automotive supply houses and garages for resale to the consuming public—

Falsely represented through use of the term "antifreeze" upon the labels attached to the containers of its products, that such preparations would protect the cooling system of automobiles and other internal combustion engines against damage from low temperatures without injury;

With effect, through such use of the term "antifreeze" and without informing the general public of the damaging effects which might result from the calcium chloride content of such products, of misleading a substantial portion of the purchasing public into the erroneous belief that the products were safe and dependable for use in guarding against damage from low temperatures without injury to the engines; and of thereby inducing such purchase

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of substantial quantities thereof; and with capacity and tendency of so doing:

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

Before *Mr. J. Earl Cox* and *Mr. Andrew B. Duvall*, trial examiners.
Mr. Jesse D. Kash for the Commission.

Mr. Jacob E. Hurwitz, 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 Banner Manufacturing Co., Inc., a corporation, trading as Gold Seal Manufacturing Co. and National Laboratories 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. Banner Manufacturing Co., Inc., trading as Gold Seal Manufacturing Co. and National Laboratories Co., is a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 37 Preston Court, Brooklyn, N. Y. The respondent for several years last past has been engaged in the manufacture, sale, and distribution of various so-called antifreeze solutions, two of which were designated "Gold Seal" and "Zero Flo," recommended for use in the cooling systems of automobiles and other combustion engines. Such products were sold by respondent to automotive supply houses and garages for resale to the consuming public. Respondent caused its products when sold to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Said products are made from a calcium chloride base.

PAR. 2. The respondent maintains and at all times mentioned herein has maintained a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. For many years there has been on the market and sold to the general public throughout the United States solutions for use in the water in the cooling systems of automobiles and other types of internal-combustion engines to prevent injury to such engines from the

freezing of the water used in the cooling systems. These solutions are known as antifreezes and have proven dependable, both from the standpoint of protecting the cooling system and other parts of the engine and in not damaging any part of the engine or vehicle in which the engine is installed, by corrosion, clogged passages, or any other form of deterioration or injury.

When a product is advertised as an antifreeze, the public believes that it possesses the attributes found in these long-used dependable products; that it may be used with safety in such cooling systems; that it will not cause rust, corrosion, clogging, or other deterioration or injury, and that it will protect the cooling system and other parts of the engine from cold.

PAR. 4. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its products, Gold Seal and Zero Flo, the respondent has circulated among prospective purchasers throughout the United States by means of labels and lithographing on the containers within which said antifreeze solution is shipped, false statements and representations concerning said products. Among and typical of such false statements and representations circulated as aforesaid are the following:

Gold Seal Anti-Freeze Concentrated.
One filling lasts all winter.

Certificate of Quality Our Guarantee.

Gold Seal Manufacturing Company,
Brooklyn, New York.

One Gallon
National
Radiator
Alcohol and Glycerine
Base
Concentrated
Anti-Freeze.

Zero Flo Concentrated Anti-Freeze

The respondent has placed its Gold Seal and Zero Flo calcium chloride based antifreeze solutions in containers labeled or lithographed National Radiator Alcohol and Glycerine Base Concentrated Anti-Freeze.

Through the use of the statements and representations hereinabove set forth, the respondent has represented directly or by implication that said product, Gold Seal, is a high quality antifreeze solution which furnishes protection to the cooling systems of automobiles and other internal-combustion engines against freezing, water seepage,

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and corrosion and prevents other damaging effects; that it is safe and dependable for use as recommended; that it will protect the entire cooling systems of automobiles against freezing; that it prevents rust and corrosion; that it will not boil away; that its use will not cause rust or other damage to the hose connections, gaskets, and other metal parts of an automobile or other internal-combustion engine; that it will not evaporate or clog passages in a cooling system and will not damage body finishes on automobiles and that its antifreeze solution placed in containers marked "alcohol and glycerine base concentrated anti-freeze" is composed of alcohol and glycerine.

PAR. 5. The foregoing statements and representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's products, "Gold Seal and Zero Flo, are not high quality antifreeze solutions as they are composed of a calcium chloride base and are inferior to antifreeze solutions made from glycerine or alcoholic bases. Said products do boil away. They are not safe and dependable for use as recommended and are not superior types of antifreeze solutions. They do not protect the cooling systems of engines against corrosion, rust, or other deterioration. The use of said products causes and has caused corrosion, clogged passages, and other serious damages to engines, radiators, ignition wires, spark plugs, hose connections, gaskets, water pumps, and to the exterior finishes of automobiles. Said products evaporate and will clog passages in the cooling systems. Respondent's antifreeze solution placed in cans labeled "National Radiator Alcohol and Glycerine Base Concentrated Anti-Freeze," is not composed of alcohol and glycerine but is a calcium chloride based solution.

The respondent's representations that its products are antifreezes leads the public to believe that said products are safe and dependable for use in the cooling systems of internal-combustion engines in guarding against damage from low temperatures and without injury to such engines from rust, corrosion, clogging, or other deleterious or damaging effect, and leads the public to believe that its antifreeze solution designated "National Radiator Alcohol and Glycerine Base Concentrated Anti-Freeze" is composed of alcohol and glycerine.

Respondent's failure to inform the general public of the deleterious and damaging effects which result from the use of its products as antifreezes is misleading and deceptive.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations disseminated as aforesaid 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 such false and misleading statements and advertisements are true and to induce and does induce the public to purchase substantial quantities of respondent's products as a result of such belief.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 31, 1944, issued and subsequently served its complaint in this proceeding upon the respondent, Banner Manufacturing Co., Inc., a corporation, trading as Gold Seal Manufacturing Co., and National Laboratories Co., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the answer of the respondent thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were taken before J. Earl Cox, a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly received and filed in the office of the Commission. Thereafter said trial examiner filed his report upon the evidence and the matter came on for hearing before the Commission upon said report and exceptions filed thereto, testimony and other evidence, and briefs of counsel in support of the complaint and in opposition thereto, oral argument of counsel, and motion filed by the respondent December 22, 1944, to reopen the hearings herein, and the Commission, having duly considered the matter, on August 22, 1945, issued its order reopening said case for the taking of such further testimony and other evidence as might be offered.

Thereafter, supplemental evidence in support of and in opposition to the allegations of said complaint were taken before Andrew B. Duvall, a trial examiner of the Commission duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding came on for final hearing before the Commission upon the complaint, answer thereto, testimony, and other evidence, report upon the evidence of trial examiner J. Earl Cox, and exceptions filed thereto, report upon supplemental evidence of trial examiner Andrew B. Duvall, brief and supplemental brief filed by counsel in support of the complaint,

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and brief and reply brief to supplemental brief of counsel supporting the complaint, filed by the respondent; and the Commission, having duly considered the matter and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Banner Manufacturing Co., Inc., trading as Gold Seal Manufacturing Co. and National Laboratories Co., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 37 Preston Court, Brooklyn, N. Y. The respondent for several years last past has been engaged in the manufacture, sale and distribution of various so-called antifreeze solutions, two of which were designated "Gold Seal" and "Zero Flo," recommended for use in the cooling systems of automobiles and other combustion engines. Such products were sold by respondent to automotive supply houses and garages for resale to the consuming public. Respondent caused its products, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in other States of the United States and in the District of Columbia. The respondent maintains and at all times mentioned herein has maintained a course of trade in said products in commerce among and between the various States of the United States and the District of Columbia.

PAR. 2. For many years there have been on the market and sold to the general public throughout the United States solutions for use in the water in the cooling system of automobiles and other types of internal-combustion engines to prevent injury to such engines from the freezing of the water used in the cooling systems. These solutions are known as antifreezes and have proven dependable, both from the standpoint of protecting the cooling system and other parts of the engine and in not damaging any part of the engine or vehicle in which the engine is installed by corrosion, clogged passages, or any other form of deterioration or injury.

When a product is advertised as an antifreeze, the public believes that it possesses the attributes found in these long used dependable products; that it may be used with safety in such cooling systems; that it will not cause rust, corrosion, clogging, or other deterioration or injury, and that it will protect the cooling system and other parts of the engine from cold.

PAR. 3. In the course and conduct of its business, in connection with the offering for sale, sale, and distribution of its products, Gold Seal

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and Zero Flo, the respondent has designated and described said products as antifreeze solutions by means of statements and representations upon the labels attached to the containers of such products. Typical of such representations on labels are the following:

GOLD SEAL
ANTI-
FREEZE
Concentrated
One Filling
Lasts All Winter

Zero Flo
Concentrated
ANTI-FREEZE

PAR. 4. Through the use of the term antifreeze to designate and describe its products the respondent has represented that the preparations so designated will protect the cooling systems of automobiles and other internal-combustion engines against damage from low temperatures without injury to such engines.

PAR. 5. The product designated "Gold Seal," sold and distributed by the respondent, is composed principally of the following ingredients:

	<i>Percent</i>		<i>Percent</i>
Calcium chloride-----	35.1	Calcium sulphate less than-----	0.1
Magnesium chloride-----	.1	Sodium chromate-----	.05
Sodium chloride-----	.7	Oil -----	.2
Calcium hydroxide less than-----	.1		

The freezing point of said preparation, when diluted with an equal volume of water, was minus 19° C.

The preparation sold and distributed by the respondent designated "Zero Flo" contains the same constituent parts as respondent's product "Gold Seal."

PAR. 6. The presence of calcium chloride in respondent's products Gold Seal and Zero Flo is likely to give rise to electrolytic corrosion. Calcium chloride, when used in amounts sufficient to give protection against freezing, will cause damage to the aluminum parts of the engine and will gradually cause damage to certain iron parts, such as pump and propeller shafts. It will also cause leakage in the radiator and tend to fill the radiator with corrosion deposits to the extent that the engine will no longer cool. Calcium chloride, when used as an antifreeze solution in an automobile engine, tends to form deposits on ignition wires which deposits are very hygroscopic, and, by assimilation,

lating water from the air when humidity is high, forms a solution which is an excellent conductor of electricity causing short circuits.

PAR. 7. The products, Gold Seal and Zero Flo, sold and distributed by the respondent, contain two ingredients, sodium chromate 0.05 percent and oil 0.2 percent, which are sometimes used for the intended purpose of suppressing or eliminating corrosion by the basic constituent of the antifreeze. The Commission finds, however, that under conditions of ordinary use of an automobile, sodium chromate, used either alone or in combination with oil, will not serve to eliminate or retard corrosion caused by the basic ingredient calcium chloride.

PAR. 8. The use by the respondent of the term "antifreeze" to designate, refer to, or describe its products which contain calcium chloride, or otherwise representing that such products are antifreeze solutions, without informing the general public of the deleterious and damaging effects which may result from the use of such products as antifreeze solutions, has the tendency and capacity to and has misled and deceived a substantial portion of the purchasing public into the erroneous and mistaken belief that products so designated, described and referred to as antifreeze solutions are safe and dependable for use in the cooling systems of internal-combustion engines in guarding against damage from low temperatures without injury to such engines from rust, corrosion, clogging, or other deleterious or damaging effects. Because of such erroneous and mistaken belief members of the purchasing public have been induced to purchase substantial quantities of respondent's products.

CONCLUSION

The aforesaid 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, the answer of the respondent, testimony, and other evidence introduced before J. Earl Cox and Andrew B. Duvall, trial examiners of the Commission theretofore duly designated by it, report upon the evidence of trial examiner J. Earl Cox and exceptions filed thereto, report upon supplemental evidence of trial examiner Andrew B. Duvall, briefs and supplemental briefs filed in support of the complaint and in opposition thereto, and

oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Banner Manufacturing Co., Inc., a corporation, trading as Gold Seal Manufacturing Co. and National Laboratories Co., or trading under any other trade name, 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 in commerce as "commerce" is defined in the Federal Trade Commission Act, of its products now designated "Gold Seal" and "Zero Flo," or any other product of substantially similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing that its products Gold Seal and Zero Flo, or any other product of substantially similar composition, are antifreeze preparations for use in the cooling systems of internal-combustion engines, without affirmatively disclosing in a clear and conspicuous manner, in immediate conjunction with such representation, that said preparations will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system, and otherwise damage such engine.

2. Using the term "antifreeze," or any other term of similar import or meaning, to designate, describe, or refer to any preparation for use in the cooling systems of automobiles or other internal-combustion engines which has a calcium chloride base, without affirmatively disclosing in a clear and conspicuous manner, in immediate connection or conjunction with such term, that said preparation will rust and corrode the cooling system of such an engine, may clog the passages in such cooling system, and otherwise damage such engine.

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.

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IN THE MATTER OF

ASSOCIATED TRADE PRESS, INC., AND JOHN W. COMPTON,
JAMES R. COMPTON, AND HAZEL C. COMPTONCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5566. Complaint, June 8, 1948—Decision, July 13, 1949*

Where a corporation and three officers thereof, engaged in the sale of magazine subscriptions to subscribers in various States, principally through large numbers of house-to-house salesmen, who, as a rule, collected the entire subscription price—

- (a) Carried on their said business in such a way that, in many instances, whether through deliberate intention, negligence, indifference, or otherwise, subscribers failed to receive the magazines subscribed for, or received others than those ordered, and in many instances received no publication until many months after it was due and then only after expending much effort; and
- (b) Failed, in many instances, to acknowledge receipt of complaints both by those who had received no magazines whatever and by those who had received other magazines than those for which they subscribed, and to forward the magazines subscribed for until pressure was brought to bear on them by some individual or organization:

Held, That such 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. DeWitt T. Puckett 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 Associated Trade Press, Inc., a corporation, and John W. Compton, James R. Compton, and Hazel C. Compton, individually and as officers of the aforesaid 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, Associated Trade Press, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, and has its principal office and place of business at 9 South Kedzie Avenue, Chicago, Ill.

Respondents, John W. Compton, James R. Compton, and Hazel C. Compton, are officers of the aforesaid corporation and have their principal office at the above-stated address.

Said respondents are now and for more than 1 year last past have been engaged in selling subscriptions to magazines.

The respondents caused and now cause said magazines, after the subscriptions therefore have been secured and forwarded to the publishers or distributors thereof, to be sent by said publishers or distributors, through the United States mails and otherwise, to the subscribers of said magazines, located in various States of the United States other than the State of origin of said shipments.

The respondents maintain and at all times mentioned herein have maintained a substantial course of trade in said magazines in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. The respondents secure over 2 million subscriptions annually to approximately 100 different magazines, principally through house-to-house salesmen. Respondents employ a field force of approximately 1,000 persons, about 400 of whom specialize in trade and technical publications and the balance specialize in general interest or popular magazines.

PAR. 3. Upon securing a subscription to a magazine, respondents' salesmen furnish the subscriber a receipt therefor showing the name and address of the subscriber, the magazine subscribed for, the period of time covered by the subscription, and the amount of money collected. It is respondents' general practice to collect the entire subscription price. The stub of this receipt, giving the same information as that furnished the subscriber, is furnished to respondents together with the amount collected less the salesmen's commission.

PAR. 4. Upon receipt of the aforesaid stubs or tickets, respondents sort them according to the magazines subscribed for. Duplicate type-written lists are then made of the data contained in said tickets under the name of each publication involved. This information is then forwarded to the publisher or distributor of the publications involved, together with the purchase price to respondents, and the publications are mailed to the subscribers by said publisher or distributor.

PAR. 5. Through deliberate intention, negligence, indifference, or otherwise, on the part of respondents, many subscribers do not receive the magazine or magazines subscribed for, but receive other publications. Also, in many instances, subscribers do not receive any publication whatever until many months after its due date, and then only

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after considerable effort has been expended on the part of the subscriber to require fulfillment of the contract by the respondents.

PAR. 6. Notwithstanding the fact that complaints are registered with respondents by subscribers who do not receive any magazines whatever and also by subscribers who receive magazines other than what they subscribe for, respondents, in many instances, fail to acknowledge receipt of such complaints and fail to forward the magazines subscribed for until pressure is brought to bear on them by some individual or organization.

PAR. 7. 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 June 8, 1948, issued and subsequently served its complaint in this proceeding upon the respondents, Associated Trade Press, Inc., a corporation, and John W. Compton, James R. Compton, and Hazel C. Compton, individually, and as officers of Associated Trade Press, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint the respondents filed their answer, by which answer they admitted all of the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to said facts. Thereafter, a stipulation as to certain facts was entered into between Daniel J. Murphy, chief of the Trial Division, and respondents. Thereafter this proceeding regularly came on for final hearing before the Commission upon said complaint, the answer thereto, and stipulation as to certain facts; and the Commission, having duly considered the matter and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Associated Trade Press, Inc., is a corporation organized, existing, and doing business by virtue of the laws of the State of Illinois, and has its principal office and place of business at 9 South Kedzie Avenue, Chicago, Ill.

Respondents, John W. Compton, James R. Compton, and Hazel C. Compton, are officers of said corporate respondent and have their principal office at the same address as that of the corporate respondent.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the sale of subscriptions to magazines. When said subscriptions for magazines have been secured respondents cause said magazines to be sent by the publishers or distributors thereof, through the United States mails and otherwise, to the subscribers of said magazines located in various States of the United States other than the State of origin of said shipments.

Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said magazines in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. The respondents secure over 2 million subscriptions annually to approximately 100 different magazines, principally through house-to-house salesmen. Respondents employ a sales force of approximately 1,000 persons, about 400 of whom specialize in trade and technical publications and the balance specialize in general interest or popular magazines.

PAR. 4. Upon securing a subscription to a magazine, salesmen of the respondents furnish the subscriber a receipt therefor showing the name and address of the subscriber, the magazine subscribed for, the period of time covered by the subscription, and the amount of money collected. It is the general practice of the respondents to collect the entire subscription price. The stub of this receipt, giving the same information as that furnished the subscriber, is furnished to respondents, together with the amount collected less the salesman's commission.

Upon receipt of such stubs or tickets, it is the general practice of the respondents to sort the stubs or tickets according to the magazines subscribed for and to make duplicate typewritten lists of the data contained in said stubs or tickets under the name of each publication involved. This information is then forwarded to the publishers or distributors of the publication or publications involved, together with the purchase price to the respondents for said publication or publications, and the publication or publications are mailed to the subscribers by said publishers or distributors.

PAR. 5. In many instances, through deliberate intention, negligence, indifference, or otherwise, of the respondents, subscribers have not received the magazines subscribed for or have received publications

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other than those ordered, and in many instances subscribers received no publication until many months after it was due, and then only after much effort had been expended on the part of the subscriber to require fulfillment of the contract by the respondents.

PAR. 6. Notwithstanding the fact that complaints are registered with respondents by subscribers who do not receive any magazines whatever and also by subscribers who receive magazines other than what they subscribed for, respondents in many instances fail to acknowledge receipt of such complaints and fail to forward the magazines subscribed for until pressure is brought to bear on them by some individual or organization.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, in which answer the respondents admit all of the material allegations of fact set forth in said complaint and waive all intervening procedure and further hearings as to said facts, and a stipulation as to certain facts entered into between Daniel J. Murphy, chief of the Trial Division of the Commission, and the respondent; 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 respondent, Associated Trade Press, Inc., a corporation, and its officers, and the respondents, John W. Compton, James R. Compton, and Hazel C. Compton, individually and as officers of said Associated Trade Press, Inc., 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 magazines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from

1. Taking or receiving subscriptions to magazines or other periodicals unless the publication or publications purchased by the subscriber are in fact delivered to such subscriber within a reasonable length of

time after the receipt of such subscription or reasonable adjustment for such failure promptly made.

2. Substituting or permitting the substitution of magazines or periodicals for those actually purchased by the subscriber.

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.

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IN THE MATTER OF

CARTER PRODUCTS, INC. AND SMALL & SEIFFER, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4960. Complaint, May 8, 1943—Decision, July 14, 1949*

Where a corporation engaged in the interstate sale and distribution of a deodorant cosmetic designated as "Arrid," and an advertising agency which for a time prepared, edited, tested, and placed all advertising material used by it to procure the sale of its said Arrid; in advertisements in newspapers and periodicals and through leaflets, pamphlets, radio continuity and spots, and other advertising mediums, directly and by implication—

Falsely represented that the application of Arrid to the area of skin under the arm would terminate and bring to an end the flow of perspiration in that area for 1 to 3 days; that Arrid absorbed perspiration, would keep the armpits dry, and would keep them free from the odor of perspiration for 1 to 3 days; and that it was harmless and would not irritate the skin;

The facts being that while its use would reduce the flow of sweat in some persons and under some conditions its application would only temporarily close the sweat glands and reduce the accumulation of perspiration on the surface of the skin; and it would not prevent the flow of sweat, and could not be relied upon to prevent the appearance of perspiration on the surface of the skin; use thereof would cause skin irritation and dermatitis in some people, and, used after shaving, it was not safe and harmless but was capable of irritating the skin and of aggravating irritation;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and thereby induce many members of said public to purchase substantial quantities of such preparation:

Held, That such 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. Everett F. Haycraft*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Breed, Abbott & Morgan, of New York City, 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 Carter Products, Inc., a corporation, and Small & Seiffer, Inc., 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: