

*It is further ordered,* That the respondents, Harry E. Strauss and Frank E. Luckenbach, individually and as partners trading as Capra Gem Company, shall within sixty (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 the order to cease and desist.

By the Commission, Commissioner Anderson concurring in part and dissenting in part.

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IN THE MATTER OF

W. B. SNOOK MFG. CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-632. Complaint, Dec. 18, 1963—Decision, Dec. 18, 1963*

Consent order requiring Palo Alto, Calif., manufacturers of silver recovery units to cease representing falsely in advertising brochures and other promotional material that their "Rotex model X-4" silver recovery unit would under all conditions of operation recover 95 percent or more of the silver released into X-ray or film clearing or fixing solutions.

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 the W. B. Snook Mfg. Co., Inc., a corporation, and Walter B. Snook, individually and as an 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 W. B. Snook Mfg. Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 751 Loma Verde Avenue, in the city of Palo Alto, State of California.

Respondent Walter B. Snook is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

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PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of "Rotex" silver recovery units to distributors, retailers and others for resale to, and directly to, hospitals, medical and industrial X-ray and photographic processors, and others.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of California to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents have made statements and representations in advertising brochures and other promotional material with respect to the efficiency of silver recovery of their products.

Typical and illustrative of the aforesaid statements and representations, but not all inclusive thereof, are the following:

The ROTEX will recover over 95% of the silver released into solution by the processed film

\* \* \* \* \*  
SAVES 95% of silver in solution.

\* \* \* \* \*  
The X-4 is basically for the manual developing process. It may be inserted in the tank during non-operating hours or in a tailing tank at any time. It has a high current density for rapid silver recovery and will take out 95% of the silver from one gallon in approximately an hour.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import not specifically set out herein, respondents represent, directly or by implication, that their Rotex model X-4 silver recovery unit will under all conditions of operation recover 95% or more of the silver released into X-ray or film clearing or fixing solutions.

PAR. 6. In truth and in fact, respondents' Rotex model X-4 silver recovery unit will not under all conditions of operation recover 95% or more of the silver released into X-ray or film clearing or fixing solutions. It will recover substantially less than 95% when operated in connection with automatic processing equipment.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. By the aforesaid practices, respondents place in the hands of others means and instrumentalities by and through which they may mislead purchasers of respondents' products as to the efficiency of silver recovery of their products

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of silver recovery units of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the capacity and tendency to mislead purchasers into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent W. B. Snook Mfg. Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws

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of the State of California, with its office and principal place of business located at 751 Loma Verde Avenue, in the city of Palo Alto, State of California.

Respondent Walter B. Snook is an officer of said corporation and his address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

*It is ordered*, That respondents, W. B. Snook Mfg. Co., Inc., a corporation, and its officers, and Walter B. Snook, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of silver recovery units, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that their Rotex model X-4 silver recovery unit, or any other silver recovery unit of similar construction irrespective of its designation, will recover any stated percentage or amount of silver released into X-ray or film clearing or fixing solutions, unless (1) the stated percentage or amount does in fact reflect the percentage or amount of silver actually recoverable by the unit, and (2) there is clear disclosure of the required conditions of operation, including the type of processing equipment, whether automatic or manual, with which the unit is to be used to achieve such percentage or amount of recovery.

2. Misrepresenting, in any manner, the amount or percentage of silver that their silver recovery units will recover from X-ray or film clearing or fixing solutions.

3. Placing any means or instrumentalities in the hands of others whereby they may mislead and deceive purchasers of respondents' products as to the efficiency of silver recovery of their products.

*It is further ordered*, That the respondents herein shall, within sixty (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

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IN THE MATTER OF

## AUSTIN BISCUIT CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(a)  
OF THE CLAYTON ACT

*Docket 7730. Amended Complaint, May 23, 1963—Decision, December 20, 1963*

Consent order requiring a corporation in Baltimore engaged in packaging crackers, cookies, peanut butter sandwiches, salt peanuts, etc., and selling them, principally through vending machines, in 5¢ and 10¢ packages, along with the corporation which acquired its assets and business in January 1961, and continued its challenged activities, to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by such practices as paying rebates based on a schedule of cumulative monthly purchases and, later, on a single order quantity discount schedule with an additional discount to vending machine purchasers favoring their products, as specified.

## AMENDED AND SUPPLEMENTAL COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and more particularly designated and described hereinafter, have violated, and that respondent Fairmount Foods Company is now violating, the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended by the Robinson-Patman Act, hereby issues its amended and supplemental complaint, stating its charges with respect thereto, as follows:

PARAGRAPH 1. Respondent Austin Biscuit Corporation, sometimes hereinafter referred to as Austin, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2930 Washington Boulevard, Baltimore, Maryland.

PAR. 2. Respondent Fairmount Foods Company, sometimes hereinafter referred to as Fairmount, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3201 Farnam Street, Omaha, Nebraska.

PAR. 3. Austin was incorporated in 1939 as Austin Packing Company, and has been engaged since that time in the business of packaging, distributing and selling crackers, cookies, peanut butter sandwiches, salted peanuts and related products. Purchasers of such products from Austin resell such products principally through vending machines. Such products have been packaged to resell at retail for 5¢ and 10¢ per package.