

IN THE MATTER OF

GOOD NEWS PRODUCTS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3642. Complaint, Feb. 22, 1996--Decision, Feb. 22, 1996*

This consent order prohibits, among other things, a Michigan corporation from misrepresenting the fat or nutrient content of eggs or products containing egg yolks. In addition, the consent order prohibits the respondent from making health claims regarding such products unless it possesses reliable scientific evidence to substantiate the claims.

Appearances

For the Commission: *Phoebe Morse* and *Kristie Ann Wood*.

For the respondent: *David Vander Haagen, Foster, Swift, Collins & Smith*, Lansing, MI.

COMPLAINT

The Federal Trade Commission, having reason to believe that Good News Products, Inc. ("Good News Products"), a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Good News Products, Inc. is a Michigan corporation with its offices and principal place of business at East Washington & M-40, Hamilton, Michigan.

PAR. 2. Respondent has advertised, labeled, offered for sale, sold, and distributed Good News Eggs to consumers. These eggs are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent has disseminated or has caused to be disseminated advertisements for Good News Eggs, including but not necessarily limited to the attached Exhibits A-G. These advertisements contain the following statements:

A. IF YOU EAT EGGS, HERE'S IMPORTANT NEWS. INTRODUCING, GOOD NEWS EGGS. GOOD NEWS EGGS COME FROM HENS FED A SPECIAL DIET LOW IN SATURATED FAT. THE RESULT IS AN EGG THAT'S LOWER IN SATURATED FAT. . . . IT'S THE BEST NEWS YET FOR PEOPLE WHO LOVE EGGS.

[Exhibit A (Radio: untitled)]

B. Romeo: How do I love thee - let me count the ways. I love thee for thy shape - so round, yet firm and fragile. I love thee for thy good taste and unparalleled versatility. But what I don't care for is your . . .

Announcer: Introducing - Good News Eggs. . . . Good News Eggs are from hens fed a special diet naturally low in saturated fat. So Good News Eggs are lower in saturated fat - and higher in Omega 3's. And that's good news for egg lovers everywhere. . . . Good News Eggs - for today's healthier lifestyle.

[Exhibit B (Radio: "Good News Eggs does Shakespeare.")]

C. If You Love Eggs, We've Got Good News

Introducing, Good News Eggs. Fresh, delicious, 100% real eggs with a difference. The difference is, Good News Eggs come from hens fed a unique, all natural diet, low in saturated fats. And that means our eggs are consistently premium eggs.

Clinical Tests Prove It

Eating a diet that's lower in saturated fat is beneficial to your health. Because Good News Eggs are naturally higher in Omega 3, you can enjoy them as part of your lower fat diet and know you're eating right.

[Exhibit C (Print: "If You Love Eggs")]

D. The Good News Egg:

Questions and Answers

...

How is the Good News Egg different?

Our egg is lower in fat than a regular egg. The Good News Egg has only one gram of saturated fat, half as much as a regular egg. The total fat is 20% lower than a regular egg.

...

What else is different about the Good News Egg?

It is five times higher in Omega 3, an essential part of a balanced diet.

What is Omega 3?

Omega 3 fatty acids are polyunsaturated fat - one of the three forms of fat: saturated, monounsaturated and polyunsaturated.

Isn't polyunsaturated the "good" fat?

It is saturated fat that has been linked to heart disease and high blood cholesterol. In contrast, the Omega 3 polyunsaturates have been shown to have positive effects on arteriosclerosis [sic], high blood pressure, rheumatoid arthritis and high blood cholesterol levels.

...

What else does Omega 3 do?

It has been shown to lower blood pressure, and to have anti-inflammatory effects. But the most exciting research shows that Omega 3 may lower blood cholesterol levels.

How does Omega 3 work?

It looks like Omega 3 inhibits the rise in blood lipids, or fat, that occurs after eating. Current thinking emphasizes the level of fat in the blood as the important risk factor for atherosclerosis [sic], or hardening of the arteries. Omega 3 slowed the development of atherosclerotic [sic] plaque in animal studies, even in a high-fat, high cholesterol diet.

Isn't the cholesterol in eggs a problem?

All shell eggs are lower in cholesterol than 40 years ago -- 20% lower. Today's egg has only 213 milligrams of cholesterol. In addition, recent studies have shown dietary cholesterol to have less effect on cholesterol in the blood than previously thought. More important is the level of saturated fat in the diet. And the Good News Egg has only one gram of saturated fat.

...

How much Omega 3 is there in a Good News Egg?

One egg provides a minimum of 220 milligrams of Omega 3, more than five times the level found in a regular egg. Good News Eggs may have up to 300 milligrams of Omega 3.

[Exhibit D (Print: Questions and Answers)]

E. GOOD NEWS FOR PEOPLE WHO LOVE EGGS

Good News Eggs come from hens fed a consistent diet that's low in saturated fats. This low-fat diet produces an egg 50% lower in saturated fat than normal eggs.... Clinical tests have shown that feeding chickens a better diet will improve the egg. Our chickens are fed a consistent diet of all natural ingredients including flax, canola and vitamin E. So, enjoy Good News Eggs as part of a low-fat diet. It's a 100% real egg you can feel good about eating!

[Exhibit E (Point-of-purchase: Tear-off sheet)]

F. The Good News Eggs: Facts and Figures

...

Good News Eggs HAVE

...

- only one gram of saturated fat
- 20% less fat overall
- between 220 and 300 milligrams of Omega 3

Good News Hens

- eat a diet high in Omega 3 and low in saturated fat so they lay a better egg
- are fed an all-natural diet, including flax, canola, and Vitamin E
- naturally lay eggs lower in fat and higher in Omega 3 than regular eggs

[Exhibit F (Print: Facts and Figures)]

G. THE GOOD NEWS EGGS: Questions and Answers

...

How is the Good News Egg different?

The Good News Egg has only one gram of saturated fat. The total fat is 20% lower than a regular egg.

...

Isn't the cholesterol in eggs a problem?

All shell eggs are lower in cholesterol than 40 years ago -- 20% lower. Today's egg has only 213 milligrams of cholesterol. In addition, recent studies have shown dietary cholesterol to have less effect on cholesterol in the blood than previously thought. More important is the level of saturated fat in the diet. And the Good News Egg has only one gram of saturated fat.

[Exhibit G (Print: Questions and Answers)(revised)]

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A-G, respondent has represented, directly or by implication, that Good News Eggs are significantly lower in saturated fat than ordinary eggs.

PAR. 6. In truth and in fact Good News Eggs are not significantly lower in saturated fat than ordinary eggs. Good News Eggs have approximately the same amount of saturated fat as ordinary eggs. Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits D, F and G, respondent has represented, directly or by implication, that Good News Eggs are significantly lower in total fat than ordinary eggs.

PAR. 8. In truth and in fact Good News Eggs are not significantly lower in total fat than ordinary eggs. Good News Eggs have approximately the same amount of total fat as ordinary eggs. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit D, respondent has represented, directly or by implication, that:

A. The omega 3 fatty acids in Good News Eggs will have a positive effect on risk factors for heart disease, such as atherosclerosis, high blood cholesterol levels and high blood pressure, and on rheumatoid arthritis.

B. The omega 3 fatty acids in Good News Eggs may decrease blood cholesterol.

PAR. 10. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisement attached as Exhibit D, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph nine, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 11. In truth and in fact, at the time it made the representations set forth in paragraph nine, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits D and G, respondent has represented, directly or by implication, that, because Good News Eggs are lower in saturated fat than ordinary eggs, they will increase blood cholesterol levels less than ordinary eggs.

PAR. 13. Through the use of the statements contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits D and G, respondent has represented, directly or by implication, that at the time it made the representation set forth in paragraph twelve, respondent possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 14. In truth and in fact, at the time it made the representation set forth in paragraph twelve, respondent did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph thirteen was, and is, false and misleading.

PAR. 15. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

Complaint

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EXHIBIT A



350 E. Michigan, Suite 16
Kalamazoo, Michigan 49007
(616) 344-5569/FAX 344-5668

1666 Newport Blvd., Suite 146
Costa Mesa, California 92627
(714) 953-7160

Date: 3/19/93
Client: Good News Eggs
Length: :30
Copy:
Music:
Producer:
Talent:

WBBAP - Dell 05

SCRIPT

IF YOU EAT EGGS, HERE'S IMPORTANT NEWS. INTRODUCING, GOOD NEWS EGGS. GOOD NEWS EGGS COME FROM HENS FED A SPECIAL DIET LOW IN SATURATED FAT. THE RESULT IS AN EGG THAT'S LOWER IN SATURATED FAT. ONE HUNDRED PERCENT REAL EGGS IN THE SHELL...NOT PROCESSED AND POURED OUT OF A CARTON LIKE EGG SUBSTITUTES. SO GO AHEAD...POACH 'EM, HARD BOIL 'EM, SUNNYSIDE UP 'EM. ANYTHING YOU DO WITH EGGS WILL BE BETTER WITH GOOD NEWS EGGS. LOOK FOR THE BRIGHT YELLOW AND RED LABEL ON THE TRADITIONAL WHITE CARTON IN YOUR FAVORITE GROCER'S DAIRY CASE. GOOD NEWS EGGS. IT'S THE BEST NEWS YET FOR PEOPLE WHO LOVE EGGS.

EXHIBIT A

ADVERTISING • MARKETING • PUBLIC RELATIONS • FILM AND VIDEO PRODUCTION

EXHIBIT B

#4 - :30 seconds

ROMEO: Good News Eggs does Shakespeare.
(romantic) How do I love thee –
let me count the ways.
I love thee for thy shape –
so round, yet firm and fragile.
I love thee for thy good taste
and unparalleled versatility.
(fed-up) But what I don't care for is your . . .
ANNC.: Introducing - Good News Eggs. Real California fresh
in-the-shell eggs. Good News Eggs are from hens fed
a special diet naturally low in saturated fat. So Good
News Eggs are lower in saturated fat – and higher in
Omega 3's. And that's good news for egg lovers
everywhere.
ROMEO: Now... get thee to a gro-cer-ee.
ANNC.: Good News Eggs - for today's healthier lifestyle.

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EXHIBIT C

If You Love Eggs, We've Got Good NewsTM

Introducing, Good News Eggs. Fresh, delicious, 100% real eggs with a difference. The difference is, Good News Eggs come from hens fed a unique, all natural diet, low in saturated fats. And that means our eggs are consistently premium eggs.

Clinical Tests Prove It

Eating a diet that's lower in saturated fat is beneficial to your health. Because Good News Eggs are naturally higher in Omega 3, you can enjoy them as part of your lower fat

diet and know you're eating right.* It's a better egg for today's life-style.

Good News Eggs. Try them for yourself. It's the best news yet for people who love eggs.

*See your nutritionist



MAGAZINE/NEWSPAPER ADVERTISEMENT

EXHIBIT C

EXHIBIT D



P.O. BOX 186
HAMILTON, MI 49419

**The Good News Egg:
*Questions and Answers***

What are Good News Eggs?

Good News Eggs are all-natural, real eggs in the shell. Unlike liquid eggs and egg substitutes, Good News Eggs haven't been processed, treated or added to.

Do they look the same as regular eggs?

The only difference is in the yolk, which is slightly lighter in color.

Do they taste the same as regular eggs?

Yes. Some people say they taste better.

Do they cook the same as regular eggs?

Yes. Their performance in cooking and baking is identical to regular eggs.

Is the Good News Egg low in cholesterol?

No. The dietary cholesterol is the same as in regular eggs.

How is the Good News Egg different?

Our egg is lower in fat than a regular egg. The Good News Egg has only one gram of saturated fat, half as much as a regular egg. The total fat is 20% lower than a regular egg.

Does that mean there are fewer calories?

Yes. The Good News Egg has ten fewer calories than a regular egg, only 70.

What else is different about the Good News Egg?

It is five times higher in Omega 3, an essential part of a balanced diet.

What is Omega 3?

Omega 3 fatty acids are polyunsaturated fat -- one of the three forms of fat: saturated, monounsaturated and polyunsaturated.

Isn't polyunsaturated the "good" fat?

It is saturated fat that has been linked to heart disease and high blood cholesterol. In contrast, the Omega 3 polyunsaturates have been shown to have positive effects on arteriosclerosis, high blood pressure, rheumatoid arthritis and high blood cholesterol levels.

Is fat an essential part of the diet?

Of course. It is the high-fat diet that puts us at risk for heart disease and other ailments. Experts recommend a balanced diet, with not more than 30% of our daily calories coming from fat.

Should we eat all three forms of fat?

Yes. The 30% should be evenly balanced across the three, and the polyunsaturates, Omega 6 and Omega 3, should be evenly balanced.

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EXHIBIT D

Complaint

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EXHIBIT E

Good News™ For People Who Love Eggs



- Higher in Omega 3
- Less saturated fat



A DIVISION OF GOOD NEWS PRODUCTS

See reverse side for **IMPORTANT INFORMATION**

Good News™ For People Who Love Eggs

Good News Eggs come from hens fed a consistent diet that's low in saturated fats. This low-fat diet produces an egg 50% lower in saturated fat than normal eggs. And, this unique process makes our eggs naturally higher in Omega 3's, a fatty acid that is an essential part of a healthy diet. University studies have shown the North American diet to be low in Omega 3's. Now, Good News Eggs are a source of Omega 3's, having five times more than regular eggs and each one containing over 220 mg of Omega 3. Other important sources of Omega 3's are marine fish and canola oil.

Clinical tests have shown that feeding chickens a better diet will improve the egg. Our chickens are fed a consistent diet of all natural ingredients including flax, canola and vitamin E. So, enjoy Good News Eggs as part of a low-fat diet.* It's a 100% real egg you can feel good about eating!

**Consult your physician or nutritionist about the benefits of Omega 3.*

EXHIBIT E

EXHIBIT F



P.O. BOX 186
HAMILTON, MI 49419

**The Good News Egg:
Facts and Figures**

Good News Eggs ARE NOT

- low cholesterol
- a liquid egg substitute
- processed or treated

Good News Eggs ARE

- real eggs in the shell
- higher in Omega 3
- lower in fat

Good News Eggs DO

- come in an egg carton
- look and taste the same as regular eggs
- cook and bake the same as regular eggs
- last as long as regular eggs in your refrigerator
- provide an inexpensive source for the essential Omega 3

Good News Eggs DO NOT

- have fish oil in them
- come in an easy-pour carton

Good News Eggs HAVE

- 10 fewer calories than regular eggs
- only one gram of saturated fat
- 20% less fat overall
- between 220 and 300 milligrams of Omega 3

Good News Hens

- eat a diet high in Omega 3 and low in saturated fat so they lay a better egg
- are fed an all-natural diet, including flax, canola, and Vitamin E
- naturally lay eggs lower in fat and higher in Omega 3 than regular eggs

All shell eggs

- are good for you and your family
- are relatively low in fat
- are an economical source of protein and other nutrients

Good News Eggs

- are premium shell eggs with a little more of something we need, and a little less of something we don't
- can be part of a low-fat, healthy diet
- will make you feel good about eating eggs

Complaint

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EXHIBIT G



The Good News Egg:
Questions and Answers

What are Good News Eggs?

Good News Eggs are all-natural, real eggs in the shell. Unlike liquid eggs and egg substitutes, Good News Eggs haven't been processed, treated or added to.

Do they look the same as regular eggs?

The only difference is in the yolk, which is slightly lighter in color.

Do they taste the same as regular eggs?

Yes. Some people say they taste better.

Do they cook the same as regular eggs?

Yes. Their performance in cooking and baking is identical to regular eggs.

Is the Good News Egg low in cholesterol?

No. The dietary cholesterol is the same as in regular eggs.

How is the Good News Egg different?

The Good News Egg has only one gram of saturated fat. The total fat is 20% lower than a regular egg.

Does that mean there are fewer calories?

Yes. The Good News Egg has ten fewer calories than a regular egg, only 70.

What else is different about the Good News Egg?

It is five times higher in Omega 3, an essential part of a balanced diet.

What is Omega 3?

Omega 3 fatty acids are polyunsaturated fat — one of the three forms of fat: saturated, monounsaturated and polyunsaturated.

Is fat an essential part of the diet?

Of course. Experts recommend a balanced diet, with not more than 30% of our daily calories coming from fat.

Should we eat all three forms of fat?

Yes. The 30% should be evenly balanced across the three, and the polyunsaturates, Omega 6 and Omega 3, should be evenly balanced.

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DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Boston Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Good News Products, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its offices and principal place of business located at East Washington & M-40, Hamilton, MI.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

It is ordered, That respondent Good News Products, Inc., a corporation, its successors and assigns, and its officers; and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of eggs or any food containing egg yolk in or affecting commerce, as "food" and "commerce" are defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms or any other means, the absolute or comparative amount of total fat, saturated fat or any other nutrient or ingredient in such food.

II.

It is further ordered, That respondent Good News Products, Inc., a corporation, its successors and assigns, and its officers; and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of eggs or any food containing egg yolk in or affecting commerce, as "food" and "commerce" are defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

A. About the absolute or comparative effect of such food on heart disease or heart disease risk factors;

B. About the absolute or comparative effect of such food on serum cholesterol; and

C. About the absolute or comparative health benefits of such food;

unless at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence substantiating the representation. For purposes of this order, "competent and reliable scientific evidence" shall mean tests,

analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

III.

Nothing in this order shall prohibit respondent from making any representation that is specifically permitted in labeling for eggs or any food containing egg yolk by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

IV.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify or call into question such representation, or the basis relied upon for such representation, including complaints from consumers and complaints or inquiries from governmental organizations.

V.

It is further ordered, That respondent shall, within thirty (30) days after service upon it of this order, distribute a copy of the order to each of the respondent's operating divisions, to each of its licensees, to each of its managerial employees, and to each of its officers, agents, representatives or employees engaged in the preparation or placement of advertising or other materials covered by this order and shall secure from each such person a signed statement acknowledging receipt of this order.

VI.

It is further ordered, That respondent, or its successors and assigns, shall promptly terminate its licensing agreement with any licensee if respondent has actual knowledge or knowledge fairly implied on the basis of objective circumstances that such licensee is engaging in acts or practices that respondent is prohibited from engaging in under Parts I and II of this order, unless such licensee immediately ceases engaging in such acts or practices.

VII.

It is further ordered, That respondent, its successors and assigns, shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other corporate change that may affect compliance obligations arising out of this order.

VIII.

It is further ordered, That this order will terminate on February 22, 2016, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline

GOOD NEWS PRODUCTS, INC.

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Decision and Order

for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX.