

IN THE MATTER OF
RUBEN SHAFFER TRADING AS B & W SALES
COMPANY

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

Docket 6257. Complaint, Nov. 3, 1954—Decision, Feb. 8, 1955

Consent order requiring a seller in Baltimore, Md., to cease supplying others with push cards, etc., and selling or otherwise disposing of any merchandise, including Scotch Koolers, aluminum tumblers, chairs, and cameras, by means of a game of chance.

Before *Mr. William L. Pack*, hearing examiner.
Mr. J. W. Brookfield, Jr., 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 Ruben Shaffer, an individual trading as B & W Sales Company, 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. Respondent Ruben Shaffer is an individual trading and doing business as B & W Sales Company with his office and principal place of business located at 113 West Fayette Street in the city of Baltimore, Maryland. Respondent is now, and for more than six months last past has been, engaged in the sale and distribution of various articles of merchandise, including but not limited to Scotch Koolers, aluminum tumblers, chairs, and cameras and has caused said merchandise, when sold, to be transported from his place of business in Baltimore, Maryland, to purchasers thereof located in the various States of the United States other than in Maryland, and in the District of Columbia.

There is now and has been for more than six months last past a substantial course of trade by respondent in such merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, as described in

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Paragraph 1 hereof, respondent, in soliciting the sale of and in selling and distributing his merchandise, furnishes and has furnished various plans of merchandising which involve the operation of games of chance, gift enterprises or lottery schemes when said merchandise is sold and distributed to the purchasing and consuming public. Among the methods and sales plans adopted and used by respondent, and which is typical of the practices of respondent, is the following:

Respondent distributes, and has distributed, to members of the public, certain literature and instructions, including, among other things, push cards, order blanks and circulars which include thereon illustrations and descriptions of said merchandise. Said circulars explain respondent's plan of selling and distributing his merchandise and of allotting it as premiums or prizes to the operators of said push cards; and as prizes to members of the purchasing and consuming public who purchase chances or pushes on said cards. One of respondent's said push cards bears 35 feminine names with ruled columns on the back of said cards for writing in the name of the purchaser of the push corresponding to the feminine name selected. Said push card has 35 partially perforated discs. Each of said discs bears one of the names corresponding to one of those on the list. Concealed within each disc is a number which is disclosed only when the customer or purchaser pushes or separates a disc from the card. The push card also has a larger or master seal or disc and concealed within the master seal is one of the names appearing on the discs. The person selecting the name corresponding with the one under the master seal receives his choice of one of four articles of merchandise. The push card bears the following legend or instructions:

NAME UNDER SEAL RECEIVES

CHOICE OF ONE GIFT

Scotch Kooler

Set of 8 Aluminum Tumblers

Aluminum Folding Chair

Spartus Synchronized Box Camera

Nos. 1 to 44	(Here	TOTAL
Pay as Drawn	Master	\$12.24
Nos. Over 44	Seal)	
Pay Only 44¢		

(Under which appear 35 discs
hereinabove referred to)

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Sales of respondent's merchandise by means of said push cards are made in accordance with the above-described legend or instructions. Whether a purchaser receives an article of merchandise or receives nothing for the amount of money paid and the amount to be paid for a chance to receive any of the merchandise are thus determined wholly by lot or chance. All of the articles of merchandise have a value substantially greater than the price to be paid for any one of the chances or pushes.

Respondent furnishes and has furnished various other push cards accompanied by order blanks, instructions and other printed matter for use in the sale and distribution of his merchandise by means of games of chance, gift enterprises or lottery schemes. The sales plans or methods involved in the sale of all of said merchandise by means of said other push cards is the same as that hereinabove described, varying only in detail as to the merchandise distributed and the prices of chances and the number of chances on each card.

PAR. 3. The persons to whom respondent furnishes and has furnished said push cards use the same in selling and distributing respondent's merchandise in accordance with the aforesaid sales plans. Respondent thus supplies to and places in the hands of others the means of conducting games of chance, gift enterprises or lottery schemes in the sale of his merchandise in accordance with the sales plan hereinabove set forth. The use by respondent of said sales plans or methods in the sale of his merchandise and the sale of said merchandise by and through the use thereof and by the aid of said sales plans or methods is a practice which is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged involves a game of chance or the sale of a chance to procure one of the said articles of merchandise at a price much less than the normal retail price thereof. Many persons are attracted by said sales plans or methods used by respondent and the element of chance involved therein and thereby are induced to buy and sell respondent's merchandise.

The use by respondent of a sales plan or method involving distribution of merchandise by means of chance, lottery or gift enterprise is contrary to the public interest and constitutes an unfair act and practice in commerce within the intent and meaning of the Federal Trade Commission Act.

PAR. 5. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated February 8, 1955, the initial decision in the instant matter of hearing examiner William L. Pack, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges respondent with violation of the Federal Trade Commission Act through the use of lottery methods in the sale and distribution of his merchandise. A stipulation has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that respondent admits all of the jurisdictional allegations in the complaint; that the filing of an answer to the complaint is waived, and that the complaint and stipulation shall constitute the entire record in the proceeding; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission to which respondent may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if made after a full hearing, presentation of evidence, and findings and conclusions thereon, respondent specifically waiving any and all right, power and privilege to challenge or contest the validity of such order; that the complaint may be used in construing the terms of the order; and that the order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

It appearing that the proceeding is in the public interest, the stipulation is hereby accepted and made a part of the record and the following order issued:

ORDER

It is ordered, That respondent Ruben Shaffer, an individual trading under the trade name B & W Sales Company, or under any other name or names, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of scotch coolers, aluminum tumblers, chairs, cameras or other articles of merchandise in commerce,

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as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from :

1. Supplying to or placing in the hands of others push cards or other lottery devices, either with merchandise or separately, which said push cards or other lottery devices are designed or intended to be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme.

2. Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist [as required by said declaratory decision and order of February 8, 1955].

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IN THE MATTER OF
RA-PID-GRO CORPORATION ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6267. Complaint, Dec. 2, 1954—Decision, Feb. 8, 1955*

Consent order requiring a corporate seller in Dansville, N. Y., to cease misrepresenting in advertising the effectiveness on plants, shrubs, and trees of its "Ra-Pid-Gro" chemical fertilizer, the economy afforded by its use, and its superior quality as compared with other fertilizers.

Before *Mr. Earl J. Kolb*, hearing examiner.
Mr. William L. Pencke 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 Ra-Pid-Gro Corporation, a corporation, and Thomas P. Reilly, 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. Ra-Pid-Gro Corporation is a corporation, organized and existing under the laws of the State of New York. The principal office and place of business of said respondents in 88 Ossian Street, Dansville, New York.

Individual respondent Thomas P. Reilly is president of corporate respondent. He formulates the policies and directs and controls the practices and activities of said respondent.

PAR. 2. For more than two years last past, said corporate respondent has been and is now engaged in the sale and distribution of a chemical fertilizer, designated Ra-Rip-Gro, designed to be used as a liquid fertilizer by the addition of water.

When sold, respondent Ra-Pid-Gro Corporation ships said product to purchasers thereof located in various States of the United States other than the State of New York. Said respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce in said product.

PAR. 3. In the course and conduct of said business and for the purpose of inducing the purchase of said product, respondents have made and are now making many statements and representations concerning said product by means of advertisements inserted in newspapers and magazines having a national circulation, and by pamphlets, folders, and other advertising material distributed by respondents and their dealers in various States of the United States. Typical, but not all inclusive of such representations, are the following:

Ra-Pid-Gro was * * *

First to combine a complete formula for the feeding of all trees and plants.

Ra-Pid-Gro contains all the known chemical trace elements, and vitamins necessary for growth and production, and for vigorous, healthy plant life.

First to put up a complete fertilizer or plant food in highly concentrated form without a filler.

Fed regularly as directed, your plants will thrive and grow under the most adverse conditions, when others are stunted, shriveling and dying.

You get results that can't be matched by any other fertilizer or plant food.

Ra-Pid-Gro is a miracle working concentrated food that helps nature, bring out the best in your flowers, fruits, vegetables and ornamental tree.

Ra-Pid-Gro insures success, for it speeds up production and assures an abundant crop.

Saves dying trees, shrubs, many plants given up for dead will respond to applications of Ra-Pid-Gro.

Save all your trees, shrubs and plants by dipping them in a solution of Ra-Pid-Gro before planting.

Some chemicals in solid form dissolve immediately. Others require months in which to dissolve. Therefore at no time is a plant getting a balanced diet from the usual dry fertilizer. The answer is liquid fertilizer—composed, not of one chemical or a few chemicals, but all the required chemicals and trace elements.

Ordinary fertilizers need rain or artificial watering to make them available to plant life.

All trees and plants require a liquid diet. It is impossible for them to feed on solids.

Ra-Pid-Gro obsoletes former fertilizing methods.

First to germinate grass in four days.

Use any quantity on foliage and roots—it won't burn.

Ra-Pid-Gro costs less.

One pound of Ra-Pid-Gro makes 176 lbs. of liquid fertilizer.

One pound of Ra-Pid-Gro is the equivalent of 100 pounds of any other fertilizer you may have used in the past.

One pound of Ra-Pid-Gro (at \$1.25) is the equivalent of 100 pounds of regular powder fertilizer (at \$4.25).

Ra-Pid-Gro is 100% usable by plants.

Every bit is 100% plant food and when applied in solution it is immediately absorbed by plant roots.

Ra-Pid-Gro applied to foliage enters the sap stream at once supplying immediately a complete, balanced food formula.

