

Complaints

IN THE MATTERS OF

CARNATION COMPANY ET AL., DOCKET 6172
 THE BORDEN COMPANY ET AL., DOCKET 6173
 BEATRICE FOODS COMPANY (DELAWARE) ET AL.,
 DOCKET 6174
 NATIONAL DAIRY PRODUCTS CORPORATION ET AL.,
 DOCKET 6175
 PET MILK COMPANY ET AL., DOCKET 6176
 FAIRMONT FOODS COMPANY ET AL., DOCKET 6177
 ARDEN FARMS CO. ET AL., DOCKET 6178
 FOREMOST DAIRIES, INC., ETC., DOCKET 6179
 H. P. HOOD & SONS, INC., DOCKET 6425

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

*Amended Complaints, Sept. 12, 1955 *—Decisions, May 23, 1962*

Orders dismissing, for failure of proof, complaints charging major ice cream manufacturers with unlawfully lessening competition by granting such inducements to retail customers as providing refrigeration cabinets and other equipment, and servicing the equipment, and giving discounts, rebates, and allowances; but including warning that the Commission would continue close scrutiny of the granting of loans to retailers on the condition that the recipient deal exclusively with the giver.

AMENDED AND SUPPLEMENTAL COMPLAINTS

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 corporations listed above in the caption hereof and more particularly described and referred to hereinafter as respondents have violated the provisions of Section 5 of the said Act (U.S.C. Title 15, Sec. 45), and it appearing to the Commission that proceedings by it in respect thereof would be

*Similar amended and supplemental complaints are combined along with the original complaint in docket 6425, issued October 3, 1955, which was substantially identical with the amended complaints.

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in the public interest, hereby issues its amended and supplemental complaints, stating its charges in that respect as follows:

PARAGRAPH 1. Each of the following named respondents is a corporation organized, existing, and doing business under the laws of the State and with its principal office and place of business located as hereinafter set forth:

CARNATION CO. ET AL., DOCKET NO. 6172

Name	State of incorporation	Principal office and place of business
Carnation Company.....	Delaware.....	5045 Wilshire Boulevard, Los Angeles, California.
Carnation Co. of Washington.....	Washington.....	W. 411 Cataldo Avenue, Spokane, Washington.
Carnation Co. of Texas.....	Texas.....	326 Ohio Street, Wichita Falls, Texas.
Carnation Co. of Oklahoma.....	Oklahoma.....	115 No. Cheyenne Street, Tulsa, Oklahoma.
Damascus Milk Co.....	Oregon.....	3342 S. E. Morrison St., Portland, Oregon.
Carnaco Equipment Co.....	Delaware.....	5045 Wilshire Boulevard, Los Angeles, California.

Respondent, Carnaco Equipment Co., is hereinafter referred to as the "Equipment Company." Respondent Carnation Company is hereinafter referred to as "Carnation." The other above named respondents, when referred to collectively hereinafter, will be referred to as the "Carnation Companies."

Carnation was founded by the late Elbridge A. Stuart at Kent, Washington, on September 6, 1899. Its growth was rapid and after various organizational changes it was incorporated under the laws of the State of Maine as Carnation Milk Products Co., and, on July 1, 1920, respondent Carnation was chartered under the laws of the State of Delaware to take over the business of the aforesaid Maine Corporation. During the history of its growth Carnation has acquired a number of independent frozen products manufacturers. On November 1, 1929, the corporate name was changed to Carnation Company, the style now used.

Carnation owns the preferred stock and the stockholders of Carnation own the common stock of the Equipment Company, which was organized by Carnation in 1948 as a corporate device for use in connection with the purchase, sale, lease and loan of ice cream cabinets and other refrigeration equipment. The Equipment Company is operated, controlled and managed as a unit of Carnation's business, and has been and is used by Carnation for the purchase, sale, lease and loan in interstate commerce of such equipment.

Carnation operates its frozen products business directly and through the Carnation Companies, which it wholly owns and controls.

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THE BORDEN CO. ET AL., DOCKET NO. 6173

Name	State of incorporation	Principal office and place of business
The Borden Company.....	New Jersey.....	350 Madison Avenue, New York 17, New York.
Fussell Ice Cream Company, Inc.....	New York.....	350 Madison Avenue, New York 17, New York.
The Ricciardi Co., Inc.....	New York.....	551 Waverly Avenue, Brooklyn 38, New York.

Respondent, The Borden Company, is hereinafter referred to as "Borden." The other above named respondents, when referred to collectively hereinafter, will be referred to as "Borden Companies."

Borden was founded by Mr. Gail Borden, now deceased, in 1857 in Burrville, Connecticut. This business founded by Mr. Borden in 1857 later became known as New York Condensed Milk Co., which was in turn succeeded on April 24, 1899, by Borden's Condensed Milk Company, organized and incorporated on that date under the laws of the State of New Jersey. The present corporate title was adopted in October, 1919.

Respondent, Fussell Ice Cream Company, Inc., was recently merged with its parent corporation, respondent Borden.

Borden operates its frozen products business directly and through the Borden Companies, and other wholly owned and controlled subsidiaries. During the history of its growth, Borden has acquired a number of independent frozen products manufacturers.

BEATRICE FOODS CO. ET AL., DOCKET NO. 6174

Name	State of incorporation	Principal office and place of business
Beatrice Foods Company.....	Delaware.....	120 S. LaSalle St., Chicago 6, Illinois.
Beatrice Foods Company.....	Ohio.....	943 Carr Street, Cincinnati, Ohio.
Meadow Gold Products Company.....	Delaware.....	120 So. LaSalle St., Chicago, Illinois.
Meadow Gold Dairies of California, Inc.....	Delaware.....	442 So. Fair Oaks Ave., Pasadena, California.
Meadow Gold Products Corporation.....	New York.....	777 Kent Avenue, Brooklyn, New York.
Wright & Wagner Dairy Company.....	Wisconsin.....	525 Cross Street, Beloit, Wisconsin.
Meadow Gold Ice Cream Company.....	Maryland.....	1726 E. Pratt, Baltimore, Maryland.

Respondent, Beatrice Foods Company (Delaware), is sometimes hereinafter referred to as "Beatrice." The other named respondents when referred to collectively hereinafter, will be referred to as "Beatrice Companies." The Beatrice Companies are each wholly owned subsidiaries of Beatrice. This business originated in 1890 in Beatrice, Nebraska, as a partnership styled Haskell & Bosworth. In 1897 Beatrice was incorporated to succeed the partnership. In 1905 this corporation was succeeded by an Iowa corporation under the same name. Later, on November 20, 1924, Beatrice was incorporated under the laws of the State of Delaware, retaining the same name, Beatrice

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Creamery Company. The present name, Beatrice Foods Company, was adopted on June 1, 1946.

The business of respondent Creameries of America, Inc., a Delaware Corporation, 727 W. 7th Street, Los Angeles, 17, California, was recently merged into the business of Beatrice. Likewise Beatrice has recently succeeded through merger and otherwise to a number of important frozen products businesses, among which are Louis Sherry, Inc., 30-30 Northern Blvd., Long Island City, New York, Russell Creamery, 1627 Broadway, Superior, Wisconsin, and Greenbrier Dairy Products Co., 704 Donnally St., Charleston, West Virginia. In addition, Beatrice, since its incorporation, has acquired a number of independent frozen products manufacturers.

Beatrice conducts and operates its business directly and through the said wholly owned subsidiaries, the Beatrice Companies, which are operated as divisions. There are extensive inter-company merchandise transactions between the parent, respondent Beatrice, and the Beatrice Companies, and among the Beatrice Companies themselves. Beatrice also makes loans and advances to the Beatrice Companies.

NATIONAL DAIRY PRODUCTS CORP. ET AL., DOCKET NO. 6175

Name	State of incorporation	Principal office and place of business
National Dairy Products Corporation.....	Delaware.....	260 Madison Avenue, New York, N.Y.
Ballard Ice Cream Co., Inc.....	Delaware.....	217 W. State Street, Huntington, Ind.
Breyer Ice Cream Co.....	Delaware.....	43d St. and Woodland Ave., Philadelphia, Pa.
Castles Ice Cream Co.....	New Jersey.....	444 Raymond Blvd., Newark, New Jersey.
Clover Farm Dairy Co.....	Tennessee.....	175 Walnut Street, Memphis, Tennessee.
Cloverland Dairy Products Corp.....	Delaware.....	3400 S. Carrollton Ave., New Orleans, La.
Cloverleaf Creameries, Inc.....	Delaware.....	Huntington, Indiana.
Consolidated Dairy Products Co., Inc.....	Delaware.....	11-50 44th Road, Long Island City, N.Y.
Detroit Creamery Co.....	Michigan.....	3333 Grand River Ave., Detroit, Mich.
Ewing-Von Allmen Dairy Co.....	Delaware.....	431 W. Oak Street, Louisville, Kentucky.
The Franklin Ice Cream Co.....	Delaware.....	1217 Harrison St., Kansas City, Mo.
Frechtling Dairy Co.....	Delaware.....	950 Kenyon Avenue, Cincinnati, Ohio.
General Ice Cream Corp.....	New York.....	101 Nott Terrace, Schenectady, N.Y.
The Harding Co.....	Missouri.....	715 So. 72nd St., Omaha, Nebraska.
Hydrox Corporation.....	Delaware.....	415 E. 24th St., Chicago, Ill.
Hydrox Ice Cream Company, Inc.....	New York.....	Van Dam St. and 47th Ave., Long Island City, N.Y.
Luick Ice Cream Co.....	Delaware.....	505 E. Capitol Drive, Milwaukee, Wisconsin.
Ohio Clover Leaf Dairy Co.....	Delaware.....	1820 Vermont Ave., Toledo, Ohio.
Rieck Ice Cream Co.....	Pennsylvania.....	4634 Browns Hill Road, Pittsburgh, Pa.
J. D. Roszell Co.....	Delaware.....	736 So. Washington, Peoria, Illinois.
St. Louis Dairy Co.....	Delaware.....	2001 Chestnut St., St. Louis, Mo.
The Sanitary Milk Co.....	Ohio.....	801 Cherry Ave., N.E., Canton, Ohio.
Southern Dairies, Inc.....	Delaware.....	500 Dalton Avenue, Charlotte, N.C.
Supplee-Wills-Jones Milk Co.....	Pennsylvania.....	15 So. 34th St., Philadelphia, Pa.
Telling Ice Cream Co.....	Delaware.....	3740 Carnegie Avenue, Cleveland, Ohio.
Union Ice Cream Co.....	Tennessee.....	1156-62 Broad St., Nashville, Tenn.
Youngstown Sanitary Milk Co.....	Delaware.....	715 Erie Street, Youngstown, Ohio.

Respondent National Dairy Products Corporation is sometimes hereinafter referred to as "National." The other named respondents, when referred to collectively hereinafter, will be referred to as "Na-

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tional Companies." The National Companies are each wholly owned subsidiaries of National except in the case of Southern Dairies, Inc., of which National owns 98.05 per cent of the stock.

The business of respondent, Ballard Ice Cream Co., Inc., has recently been transferred to respondent Cloverleaf Creameries, Inc.

National was incorporated under the laws of the State of Delaware on December 8, 1923. Since then, it has acquired ownership of many dairy companies, including respondent National Companies, most of which had their inception prior to the date of incorporation of respondent National. Several of the National Companies have been in operation for fifty years or more. One has been operating for more than a century.

National conducts and operates its business through the said National Companies which are operated as divisions.

National maintains general control over each of the National Companies through approval or disapproval of budgets, the supplying of large capital expenditures, the approval or disapproval of the acquisition of property sites, the approval or disapproval of loans of money to dealers and in various other ways and means. For this purpose regular meetings of the board of directors and of an operating committee and executive committee are held.

PET MILK CO. ET AL., DOCKET NO. 6176

Name	State of incorporation	Principal office and place of business
Pet Milk Company.....	Delaware.....	1401 Arcade Building, St. Louis, Missouri.
Pet Dairy Products Company.....	Delaware.....	303 W. Walnut Street, Johnson City, Tenn.
Colville Ice Cream Company.....	Utah.....	159 W. First S., Salt Lake City, Utah.

Respondent, Pet Milk Company, is hereinafter referred to as "Pet." The other above-named respondents, when referred to collectively hereinafter, will be referred to as "Pet Companies."

Pet was incorporated under the laws of the State of Delaware on March 31, 1925, and acquired at that time all of the property, business and assets of an Illinois corporation of the same name which had succeeded by change of name on September 6, 1923, another Illinois corporation named Helvetia Milk Condensing Company, which was incorporated February 16, 1885, with a 20 year life.

Pet conducts and operates its business directly and through wholly-owned and controlled subsidiaries, including the Pet Companies. Pet controls and directs the activities of the Pet Companies through the use of common officers and through control of large capital ex-

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penditures, acquisition of new facilities, loans of money for expenses and working capital, approval or disapproval of budgets submitted, and other general supervision.

Respondent, Pet Dairy Products Company, a wholly owned subsidiary of respondent Pet, was incorporated under the laws of the State of Delaware on April 16, 1952, succeeding to the business of various subsidiary corporations of respondent Pet as follows:

Meier Ice Cream Company which was incorporated under the laws of the State of Wisconsin in March 1927; Kellogg Ice Cream Company was incorporated under the laws of the State of Wisconsin in 1930 and was merged into Meier Ice Cream Company on June 15, 1948, and the name of Meier Ice Cream Company, the surviving corporation, was changed to Pet Ice Cream Company, still a Wisconsin corporation; the name of the Pet Ice Cream Company was changed to Pet Dairy Products Company on December 28, 1951; another corporation named Pet Dairy Products Company was incorporated under the laws of the State of Tennessee on July 11, 1929; on May 1, 1952, the business of the Tennessee corporation and the Wisconsin corporation was transferred to the Delaware corporation and the Delaware corporation was the only surviving corporation under the name Pet Dairy Products Company.

Respondent Colville Ice Cream Company, a wholly owned subsidiary of respondent Pet, is a corporation organized and existing under and by virtue of the laws of the State of Utah, having its principal office and place of business at 159 W. First S., Salt Lake City, Utah.

During the history of its growth Pet has acquired a number of independent frozen products manufacturers.

FAIRMONT FOODS CO. ET AL., DOCKET NO. 6177

Name	State of incorporation	Principal office and place of business
Fairmont Foods Company.....	Delaware.....	3201 Farnam Street, Omaha, Nebraska.
Fairmont Foods Co., Inc.....	New York.....	197 Scott Street, Buffalo, New York.
Fairmont Foods Company of Wisconsin.....	Wisconsin.....	165 N. Broadway, Green Bay, Wisconsin.

Respondent Fairmont Foods Company is sometimes hereinafter referred to as "Fairmont." The other named respondents when referred to collectively hereinafter will sometimes be referred to as "Fairmont Companies."

The corporate history of Fairmont Foods Company is as follows: This business was originally established in 1834 when a Nebraska corporation was chartered at Fairmont, Nebraska, under the style of

