

## Complaint.

## FEDERAL TRADE COMMISSION

v.

## SIZZ CHEMICAL CO. ET AL.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5  
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 942—March 9, 1923.

## SYLLABUS.

Where a concern engaged in the manufacture and sale of a cleansing compound called "Sizz," which it sold and distributed through a system under which its so-called "State Agents" secured and contracted with "County Managers" for the sale thereof to the general public; for the purpose and with the effect of deceiving and misleading the public with respect to the value thereof as a cleansing agent, among other things

- (a) Represented that said product contained no alkali, the fact being that a substantial portion thereof consisted of alkali and common salt;
- (b) Sent to prospective customers and to prospective agents or representatives sample boxes of "Sizz" tablets with a piece of iodine-stained cloth, together with a circular stating "no doubt you know how difficult it is to remove iodine," and inviting them to remove the stains by rinsing the cloth in a solution of hot water, soap and "Sizz" tablets; with a tendency thereby to mislead said customers and agents or representatives, the fact being that such stains can be as readily removed by the use of hot water alone;
- (c) Falsely represented that said product possessed remarkable cleansing power and purported to demonstrate such alleged fact through the use of a similar test, taking advantage of a popular misconception to the effect that iodine is as difficult to remove from cloth as from the skin; with the result that prospective purchasers were thereby deceived and induced to purchase said product;
- (d) Falsely represented through its State Agents to prospective County Managers that money paid in advance by them pursuant to the provisions of its contracts for the handling and sale of said product by them would be refunded in case such product proved unsatisfactory; and
- (e) By such demonstrations and representations brought about the sale of such product to said County Managers under such contracts:

*Held*, That such practices, under the circumstances set forth, constituted unfair methods of competition.

## COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that the Sizz Chemical Co., W. C. Milke, president and trustee; E. M. Hall, vice president; F. G. Schlueter, secretary-treasurer and trustee; Edw. Gotsch, trustee; and C. C. Cummings, trustee; herein-after referred to as respondents, have been and are using unfair

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methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Said respondent, Sizz Chemical Co., was organized under a declaration of trust with its principal office and place of business in the city of St. Louis in the State of Missouri, and the said respondents, W. C. Milke, E. M. Hall, F. G. Schlueter, Edw. Gotsch, and C. C. Cummings, are the officers and trustees of said company charged with the conduct of its affairs. Said company is now and at all times hereinafter mentioned has been engaged in the business of manufacturing and selling cleansing compounds including particularly a compound described as "Sizz," a tablet to be dissolved in water and used for cleaning clothing, rugs, and similar articles, and in the conduct of its said business said company causes its said product so manufactured and sold by it to be transported from the State of Missouri through and into other States of the United States to the purchasers thereof. In the course of said business said respondent continuously has been and is now in competition with other persons, partnerships, and corporations engaged in similar business in interstate commerce.

PAR. 2. Said respondent company, during the two years last past in the conduct of its said business as aforesaid, has sold and is now selling its said product through State agents to individuals throughout the several States designated by said respondent company as "County Agents" and has brought about the sale of said products through statements and representations contained in circular letters, posters, bulletins, booklets, and other literature sent through the mails to the prospective customers, as well as through verbal representations made by said State agents. Among said statements and representations was the statement to the effect that said product contains no alkali, and another was the statement to the effect that it possesses remarkable cleansing powers, and to demonstrate this cleansing power caused a cloth stained with iodine to be rinsed in a solution of said product and hot water with the result that the iodine stains were removed. Said statements, representations, and demonstrations are false and misleading and have the capacity and tendency to deceive prospective purchasers and induce them to purchase the said product in the belief that it contains no alkali and possesses remarkable cleansing powers, when as a matter of truth and fact said product contains a substantial percentage of alkali, which together with common table salt are the principal ingredients thereof, and hot water alone, without the assistance of said product will remove iodine stains from cloth.

PAR. 3. The above alleged acts and things done by respondent are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

#### REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission having issued and served its complaint herein, wherein it alleged that it has reason to believe that the above named respondents, Sizz Chemical Co. et al., have been and now are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding in respect to such alleged violation would be of interest to the public, the Commission fully stating its charges in that respect; and the respondents, through their attorney, Earl G. Broeg, having filed their answer to the complaint; and the attorneys for both sides having thereafter signed and filed an agreed statement of facts, with exhibits thereto attached, and having stipulated that the same should be taken in lieu of testimony before the Commission in support of the charges stated in the complaint and in opposition thereto, and that the said Commission might proceed further upon said stipulation of facts to make its report in said proceeding, stating its findings as to the facts and entering its order disposing of the proceeding; and the attorney for respondents having waived the submission of briefs and argument as to the law and the facts in said proceeding, and the Commission having duly considered the record and being fully advised in the premises, now makes this its report and findings as to the facts and conclusions of law:

#### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Sizz Chemical Co., was organized under a declaration of trust with its principal office and place of business in the city of St. Louis in the State of Missouri, and the following persons, W. C. Milke, E. M. Hall, F. G. Schlueter, and C. C. Cummings, are the officers and trustees of said company, charged with the conduct of its affairs.

PAR. 2. That said respondents are now and at all times herein-after mentioned have been engaged in the business of manufacturing and selling cleansing compounds, including particularly a compound described as "Sizz," a tablet to be dissolved in water and used for

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cleaning clothing, rugs, and similar articles, and in the conduct of their said business said company and its officers cause their said product so manufactured and sold by them to be transported from the State of Missouri through and into other States of the United States to the purchasers thereof. In the course of said business said respondents continuously have been and are now in competition with other persons, partnerships, and corporations engaged in similar business in interstate commerce.

PAR. 3. That the said respondents, during the two years last past, in the conduct of their business as aforesaid, have been and are now using the following plan in the sale and distribution of their product: That respondents have from time to time employed individuals designated by them as "State Agents"; that under the terms of the contract made by the respondents with said State Agents, a copy of which contract is hereto attached and made a part of this stipulation to the same extent and for all purposes as if it were stated verbatim, and referred to as Exhibit "1,"<sup>1</sup> the State Agents were given the privilege of selling the products of the respondents to individuals within a State who are designated by respondent as "County Managers;" that under the terms of the contract said State Agents, as a compensation for selling to said County Managers, received one-half of the initial payment made by the aforesaid County Managers, but such compensation in no case was to exceed \$100.

PAR. 4. That the aforesaid State Agents under and by virtue of the contract with the respondent company entered into contracts, copies of which are attached hereto and made a part of this stipulation to the same extent and for all purposes as if they were stated verbatim, and referred to as Exhibits "2" to "12,"<sup>1</sup> inclusive, in and on behalf of the respondent with divers persons designated as County Managers in various States, to-wit—Indiana, Illinois, Wisconsin, Ohio, Kentucky, Michigan, and Pennsylvania; that by virtue of the contract aforesaid the County Manager agreed to buy a designated number of gross of respondents' product at \$4.80 per gross, deliveries to be made from time to time as ordered by said County Manager; that the said County Manager paid in advance \$2 per gross, the remaining sum being paid as the products were ordered; that said County Manager, under the contract, in a majority of cases, advanced to the respondents, in compliance with the contract, the sum of \$200 on the purchase of 100 gross; that a further provision of the contract existing between the respondent and the County Managers was that the respondents would not sell their product in a specified territory allotted to said County Managers so long as the County Manager sold a designated number of gross per week therein.

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<sup>1</sup> Not printed.

PAR. 5. That many County Managers, relying upon demonstrations, representations, and statements made by respondents and their agents, as herein set forth, entered into the contracts aforesaid for the purchase of respondents' product to be sold by them to the consuming public; that in reliance upon, and having confidence in, the aforesaid statements, and in compliance with the contracts made thereon, many County Managers advanced to said respondents various sums of money, the majority to the extent of \$200, which the respondents have steadfastly refused to return.

PAR. 6. That the various County Managers, as shown by the various exhibits attached hereto and made a part hereof to the same extent and for all purposes as if quoted verbatim, did upon receiving the product of respondents under the terms of the contract make every reasonable, diligent, and necessary attempt to dispose of said product, but were unable to do so, with the result that the money advanced by them under the contract was a total loss.

PAR. 7. That among the further statements and representations made by State Agents of the respondents was a statement to the effect that respondents would refund the money advanced by said County Managers under the aforesaid contract in case the products of respondents did not prove satisfactory. Such a statement is wholly false and misleading in that the respondents have steadfastly refused to refund the money advanced by the County Managers on the contract aforesaid in the purchase of respondents' product.

PAR. 8. That in the circulars sent out by the respondents from time to time to prospective agents, customers, and representatives is contained the following paragraph:

A full box of SIZZ Laundry tablets contains 24 tablets. We are enclosing sample box with four tablets. We also inclose a small piece of percale with Iodine spots on it. No doubt you know how difficult it is to remove Iodine. Dissolve the inclosed tablets in one quart of HOT Water and add one-eighth bar of White laundry soap. Then rinse the piece of percale up and down in the HOT Mixture and the stains will quickly disappear leaving the cloth as bright as new. You will also find the mixture excellent for cleaning rugs, suits, woodwork, linoleum, etc.

The aforesaid statement has a tendency to mislead the prospective customer, agent, or representative, in that it is represented that iodine is difficult to remove from cloth, when as a matter of fact iodine can be removed just as readily by rinsing the cloth in hot water without the aid of respondents' products.

PAR. 9. That the aforesaid respondents, through their State Agents, have brought about the sale of their product to the aforesaid County Managers under the contract aforesaid, through statements

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and representations contained in the circulars, letters, posters, bulletins, booklets, and other literature sent through the mails as well as verbal representations; that among said statements and representations was a statement to the effect that respondents' product possesses remarkable cleansing power, and in demonstration of the cleansing power of their product, respondents have been and are taking advantage of a popular misconception, in that a common understanding prevails that iodine, being difficult to remove from the skin, is equally difficult to remove from cloth. In the course and conduct of respondents' sales to State Agents and County Managers and through them to consumers, demonstrations were given in which cloth stained in iodine was rinsed in hot water containing a solution of respondents' tablets, with the result that the iodine stains were removed. Such statement and representations are false and misleading and have the capacity and tendency to deceive prospective purchasers, and did deceive and induce them to purchase respondents' product in the belief that it possessed remarkable cleansing power, when as a matter of fact and truth hot water alone without the addition of respondents' product will just as readily remove iodine stains from cloth.

PAR. 10. That among the aforesaid statements and representations was a statement by respondents to the effect that their product contains no alkali, when as a matter of fact and truth it contains a substantial percentage of alkali, which, together with common salt, are the principal ingredients thereof.

PAR. 11. That the respondents placed in the hands of their agents, State and County, the literature and other advertising matter containing the false and misleading statements and representations aforesaid, well knowing and intending that such statements and representations would or should be used by said agents in disposing of respondents' product to the consuming public, and that said action on the part of respondents' agents was calculated to and did in fact deceive and mislead the public as to respondents' product as a cleansing agent.

## CONCLUSION.

That the methods of competition described in the foregoing findings of fact in paragraphs 5 to 11, inclusive, constitute, under the circumstances set forth therein, unfair methods of competition in interstate commerce, in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

## ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, wherein it alleged that it had reason to believe that the above named respondents, Sizz Chemical Co., its officers and trustees, have been and now are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding in respect to such alleged violations would be to the interest of the public, the Commission fully stating its charges in that respect; and the respondents through their attorney, Earl G. Broeg, having filed their answer to the complaint herein; and the attorneys for both parties having thereafter signed and filed an agreed statement of facts, with exhibits thereto attached, and having stipulated that the same should be taken in lieu of testimony before the Commission in support of the charges stated in the complaint and in opposition thereto, and that the said Commission might proceed further upon said stipulation of facts to make its report in said proceeding, stating its findings as to the facts and entering its order disposing of the proceeding; and the attorney for respondents having waived the submission of briefs and argument as to the law and the facts in said proceeding, and the Commission having duly considered the record and being fully advised in the premises; and the Commission on the date hereof having made and filed its report containing its findings as to the facts and its conclusions that respondents have violated Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof;

*Now, therefore, it is ordered,* That the respondents, Sizz Chemical Co., its officers, agents, servants, and employes, forever cease and desist from:

(1) Representing by means of verbal statements or by statements on containers, circulars, or other advertising matter that respondents' products contain no alkali when in truth and fact said products do contain alkali.

(2) Making any demonstrations or representations to its agents or through them to the consuming public, or otherwise, which are calculated to create the impression that respondents' products have any value in removing iodine stains from any fabric.

(3) Making or permitting its agents to make any statements or representations to the effect that any money advanced to respondents

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by their agents or representatives in the purchase of respondents' products will be refunded to them if the sale of respondents' products prove unsatisfactory, unless respondents in good faith intend to and do in fact comply with such statements or representations.

(4) Making any statement, representation, or demonstration that is calculated to mislead and deceive respondents' agents, representatives, and the purchasing public as to the merits of respondents' products.

*It is further ordered,* That the respondents within sixty (60) days after the date of the 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 the order to cease and desist hereinbefore set forth by the Commission.

NON-DERRICK DRILLING MACHINE CO., INC.

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