

Complaint.

FEDERAL TRADE COMMISSION

v.

WILLIAMS SOAP COMPANY.

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

Docket 896—April 12, 1923.

SYLLABUS.

Where a corporation engaged in the manufacture of ordinary unmedicated soaps, which were neither made by, under the auspices or direction of, or in accordance with the formula of, any doctor or medical association, which it packed in wrappers and cartons or boxes, together with leaflets describing the same, and which were sold by it through street vendors, peddlers and other dealers; in branding, labeling, and advertising the same,

- (a) Used such legends as "Dr. William's Antiseptic Soap," "endorsed by eminent physicians throughout the land"; "Dr. Hood's Cuticle Soap," "removes tan, pimples, etc.," "White Wonder Soap," "manufactured by U. S. Medical Association," "Hot Springs Sulphurine Cream Soap, manufactured for National Medical Association," "Cutamulsion, distributed exclusively by the National Medical Association," "Dr. Tangway's Skin Soap," "Crocodile Medicine Company" (a private brand prepared for one of its dealer customers), etc.; with a tendency and capacity to injure competitors and mislead and deceive purchasers and the general public into believing that said soaps contained curative and healing qualities not possessed by other soaps of like kind;
- (b) Made such statements, in describing the composition of said soaps, as "free from all acids, strong alkali, animal fats, or any other harmful substances," "medicated according to the latest knowledge of antiseptics," "clean and sweet enough to be eaten," etc.; the fact being that the soaps so characterized were neither free from fatty acids, nor unsaponified matter, nor medicated according to the latest knowledge of antiseptics or at all, and did not constitute toilet soaps of high grade:

Held, That such misbranding and mislabeling, and such false and misleading advertising, 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 Williams Soap Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce in violation

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of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. The respondent is a corporation organized under the laws of Indiana, with its principal office and place of business in Indianapolis, Ind. For more than one year last past it has been and now is engaged in the manufacture of soap and the sale thereof in interstate commerce. Its method of doing business is as follows: Respondent inserts advertisements in theatrical magazines and other publications of general circulation in various States of the United States, soliciting orders for its soaps from street venders, peddlers, and other dealers. Upon receiving inquiries regarding its said soaps, respondent sends to the inquirer its catalogues and other literature picturing and describing its soaps and setting forth the prices charged by respondent therefor. Upon receiving orders for its soaps, respondent causes the soap so ordered to be transported from its place of business in Indianapolis, Ind., to purchasers at various points among the several States of the United States, and in the course and conduct of its said business, respondent is engaged in interstate commerce, in competition with other persons, partnerships, and corporations similarly engaged, and with the trade generally.

PAR. 2. Respondent makes numerous false and misleading statements in its said catalogues and other literature concerning the origin, nature, quality, and value of the soaps made by it and puts out said soaps under various names which import origin, nature, quality, and value which said soaps do not possess; said soaps are packed in boxes, wrappers, and containers, upon which the respondent has caused to be printed the name of the respective soap, and false and misleading statements with regard thereto similar to the names and statements appearing in its catalogues and literature as above set out. The said names and statements are used by the respondent in its said catalogues and other literature and upon the cakes of said soaps and said boxes, wrappers, and containers so as to directly assert or clearly import and imply:

(a) That some of said soaps are medicated and possess curative and healing properties;

(b) That certain of said soaps are medicated and made by or according to the formula of a physician and that the medicaments in said soaps are prescribed by medical authority, and that said soaps possess curative and healing properties;

(c) That other of said soaps are made and endorsed by a national association of physicians, and contain medicaments prescribed by competent medical authority, and possess curative and healing properties.

PAR. 3. In the course of its business, as aforesaid, the respondent has manufactured and sold in interstate commerce certain lines of ordinary unmedicated soap and has named, labeled, branded, and advertised said soap as National Hygienic Soap; Antiseptic Shaving Soap; Pumola Soap. Such names, labels, brands, and advertisements are false and misleading, and have the tendency and capacity to injure competitors and to mislead and deceive purchasers and the general public into the belief that said soaps above described are medicated and possess healing and curative properties not possessed by other soaps of like kind.

PAR. 4. The respondent, in the course of its business as aforesaid, has manufactured and sold in interstate commerce certain lines of ordinary unmedicated soap, and has named, labeled, branded, and advertised certain such soaps as follows:

(a) Dr. William's Antiseptic Soap. Upon the carton or container in which each cake of this soap is packed there appears the printed statement "Indorsed by Eminent Physicians throughout the Land." In respondent's catalogues there is printed the statement that this soap "is highly recommended and used by many noted physicians and surgeons because of its absolute purity and superior quality."

(b) Dr. Hood's Cuticle Soap. Upon the carton or container in which this soap is packed there appears the printed statement "Removes tan, pimples, etc. An ideal skin tonic. Cleansing, soothing and healing." In respondent's catalogues there is the printed statement that this soap is "medicated according to the latest knowledge of antiseptics."

(c) Dr. Tangway's Skin Soap. Upon the carton or container in which each cake of this soap is packed the following printed statements appear: "Crocodile Medicine Co."; "The richest, most lasting and refined of all cleansing preparations"; "Ideal for use in the sick room"; "This preparation is superior to any other made for the bath, toilet and nursery."

Such names, labels, brands, and advertisements are false and misleading and have the tendency and capacity to injure competitors and to mislead and deceive purchasers and the general public into the belief that said soaps above described contain medicaments prescribed by competent medical authority and are made respectively by or according to the formula of physicians or surgeons, and possess curative and healing qualities not possessed by other soaps of like kind.

PAR. 5. The respondent in the course of its business as aforesaid has manufactured and sold in interstate commerce certain lines of

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ordinary unmedicated soap and has named, labeled, branded, and advertised said soap as follows:

(a) White Wonder Soap. Upon the carton or container in which each cake of said soap is packed appears the printed statement "Manufactured only by U. S. Medical Ass'n";

(b) Nature's Vegetable Soap. Upon the container in which each cake of said soap is packed appears the printed statement "Manufactured by U. S. Medical Ass'n.";

(c) Hot Springs Sulphurine Soap. Upon the container in which each cake of said soap is packed appears the printed statement "Manufactured only by U. S. Medical Association," or words to that effect;

(d) Cutamulsion. Upon the container in which each cake of said soap is packed appears the printed statement "Distributed Exclusively by National Medical Association." In respondent's said catalogue and other literature advertising this soap there appears the printed statement "Cutamulsion. The great Skin Tonic."

Such names, labels, brands, and advertisements are false and misleading and have the tendency and capacity to injure competitors and to mislead and deceive purchasers and the general public into the belief that said soaps above described and named, labeled, and advertised as aforesaid, are made and endorsed by a national association of physicians, and are medicated and possess curative and healing properties not possessed by other soaps of like kind.

PAR. 6. In its aforesaid catalogues and other literature the respondent offers to manufacture for dealer customers soaps denominated by the respondent as "private brands." Under said name the respondent offers to its trade certain soaps put out under names chosen by the dealers and stamped upon said soaps, and having upon the boxes, wrappers, and containers in which said soap is packed such statements and representations as the dealer may request. Respondent puts out such private brands under various names in connection with false and misleading statements upon the boxes, wrappers, and containers in which said soaps are packed, which statements assert or imply qualities concerning said private brands which are false and misleading; namely, that some of said soaps are medicated and possess curative and healing properties, and certain of said soaps are medicated and made by or according to the formula of a physician and possess curative and healing properties, and that other of said soaps are made by the National Association of Physicians and are prescribed by competent medical authority and are medicated and possess curative and healing properties. Specific in-

stances of soap so made, advertised, and sold by the respondent are as follows:

(a) Dr. Tangway's Skin Soap. Upon the carton in which each cake of this soap is packed there appears the following printed statement, "Dr. Tangway's Skin Soap"; "Most lasting and refined of all cleansing preparations"; "This preparation is superior to any other made for the bath, toilet and nursery"; "Crocodile Medicine Co."

(b) Crawford's Scalp Soap. Upon the carton in which each cake of this soap is packed there appears the printed statement "Crawford's Medc. Company." "It is the best preparation made for cleansing and purifying the skin"; "Superior to all soaps for the toilet, bath and nursery."

Such names, labels, brands and advertisements are false and misleading and when used by the respondent as above described have the tendency and capacity to injure competitors and to mislead and deceive purchasers and the general public into the belief that said soaps above described are medicated and prescribed by competent medical authority, and are made by or according to the formula of physicians or surgeons, and possess healing and curative properties not possessed by other soaps of like kind.

PAR. 7. Upon the container in which each cake of certain of its soaps is packed, the respondent causes to be printed the words "price 25 cents." The said soaps so marked are sold by the respondent to its dealers at 5 cents or less per cake, and it is not contemplated by respondent that said soaps will be sold at the retail price of 25 cents per cake but that the retail price thereof will be substantially less than 25 cents per cake. In its said catalogues and other literature the respondent suggests to its dealer customers that said soaps may be sold at a price below the sum of 25 cents, or that one or two cakes of such soaps may be given free with each cake purchased at the price of 25 cents. The printed statement "price 25 cents" appearing on said soap containers is fictitious, and respondent does not intend that soaps so marked by it will be sold by its dealer customers at 25 cents per cake. Such statements made by the respondent are false and misleading and have the tendency and capacity to injure competitors and to mislead and deceive the purchaser and the general public into the belief that such soaps on which said printed statements appear are intended to be sold at retail for 25 cents per cake, and that in purchasing said soaps for a price substantially less than 25 cents per cake, or in receiving one or two cakes free with the purchase of one cake at 25 cents, the purchaser will obtain said

soaps at a bargain price and at a price substantially less than its fair retail value.

PAR. 8. The acts and things done by the respondent, as hereinabove alleged, are all to the prejudice of the public and of 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.

Pursuant to the provision of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Williams Soap Company, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer herein, hearings were had and evidence and testimony was thereupon introduced in support of the allegations of said complaint and on behalf of respondent before John W. Bennett, an examiner of the Federal Trade Commission theretofore duly appointed.

And thereupon this proceeding came on for final hearing, and counsel having submitted briefs and the Commission having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is a corporation organized under and existing by virtue of the laws of the State of Indiana, with its principal office and place of business in Indianapolis, Indiana. For many years last past respondent has been and now is engaged in the manufacture of soap and the sale thereof in interstate commerce throughout the several states of the United States. Said respondent was organized about 1895 by one William Williams and his brother, of Indianapolis, Indiana, but its stockholders have changed several times, and since about 1903 respondent has been under the management and control of Jesse M. Daily and others, not its original organizers. Said William Williams had an uncle known as Dr. Williams. It does not appear that any Dr. Williams was ever connected with respondent corporation. Since 1903 it is certain that no Dr. Williams has been so connected.

PAR. 2. In conducting said business respondent inserts advertisements in theatrical magazines and other publications of general

circulation in the several States of the United States, soliciting orders for its soaps from street vendors, peddlers, and other dealers. Respondent also appoints exclusive sales agents for its said products at points in several States of the United States. Upon receiving inquiry regarding its said soaps, respondent sends to the inquirer its catalogue, price lists, and other literature describing its soaps and setting forth the price charged by respondent therefor. Upon receiving orders for its soap, respondent causes the soap so ordered to be transported from its place of business in Indianapolis, Indiana, to purchasers at various points among the several States of the United States, and in the course and conduct of said business respondent is engaged in interstate commerce in competition with other persons, partnerships, and corporations similarly engaged and with the trade generally.

PAR. 3. Said soaps so sold by respondent are packed in cartons, boxes, wrappers, or containers on which the respondent has caused to be printed the trade names or brands of the respondent's soaps, and within said containers are often placed leaflets or circulars describing said soaps and setting forth their qualities.

PAR. 4. The respondent, in the course of its business as aforesaid, has manufactured and sold in commerce certain lines of ordinary unmedicated soaps, and upon said cartons, boxes, wrappers, containers, and/or circulars mentioned in paragraph 3 hereof, and in the catalogues and other literature mentioned in paragraph 2 hereof, respondent has caused to be printed false and misleading statements with regard to said soaps. Said statements are used by respondent in said catalogues and other literature and upon the said cartons, boxes, wrappers, and/or containers so as to directly assert or clearly import or imply:

(a) That some of such soaps are medicated and possess curative and healing properties.

(b) That certain of said soaps are medicated and made by or according to the formula of a physician, and that the medicaments in said soaps are prescribed by medical authority, and that said soaps possess curative and healing properties.

(c) That other of said soaps are made and endorsed by a national association of physicians and contain medicaments prescribed by competent medical authority, and possess curative and healing properties.

1. Under the trade name and designation of "Dr. Williams Anti-septic Soap" respondent manufactures and sells as above indicated a brand of ordinary unmedicated soap, and upon the carton or

container in which each cake of this soap is so packed there appears the printed statement, "Endorsed by eminent physicians throughout the land"; also, "A pure white soap made from vegetable oils and free from all acids, alkalis, animal fats, or any other harmful substance." In respondent's said catalogues there is stated, at the instance of respondent, that "This well known brand of soap is made from pure vegetable oils and is free from all animal fats, free alkali, or any other harmful substances." And in a circular circulated by respondent to its customers and prospective customers respondent has caused to be printed and circulated the statement concerning this soap that "It is guaranteed to be absolutely free from all acids, strong alkali, animal fats, or any other harmful substances, and is clean and sweet enough to be eaten." Whereas, in truth and in fact, said soap does contain free fatty acids, is not antiseptic to any greater extent than any other soap of similar quality; and, since it contains considerable quantities of free acid and of unsaponified matter, it is not a toilet soap of a high grade, nor is it endorsed by eminent physicians throughout the land, neither does said soap contain medicaments prescribed by competent medical authority.

2. Respondent has manufactured and sold and does manufacture and sell a brand of ordinary unmedicated soap as aforesaid under the trade name and brand of "Dr. Hood's Cuticle Soap." Upon the carton or container in which each cake of said soap is packed there appears said trade name or brand, and in addition thereto, is printed the statement, "Removes tan, pimples, etc. An ideal skin tonic. Cleansing, soothing and healing." In respondent's catalogue there is printed and circulated, at the instance of respondent, to respondent's customers and prospective customers the statement that this soap is "Medicated according to the latest knowledge of antiseptics." Whereas, in truth and in fact, said soap did not remove tan nor pimples to any greater extent than any ordinary soap, nor was said soap medicated according to the latest knowledge of antiseptics, nor medicated at all, nor was it a high grade toilet soap, since it contained considerable quantities of unsaponified and an appreciable amount of water-insoluble matter.

(d) Such names, brands, labels, and statements in circulars are false and misleading and have a tendency and capacity to injure competitors and to mislead and deceive purchasers and the general public into the belief that said soaps above described contain medicaments prescribed by competent medical authority and are made respectively by or according to the formulas of physicians or surgeons and possess curative and healing qualities not possessed by other soaps of like kinds.

PAR. 5. In the course of its said business respondent has manufactured and sold in interstate commerce certain lines of ordinary unmedicated soaps, and has named, labeled, branded, and advertised said soaps as follows:

(a) "White Wonder Soap." Upon the carton or container in which each cake of said soap is packed and sold appears the printed statement, "Manufactured only by U. S. Medical Association."

(b) "Nature's Vegetable Soap." Upon the carton or container in which each cake of said soap is packed and sold appears the printed statement, "Manufactured only by U. S. Medical Association."

(c) "Hot Springs Sulphurine Cream Soap." Upon the carton or container in which each cake of said soap is packed and sold appears the printed statement, "Manufactured for National Medical Association."

(d) "Cutamulsion." Upon the carton or container in which each cake of soap is packed and sold appears the printed statement, "Distributed exclusively by the National Medical Association."

(e) In truth and in fact neither said "White Wonder Soap" nor said "Nature's Vegetable Soap" is or has been manufactured by U. S. Medical Association, nor has U. S. Medical Association or any other medical association had anything whatever to do with the manufacture, distribution, or sale of said soaps. Neither said "Hot Springs Sulphurine Cream Soap" nor said "Cutamulsion" is or has been manufactured by or for, nor distributed by, National Medical Association, nor has National Medical Association or any other medical association had anything whatever to do with the manufacture, distribution, or sale of said soaps.

(f) Such names, labels, brands, and advertisements are false and misleading, and have the tendency and capacity to injure competitors and mislead and deceive purchasers and the general public into the belief that said soaps above described and named, labeled, and advertised as aforesaid, were made and approved by national associations of physicians and are medicated and possess curative and healing properties not possessed by other soaps of like kind.

PAR. 6. Respondent, in its catalogues and other literature as aforesaid offers to manufacture for dealer-customers soaps denominated by respondent as "private brands." Under said designation the respondent offers to its trade certain soaps put out under names chosen by dealers and stamped upon said soap, and have stamped upon the boxes, labels, and containers in which said soaps are packed such statements and representations as the dealer may request. Respondent has put out such private brands under various names in connection, in some cases at least, with false and misleading state-

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ments upon the boxes, wrappers, and containers in which said soaps are packed:

(a) "Dr. Tangway's Skin Soap." Upon the carton or container in which each cake of said soap was packed there appeared the following printed statement: "Dr. Tangway's Skin Soap." "Most lasting and refined of all cleansing preparations. This preparation is superior to any other for both toilet and nursery." "Crocodile Medicine Company."

(b) Such a trade name, label, brand, and advertisement are false and misleading and when used by respondent as above described have the tendency and capacity to injure competitors and to mislead purchasers and the general public into the belief that said soap above described was prepared by certain medical authorities, and was made by or according to the formula of a physician or surgeon and possessed healing and curative properties not possessed by other soaps of like kind and quality.

PAR. 7. No Dr. Williams, Dr. Hood, nor Dr. Tangway has been in any way connected with respondent since 1903, if ever, nor has any soap manufactured and sold since that time by respondent been prepared according to a formula furnished by any Dr. Williams, Dr. Hood, or Dr. Tangway, nor by any other physician or surgeon.

PAR. 8. Respondent, since the filing of the complaint in this proceeding, has modified or changed, in some respects, statements printed upon cartons, boxes, or containers, and in catalogues or circulars as above set forth. Some of said changes are as follows:

(a) Upon new cartons respondent has planned to place in lieu of "U. S. Medical Association" or "National Medical Association" "Nature's Products Company" as a trade name in the sale of "White Wonder Soap," "Nature's Vegetable Soap," "Hot Springs Sulphurine Cream Soap," and "Cutamulsion," but at the time of the hearings in this proceeding was selling such soap in the containers then on hand as theretofore labeled.

(b) "Dr. Tangway's Skin Soap," a "private brand" prepared at the instance of a customer, was not being sold at the time of said hearing.

(c) Some changes were also made in the wording of literature relating to "Dr. Williams Antiseptic Soap" and "Dr. Hood's Cuticle Soap," such as eliminating the statement, "Medicated according to the latest knowledge of antiseptics."

CONCLUSION.

That the acts, practices, and activities of respondent as hereinabove set forth and under the conditions and in the circumstances

set forth in the foregoing findings as to the facts are unfair methods of competition in commerce and constitute a violation of Section 5 of the 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.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, the testimony and documentary evidence offered and received, and the arguments of counsel for the respective parties hereto, and the Commission having made its findings and conclusion that the respondent has violated the provisions of the 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,"

Therefore, it is now ordered, That the respondent, Williams Soap Company, a corporation organized under and existing by virtue of the laws of the State of Indiana, its officers, directors, agents, servants and employees, do cease and desist:

(1) From placing upon cartons, boxes, or containers in which its said soap is sold in interstate commerce, or in its circulars, price lists, catalogues, or other literature in which said soap is listed, described, or advertised for sale in interstate commerce, any trade name or brand containing the term "Dr." or "Doctor," or any other term having the capacity or tendency to indicate to purchasers or prospective purchasers of said soap or to mislead or deceive them into the belief that said soap had been manufactured after a formula or after formulas prepared by a physician or surgeon, when, in fact, said soap had not been so manufactured.

(2) From placing upon cartons, boxes, or containers in which its said soap is sold in interstate commerce, or in its circulars, price lists, catalogues, or other literature in which said soap is listed, described, or advertised for sale in interstate commerce, the trade names or designations "U. S. Medical Association," or "National Medical Association" or other similar trade name or designation having the capacity and tendency to indicate to purchasers and prospective purchasers, or to mislead or deceive them into the belief that such soap had been manufactured and sold under the authority and sanction of organized bodies of physicians or surgeons, or other medical authority, when said soap, in fact, had not been so manufactured and sold.

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(3) From placing upon cartons, boxes, or containers in which its said soap is sold in interstate commerce, or in its circulars, price lists, catalogues, or other literature in which said soap is listed, described, or advertised for sale in interstate commerce, either in the form of trade names, brands, designations, or otherwise, the words "medicated" or "antiseptic," or other similar term or terms, having the capacity and tendency to indicate to purchasers or prospective purchasers, or to mislead or deceive them into the belief that such soap had been medicated, or had antiseptic qualities not possessed by other similar soaps made and sold by other manufacturers in interstate commerce, when in fact said soap of respondent has not been so medicated, and had not and has not such antiseptic qualities.

(4) From placing upon cartons, boxes, or containers in which its said soap is sold in interstate commerce, or in circulars, price lists, catalogues, or other literature in which said soap is listed, described, or advertised for sale in interstate commerce, the statement that said soap is "free from all fatty acids," when in fact such soap is not free from all fatty acids.

It is further ordered, That respondent, within sixty (60) days after 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, to which report should be attached copies of all cartons, containers, catalogues, price lists, circulars, and labels prepared and distributed by said respondent to the trade in interstate commerce.

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