

IN THE MATTER OF

MINNIE L. FLOURNOY AND MATTIE FLOURNOY, TRADING AS C. J. MOFFETT MEDICINE COMPANY

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2110. Complaint, May 23, 1934¹—Order, July 20, 1934

Consent order requiring respondents, in connection with the sale or offer in interstate commerce of their "Dr. Moffett's Teethina Powder", to cease and desist from representing, directly or by implication, that said product—

- (a) Has been used for three generations in its present form, is endorsed by doctors or nurses, is the original formula discovered by Dr. C. J. Moffett, or one prepared by a baby specialist, or has any miraculous curative powers;
- (b) Regulates the stomach or liver or insures healthy sleep, or will relieve stomach or bowel trouble, without restricting such last claim to certain conditions as in the order specified;
- (c) Will prevent, cure or relieve certain diseases and conditions of infants, including "liver trouble", "dangerous illness", and others. or "colds", "high fever", or "feverish conditions", without restricting such last claim as in the order specified; and
- (d) Is efficacious in the treatment or cure of diarrhea or has therapeutic value in the treatment or relief of constipation, without limiting such claims as specified.

Mr. PGad B. Morehouse for the Commission.

Mr. Daniel R. Forbes, of Washington, D. C., and *Hatcher & Hatcher*, of Columbus, Ga., for respondents.

COMPLAINT¹

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, having reason to believe that Minnie L. Flourney and Mattie Flourney, and each of them, copartners, trading under the name and style of C. J. Moffett Medicine Company, have been or are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondents Minnie L. Flourney and Mattie Flourney are copartners, trading under the name and style of C. J. Moffett Medicine Company, with their principal place of business

¹ Amended.

in the city of Columbus, State of Georgia, and for more than two years last past have been there engaged in the sale and distribution of a proprietary medicine in the form of a powder known and sold under the trade name "Dr. Moffett's Teethina Powder", an alleged remedy for various diseases and ill conditions of infants. Respondents cause said product when sold to be shipped from their place of business aforesaid through and into various other States of the United States to wholesale druggists and grocers and to retail and chain drug stores for resale to the ultimate consumer, and in a few cases, sales are made direct to consumers by respondents.

Teethina powder is purchased by respondents in bulk from George H. Salzgeber, of St. Louis, Mo. It is compounded by him in lots or "batches" of about 60 pounds each, according to the following formulae:

Ingredients	Quantity	Ingredients	Quantity
Bismuth subnitrate.....	20 pounds.	Cassia.....	8½ pounds.
Sodium citrate.....	15 pounds.	Calomel.....	9½ ounces.
Chalk.....	15 pounds.	Sugar.....	2 pounds 14 ounces.

By respondents this mixture (insoluble in water) is repackaged in small papers, placing twelve papers in a box, for sale to the ultimate consumer for 30 cents a box and is administered principally to infants with the moistened finger placed upon the tongue of the child, or with syrup or jelly.

In the course and conduct of their business as aforesaid, respondents and each of them, are in competition with other individuals, partnerships, and corporations engaged in the sale and distribution, in interstate commerce, of other medicines, remedies and laxatives, efficacious in the prevention, treatment or relief of various similar diseases and ill conditions of infants.

PAR. 2. In the course and conduct of their business as aforesaid, by the use of various advertising media such as newspapers, booklets, circular letters, and other printed matter, all used in soliciting and promoting the sale of the aforesaid product in interstate commerce, respondents have represented and do represent extravagantly and falsely, to the public, both by direct statement and by implication, that "Teethina is a famous prescription", "For three generations it has been used to relieve colic, indigestion, colds, gas constipation, diarrhoea, and such baby ills", "Endorsed by doctors, nurses * * *", "It gently cleanses and regulates the little stomach, and insures restful, healthy sleep", "Teethina gently * * * and positively regulates baby's liver, bowels, and intestines;

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correcting digestion, colic * * * diarrhoea and other stomach disorders", "Teethina, a formula discovered by Dr. C. J. Moffett, an A. M. A. Baby Specialist, will quickly and safely regulate baby's bowels, liver and intestines; and not only that, it prevents food fermentation and stops decomposition of fecal matter in the entire intestinal tract." Certain of the circular matter mailed to prospective customers in different States of the United States contained the statement "Every day we get new evidence of the almost miraculous curative powers of Teethina." And in the foregoing and various and divers other ways respondents have represented and do represent that the aforesaid product, when administered according to directions, is efficacious in the prevention, relief, treatment, or cure of the following diseases and ill conditions of infants, to wit:

Stomach trouble
 Bowel trouble
 Colic
 Colds
 Constipation
 Cholera infantum
 Gum inflammations

Liver trouble
 Dangerous illness
 Indigestion
 Gas
 Diarrhoea
 High fever and feverish conditions

In truth and in fact the said product has not been endorsed by reputable doctors or nurses; is not a famous prescription discovered by Dr. C. J. Moffett, an American Medical Association baby specialist, nor by any other physician; the said product as now manufactured and sold has not been used for three generations; the said product is not composed of ingredients, either singly or in combination having the therapeutic or medicinal properties represented as aforesaid; Teethina powder will not cure or correct or relieve colic, indigestion, diarrhoea, or other baby ills regardless of the causation and conditions of such ills, and will not positively regulate baby's liver, bowels, and other stomach disorders regardless of the causation and condition thereof, and will not in all instances cleanse and regulate the stomach, or insure restful, healthful sleep, and while it contains ingredients which have laxative, antacid and carminative properties, it is not in truth and in fact efficacious in the prevention, relief, treatment, or cure of any of the aforementioned diseases and ill conditions of infants and in many of such conditions could not safely be used without competent medical advice.

PAR. 3. Prospective ultimate purchasers believing and relying upon the truth of respondents' aforesaid exaggerated, false, and misleading statements buy Dr. Moffett's Teethina Powder from the wholesalers and retailers as aforesaid and the foregoing extravagant, false and misleading representations and each of them are calculated, and have the tendency to mislead and deceive purchasers, and prospective pur-

chasers, of respondent's product into the erroneous belief that its use in the manner aforesaid will serve to prevent or remedy the occurrence of these diseases or ill conditions in infants; and to induce the purchase by consumers in reliance upon such erroneous belief; and to divert trade from and otherwise injure competitors of respondents.

PAR. 4. The above acts and practices of respondents are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of the 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.

ORDER TO CEASE AND DESIST

This proceeding coming on to be heard by the Federal Trade Commission upon the amended complaint of the Commission herein issued and respondents' answer thereto waiving all further proceeding and, pursuant to paragraph (2) of Rule III of the Commission's Rules of Practice, consenting that the Commission may make, enter and serve upon them, and each of them, an order to cease and desist from the method or methods of competition in said amended complaint alleged—

It is now ordered, That the respondents, Minnie L. Flournoy and Mattie Flournoy, and each of them, in connection with the sale or offering for sale in interstate commerce of a proprietary medicine in the form of a powder, known and sold under the trade name, "Dr. Moffett's Teethina Powder", do cease and desist from representing, directly or by implication, as follows:

(1) That in its present form it has been used for three generations;

(2) That it is endorsed by doctors or nurses;

(3) That in all cases, it regulates the stomach or insures restful, healthy sleep;

(4) That it regulates baby's liver;

(5) That it corrects or will relieve indigestion, colic, stomach or bowel trouble without restricting such claims to those conditions when caused by gaseous irritation, excessive acidity or improper feeding;

(6) That it is the original formula discovered by Dr. C. J. Moffett, or a formula prepared by a baby specialist;

(7) That it prevents food fermentation or stops decomposition of fecal matter in the intestinal tract;

(8) That it has any miraculous curative powers;

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(9) That it will prevent or cure any of the following diseases or ill conditions in infants, namely: "liver trouble", "dangerous illness", "cholera infantum", "gum inflammation";

(10) That it will relieve any of the following diseases or ill conditions in infants, namely: "liver trouble", "dangerous illness", "cholera infantum" or "gum inflammation";

(11) That it will prevent, cure or relieve any of the following diseases or ill conditions in infants, namely: "colds, high fever or feverish conditions," without restricting such claims to those diseases or ill conditions when due to temporary constipation or excessive acidity.

(12) That it is efficacious in the treatment or cure of diarrhea without restricting such claim to diarrhea when due to improper feeding;

(13) That it has any therapeutic value in the treatment or relief of constipation, without limiting such claims to temporary constipation; or that it has any therapeutic value in the treatment or relief of "gas" except as a laxative and carminative with antacid properties.

It is further ordered, That the respondents shall, within 60 days after the service upon them of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF
LINCOLN EXTENSION UNIVERSITY, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2185. Complaint, May 22, 1934—Order, July 20, 1934*

Consent order requiring respondent, its officers, etc., in connection with the sale, offer and advertisement of its course in factory management and salesmanship in interstate commerce and the District of Columbia, to cease and desist from—

- (a) Using or causing to be used, directly or indirectly, the word or words "University" or "Extension University" as part of its corporate name, or in connection with any other corporate or trade name;
- (b) Representing, directly or by implication, that prospective student purchasers, after completion of its course, would be college or university graduates, and that it was equivalent to what was commonly known and understood by the public as a university, or an extension thereof;
- (c) Representing, directly or by implication, to prospective student purchasers that their names had been given to it by the management of a factory or other place of employment, or that if they would purchase its said course and make sufficiently good grades, they would be promoted at an increase in compensation, or, failing so to do, would not be considered in this connection; and
- (d) Representing the financial value of its course in words or figures which are fictitious, or grossly exaggerate the true worth thereof, directly or by implication, to prospective student purchasers.

Mr. Morton Nesmith for the Commission.

Mr. Sylvan E. Hess, of St. Paul, Minn., for respondent.

COMPLAINT

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, having reason to believe that Lincoln Extension University, Inc., a corporation, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said 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. Lincoln Extension University, Inc., is a corporation formerly organized, existing, and doing business under and by virtue of the laws of the State of Delaware, but later reincorporated, existing and doing business under the laws of the State of Ohio, with its offices and principal place of business in the city of Cleveland, State