

Complaint

IN THE MATTER OF

EUGENE MUNK

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2198. Complaint, June 16, 1934—Order, July 24, 1934*

Consent order requiring respondent individual, his agents, etc., in connection with the sale, offer or distribution in interstate commerce and the District of Columbia of his massage cream variously labeled, designated, and described by him as "Reta-Rea Cream", "Joan Hall Cream", and "Lanola Cream" and otherwise (or in connection with the sale or offer of any similar preparation for external application), to cease and desist from representing that such preparation has fat or weight reducing qualities, or any other function for reducing other than serving as a lubricant to facilitate massage.

Mr. Harry D. Michael for the Commission.

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 Eugene Munk 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. That said respondent, Eugene Munk, is now and has been for more than two years last past engaged in the business of compounding various toilet, cosmetic, and other preparations, and of selling the same in interstate commerce to members of the purchasing public located in various States of the United States, with his office and principal place of business in the City of New York in the State of New York. Respondent sells the preparation hereinafter described by direct sale by mail to members of the purchasing public located in various States of the United States, and respondent causes his said preparation to be transported in interstate commerce from his said place of business in New York to, into and through States of the United States other than New York, to the buyers thereof to whom it is or has been sold. That said preparation sold by respondent as aforesaid is a massage cream which he has at various times labeled, designated, and described as "Reta-Rea Cream",

Complaint

19 F. T. C.

"Joan Hall Cream", and "Lanola Cream", and in the sale of which under each of said names, respectively, he used the trade name of "Reta-Rea Company" or simply "Reta-Rea", "Joan Hall", and "Lanola Company." That prior to the use of said names for said cream and said trade names, respondent had used other names for the cream and other trade names in the conduct of the business therein.

PAR. 2. That respondent in advertising his said massage cream represents by statements and by implication that said cream has qualities within itself of causing reduction of excess fat in the human body. Among such representations used by respondent and inserted in magazines and other publications circulated to the purchasing public in various States of the United States are the following:

REMOVE FAT

From any part you wish reduced. No equipment necessary—satisfaction or money back. A safe and sure way. Reta-Rea Cream and Method will quickly and safely reduce excess fat from double chin, arms, bust, hips, legs and other parts of body. Over 35,000 satisfied users. Large jar only \$1. Complete treatment with instructions—Send \$1 or mail coupon—Reta-Rea, Dept. B, 1851 Washington Avenue, New York, N. Y. * * *

REMOVE FAT

From any part you wish reduced. No equipment necessary—Your money back if you are not satisfied. A sure safe way. Joan Hall Cream and Method quickly and safely reduces double chins, arms, bust, hips, legs and other parts of body. Large jar now only 60¢. Nothing more to buy. Two jars for \$1. Joan Hall, Dept. M-1, 1851 Washington Avenue, New York City. * * *

Advertisements of the same or substantially the same wording as those given above have been used by respondent in regard to Lanola Cream except that the product is described as "Lanola Cream" and the seller is named as "Lanola Company". The address given in such advertisements is the same as that in the above-quoted advertisements. Said address is that of the respondent herein where he also conducts a business in compounding and selling various toilet and cosmetic products as well as other preparations under the trade name of Beaufix Laboratories.

Said advertisements, in addition to the wording quoted and referred to above, contain a cut representing a fat woman and a slender woman standing on the opposite ends of a balance or scale. The import of said advertisements is that the cream itself has reducing properties and that it is an essential part of the method

referred to. Accompanying the preparation are suggestions as to diet and directions to keep the bowels active, to take warm baths, to massage the parts where the cream is applied and to wrap said parts in warm wool cloth and leave over night. Such measures suggested and directed would tend to produce a reduction in fat or in flesh and might do so without regard to the cream. The only function of the cream in the method given is to act as a lubricant to facilitate the massage. It has no reducing function or effect in itself.

PAR. 3. That during the time above mentioned, other individuals, firms, and corporations in various States of the United States are and have been engaged in the compounding, sale, and distribution in interstate commerce of massage creams of the same general kind as that compounded and sold by respondent as aforesaid, and of various preparations and appliances designed for and used for the purpose of effecting weight reduction which either have reducing functions in themselves or are recognized adjuncts or adjuvants to a reducing regimen, and such other individuals, firms, and corporations have caused and do now cause their said products, when sold by them, to be transported from various States of the United States to, into, and through States other than the State of origin of the shipment thereof. Said respondent has been, during the aforesaid time, in competition in interstate commerce in the sale of his said cream with such other individuals, firms, and corporations.

PAR. 4. That the representations of respondent, as aforesaid, have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondent's said preparation will of itself reduce excess fat or that it has the effect of causing reduction in weight when in truth and in fact such is not the case. That said representations of respondent have the tendency and capacity to induce members of the public to buy and use his said preparation because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale in interstate commerce of massage creams of the same general kind and of preparations and appliances intended and used for reducing excess fat and of those used as adjuncts or adjuvants to other reducing procedure.

PAR. 5. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate 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.

Order

19 F. T. C.

ORDER TO CEASE AND DESIST

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 on the 16th day of June 1934 issued its complaint against Eugene Munk, respondent herein, and caused the same to be served upon him as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

Thereafter, said respondent filed herein an answer in writing electing to refrain from contesting this proceeding and consenting to the issuance of an order to cease and desist from the practices set forth in the complaint herein.

Therefore, this proceeding came on regularly for disposition and decision by the Commission under subdivision (2) of Rule III of the Rules of Practice and Procedure adopted by the Commission, and the Commission being fully advised in the premises—

It is ordered, That respondent, trading under his own name or under any trade name, his agents, employees, or successors, in connection with the sale, offering for sale, or distribution in interstate commerce and the District of Columbia of his massage cream labeled, designated, and described by him at various times as "Reta-Rea Cream", "Joan Hall Cream", and "Lanola Cream", as well as other names, or of any cream of the same or essentially the same composition under any other name or names, or of any similar preparation for external application, cease and desist from representing by statements or by any other means which represent or imply that such preparation has qualities or properties within itself that will cause reduction of fat or weight in the human body, or that such preparation has any function or use in any reducing method other than serving as a lubricant to facilitate massage.

It is further ordered, That respondent, within 60 days from and after the date of the service upon him of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which he is complying with the order to cease and desist herein above set forth.

Complaint

IN THE MATTER OF
OLD HICKORY MILLS ET AL.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1607. Complaint, Sept. 6, 1929¹—Order, Aug. 6, 1934*

Consent order requiring respondent Old Hickory Mills, its officers, etc., in connection with the sale of flour in commerce among the several States, to cease and desist from carrying on such business under the name "Old Hickory Mills" or under any other name including the word "Mills" or any other word or words of like import, and from representing through advertisements, circulars, etc., or in any other manner designed to promote or affect interstate commerce, that it is a manufacturer of flour or that the flour sold by it comes direct from manufacturer to purchaser, unless and until it actually "owns and operates or directly and absolutely controls a factory or mill wherein is made by grinding or crushing the wheat berry any and all flour sold or offered for sale by it under such title or name, or by or through any such representations; unless and until respondent shall insert and use also the words 'Not Grinders of Wheat' in immediate conjunction with its title, corporate name, trade name, or other designation in letters equally legible and conspicuous when said title, corporate name, trade name, or other designation is used on stationery, letterheads, bags, containers, advertising matter or otherwise."

Mr. Edward L. Smith and Mr. John W. Hildrop for the Commission.

Mr. Thomas H. Malone, of Nashville, Tenn., for respondent.

COMPLAINT¹

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 Old Hickory Mills, a corporation, J. Frank Foster, individually and as president, James Willis, individually and as vice president, R. W. Condon, individually and as vice president, and D. L. Anderson, individually and as secretary-treasurer, hereinafter referred to as respondents, have been and are using unfair 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. Respondent, Old Hickory Mills, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee. The respondents, J. Frank Foster, James

¹ Amended.