

IN THE MATTER OF  
GRAYBAN, INCORPORATED

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

*Docket 2200. Complaint, June 20, 1934—Order, Sept. 26, 1934*

Consent order requiring respondent, its officers, etc., in connection with the sale or distribution in interstate commerce or in the District of Columbia or in any territory, of the hair dye or hair-coloring product sold by it under the designation "Grayban", or any such preparation of substantially the same composition, to cease and desist from the use of any such representations, statements or assertions, through advertisements or otherwise, to the effect that—

- (a) Any such product or preparation can or will bring back the natural color of growing hair and the hair's own original or natural color, or can or will renew its color or bring back the healthful beauty of the hair, "except in phraseology which clearly does not imply that such product can or will restore health to the hair or user";
- (b) The color imparted thereby is permanent, unless qualified to show clearly that it acts only on the exposed portions of the hair to which applied and that further and successive applications are necessary to color new growth as it emerges, and to intensify or increase the color of those portions of the hair to which it has previously been applied;
- (c) Its action, when applied, constitutes a natural process, or it is a miracle or is miraculous in its action, and is not a dye;
- (d) It will banish gray hair, except in words which clearly do not imply that it can or will cure or prevent the graying of hair or further growth of gray hair, but show that successive reapplications are necessary from time to time, as hereinbefore set forth;
- (e) Successful or satisfactory coloring of the hair by the application thereof is certain, except in words which show clearly that results from the use thereof vary and that all users do not achieve uniformly satisfactory results in the use thereof; and
- (f) It is sold or distributed under or with a so-called money-back or other guarantee, unless and until in conjunction therewith there is set forth clearly and unequivocally the full terms and conditions of any such guarantee and such terms and conditions are adhered to and complied with by respondent.

*Mr. Henry Miller* 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 Grayban, Inc., has been or 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. The respondent, Grayban, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the City and State of New York. It is and for more than one year last past has been engaged in the business of manufacturing, selling and distributing, to dealers, users, and consumers throughout the United States, a product or preparation for use in the treating, coloring, or dyeing of the hair of men and women, and named and designated by respondent as "Grayban." In the course and conduct of said business, respondent causes the said product or preparation, as and when sold, to be shipped and transported in commerce from its place of business in the State of New York into other States of the United States, the Territories and the District of Columbia, to the respective purchasers thereof in such other States, Territories, and District. There are and, at all times herein mentioned, have been various and sundry other persons, firms, partnerships and corporations engaged in the business of selling and distributing hair dye and hair-coloring products, which are competitive to respondent's said product or preparation, to dealers, users and consumers in commerce in, between and among the several States and Territories of the United States and the District of Columbia. In the sale and distribution of its said product or preparation, respondent has been for more than one year last past, and still is, engaged in "commerce" as defined in said act and in direct active and substantial competition with such other persons, firms, partnerships and corporations.

PAR. 2. In the sale and distribution of its said product or preparation called "Grayban" respondent causes the same to be advertised, offered for sale and sold to the purchasing public through and by means of trade promotional advertisements and representations in the form of—

(a) Advertisements published in magazines, newspapers, and other periodicals having circulation among the purchasing public throughout the United States and in various sections thereof; and

(b) Advertising pamphlets, leaflets, circulars, letters, and other forms of written and oral representations.

Said trade promotional advertisements and representations are and have been published and circulated among the purchasing public by respondent for the purpose of thereby inducing and causing the public to purchase and use said product or preparation. In the course and conduct of said business respondent has adopted and for more than one year last past has pursued and continues to pursue

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the practice of causing said product or preparation designated "Grayban" to be advertised, offered for sale and sold to the public upon various and sundry representations, statements and assertions set forth in said trade promotional advertisements and representations to the effect:

(a) That said product or preparation, "Grayban" can and will bring back the natural color to gray hair and the hair's own true color;

(b) That said product or preparation can and will renew the color of the hair;

(c) That said product or preparation can and will bring back the healthful beauty and original or natural color of the hair;

(d) That the color imparted by said product or preparation in the use thereof is permanent;

(e) That the action of said product or preparation when applied to the hair is a natural process;

(f) That said product or preparation is the miracle of science;

(g) That said product or preparation is not a dye;

(h) That said product or preparation when applied to the hair will banish gray hair;

(i) That the successful and satisfactory coloring of the hair by the application of said product or preparation is certain;

(j) That said product is sold with a so-called money-back guarantee under which purchasers may secure from respondent the return of purchase money spent for said product when desired and without qualifications or conditions.

PAR. 3. The said representations, statements, and assertions described in paragraph 2 hereof are and have been false, misleading, and deceptive in that said product or preparation called "Grayban" cannot and will not accomplish the results claimed therefor in said representations, and it is not the type or kind of product or preparation claimed in said representations; and said so-called money-back guarantee is not in truth followed or acted upon by respondent as such unqualified or unconditional guarantee. The use by respondent of said representations, statements, and assertions was and is calculated to mislead and deceive, and has and had the capacity, tendency and effect of misleading and deceiving, the purchasing public into the erroneous belief that said representations, statements, and assertions were and are true in fact and into purchasing or using said product in such erroneous belief.

PAR. 4. Respondent's use of the false, misleading, and deceptive representations, acts, and practices as hereinabove alleged are methods of competition which are unfair and which tend to and do—

(a) Prejudice and injure the public;

(b) Unfairly divert trade from and otherwise prejudice and injure respondent's competitors; and

(c) Operate to hamper, burden, or restrain the freedom of fair and legitimate competition in the hair dye and hair coloring industry and trade.

PAR. 5. The said false, misleading, and deceptive representations, acts, and practices used by respondent as hereinabove described, constitute unfair methods of competition in commerce, in violation 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 for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission issued under 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 respondent's supplemental answer thereto that respondent waives hearing on the charges set forth in the complaint, refrains from contesting the proceeding and, pursuant to the provisions of the Commission's Rules of Practice with respect to answers, consents that the Commission may make, enter and serve upon respondent without a trial, without evidence and without findings as to facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission having duly considered the matter and being fully advised in the premises—

*It is now ordered*, That in the course of or in connection with the sale or distribution, in interstate commerce or in the District of Columbia or in any territory of the United States, of the hair dye or hair-coloring product heretofore sold by respondent under the designation "Grayban" or of any other hair-coloring product of substantially the same composition, the respondent Grayban, Inc., its officers, directors, agents, representatives, servants, and employees cease and desist from directly or indirectly using or causing to be used any representations, statements, or assertions, in advertisements, trade promotional literature, or in any other manner whatsoever, to the effect—

(a) That any such product or preparation can or will bring back the natural color of gray hair and the hair's own true color.

(b) That any such product or preparation can or will renew the color of the hair.

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(c) That any such product or preparation can or will bring back the original or natural color of the hair.

(d) That any such product or preparation can or will bring back the healthful beauty of the hair, except in phraseology which clearly does not imply that such product can or will restore health to the hair or user.

(e) That the color imparted by any such product or preparation in the use thereof is permanent, except when qualified so as to clearly show that said product acts only upon the exposed portions of the hair to which it is applied and that further and successive applications thereof are necessary to color the new growth of hair as it emerges from the scalp and to intensify or increase the color of such portions of the hair to which the product has previously been applied.

(f) That the action of any such product or preparation when applied to the hair is a natural process.

(g) That any such product or preparation is a miracle or is miraculous in its action.

(h) That any such product or preparation is not a dye.

(i) That any such product or preparation when applied to the hair will banish gray hair, except in phraseology which clearly does not imply that such product or preparation can or will cure or prevent the graying of the hair or the growth or further production of gray hair, but which shows that successive reapplications of the product are necessary from time to time for the treatment of the newly grown parts of the hair above the scalp.

(j) That the successful or satisfactory coloring of the hair by the application of any such product or preparation is certain, except in phraseology which qualifies and shows clearly that results from the use of such product or preparation vary and that all users do not achieve uniformly satisfactory results in the use of such product or preparation.

(k) That any such product or preparation is sold or distributed under or with a so-called money-back guarantee, or other guarantee, unless and until in conjunction therewith there is set forth clearly and unequivocally the full terms and conditions of any such guarantee and such terms and conditions are adhered to and complied with by respondent.

*It is further ordered*, That respondent Grayban, Inc. shall, within 60 days after the service upon it of a copy 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 hereinabove set forth.

## Complaint

IN THE MATTER OF  
FOX SHOE COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5  
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2220. Complaint, Aug. 15, 1934—Order, Sept. 26, 1934*

Consent order requiring respondent, in connection with the sale of its products in interstate commerce, and the solicitation thereof, to cease and desist from directly or indirectly using or causing to be used the word "Doctor" or the abbreviation "Dr.", in connection or in conjunction with the name of, or with any word or words, or in any way as a trade name, brand or designation for, its products, or for the products of others, or in advertising said products, or in any way which may have the capacity and tendency to confuse, mislead or deceive purchasers into the belief that said products are made in accordance with the design and/or under the supervision of a doctor and contain special, scientific or orthopedic features which are the result of medical advice or services, when such is not the fact.

*Mr. Morton Nesmith* 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 Fox Shoe Company, hereinafter referred to as respondent, has been or 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 thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Fox Shoe Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal place of business at 64 North Fourth Street, Philadelphia, Pa. Said respondent is now and since its incorporation in, to wit, 1930, has been engaged in the sale of shoes, being a wholesaler thereof between and among the different States of the United States. It has sold, and has caused and still causes, the said articles in which it deals, to be transported from its said place of business into and through other States of the United States to various jobbers and retailers located at points in different States of the United States. In the course and conduct of its said