

Complaint

21 F. T. C.

IN THE MATTER OF

LOUISE NORRIS, TRADING AS LOUISE NORRIS CO.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2415. Complaint, May 25, 1935—Order, July 27, 1935*

Consent order requiring respondent, her agents, etc., in connection with the sale or offer in interstate commerce of the product "Louise Norris Permanent Lash and Brow Coloring", to cease and desist from representing by radio or other advertising, labels, photographs, printed testimonials, booklets or in any other way that said product when used in coloring the eyelashes or eyebrows is harmless, scientific or scientifically compounded, has been perfected by medical authorities so as not to be dangerous when used as directed, or that its use has been approved by the Government or boards of health.

Mr. E. J. Hornibrook for the Commission.

Mr. Richard B. Kirwan, of Kansas City, Mo., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress 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 Louise Norris, trading as Louise Norris Co., 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. Respondent, Louise Norris, is an individual trading as Louise Norris Co. with her office and principal place of business in Kansas City, State of Missouri.

At and from said city and under said trade name, she is now and for several years last past, has been engaged in the sale of beauty shop preparations, among which is a product sold by her for use by women in the coloring of their eyelashes and eyebrows, under the name of "Louise Norris Permanent Lash and Brow Coloring".

PAR. 2. This said product, described in paragraph 1 hereof, is sold by respondent principally to wholesalers and jobbers of beautifying products in the several States of the United States, who sell the same to beauty parlors and shops, also located in the several

States of the United States and the latter sell the same to the consuming public. A small proportion of said product is sold by respondent direct to members of the consuming public residing in the several States of the United States.

Respondent, when said product is so sold by her, causes the same to be shipped from said Kansas City, State of Missouri, into and through other States of the United States, to her said purchasers at their respective places of business or residence.

PAR. 3. In the sale of the said "Louise Norris Permanent Lash and Brow Coloring" respondent is in substantial competition with corporations, copartnerships, and individuals engaged in selling and offering for sale in interstate commerce of compounds, chemicals, or materials for use and used in the coloring of eyelashes and eyebrows of women.

PAR. 4. Respondent, in aid of the sale of said "Louise Norris Permanent Lash and Brow Coloring", has advertised and is advertising the same in newspapers, magazines and periodicals of general circulation in the United States and in pamphlets, booklets, letters, bulletins, printed testimonials, and other printed matter and by and through the use of photographs and other pictures and on labels attached to the containers thereof and inclosed in such containers caused by respondent to be circulated among consumers and prospective consumers of said product who reside in the several States of the United States. In and through said advertising media respondent makes the following among other false and misleading representations:

- (1) That said product is safe and harmless.
- (2) That it is scientific.
- (3) That it is approved by the United States Government and health boards.
- (4) That medical authorities of high repute helped to perfect it.

PAR. 5. The representations set forth in the paragraph last above are false and misleading in that:

1. Said product is not safe and harmless; it contains dangerous drugs or chemicals and its use as directed may and at times does result in inflammation or poisoning of the skin, ulceration, and sloughing thereof, toxic effects and other illnesses, and may cause blindness or death.

2. Said product is not a scientific product, nor is it scientifically compounded.

Order

21 F. T. C.

3. Said product is not and never has been approved by the United States Government or boards of health and the boards of health of three of the great cities of the United States have excluded it from sale therein.

4. Medical authorities of high repute or other medical authorities have not helped to perfect such product and such product is not now and never has been perfected so as not to be potentially harmful and dangerous when used as directed by respondent.

PAR. 6. Each and all of the said representations described in paragraph 4 hereof have and have had the capacity and tendency to mislead and deceive the purchasing public into the erroneous belief that they are true, and each and all of the said representations have and have had the tendency and capacity to induce the purchase of said respondent's product and have and have had the tendency and capacity to divert trade from and otherwise injure respondent's said competitors.

PAR. 7. The above alleged acts and practices are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition 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 TO CEASE AND DESIST

The respondent having been granted by the Commission permission to withdraw its original answer filed herein on the 12th day of June 1935, and having so withdrawn such answer and having filed in lieu thereof a consent answer in which respondent consents, agrees and states that she desires to waive hearing on the charges set forth in the complaint herein and not to contest this proceeding, and refrains from contesting the same and consents, agrees and states that the Federal Trade Commission without trial, without evidence, and without findings as to the facts may make, enter, issue, and serve upon her an order to cease and desist from the violations of the law alleged in the complaint,

Now, therefore, This proceeding having come on to be heard by the Federal Trade Commission on the complaint of the Commission, and the said consent answer of respondent, and the Commission being fully advised in the premises—

It is ordered, That respondent, Louise Norris, trading as Louise Norris Co., or trading under any other name or style, her agents, employees, or representatives, in connection with the sale or offering for sale in interstate commerce of the product "Louise Norris

Permanent Lash and Brow Coloring", cease and desist from representing in newspapers, magazines, or periodicals, or in or through any other advertising media, including radio broadcasts, or by or through the use of pamphlets, booklets, letters, bulletins, printed testimonials, or by or through the use of photographs, pictures, or printed matter of any kind, or by or through the use of labels or in any other manner or way, that said product when used in the coloring or dyeing of the eyelashes or eyebrows of human beings:

(1) Is safe or harmless.

(2) May be used without danger to the skin, the eyes, the eyesight and the health of users thereof.

(3) Is a scientific product.

(4) Is scientifically compounded.

(5) Its use as an eyelash or eyebrow coloring has been approved by the United States Government or boards of health.

(6) That medical authorities of high repute or other medical authorities have helped to perfect said product, or that the same is now or ever has been perfected so as not to be dangerous when used as directed.

It is further ordered, That respondent shall, within 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 she has complied with this order.

Syllabus

21 F. T. C.

IN THE MATTER OF
THE RUBBER MANUFACTURERS ASSOCIATION,
INC., ET AL.

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

Docket 2354. Complaint, Apr. 5, 1935—Order, July 29, 1935

Consent order requiring respondent corporations, excepting respondent association, their officers, etc., in connection with the sale and offer of mechanical rubber goods, including fire hose and chemical hose, in interstate commerce, and when acting by understanding or agreement among themselves or between any two or more of them or with others, acting directly or by or through respondent association, forthwith to cease and desist from—

- (a) Fixing prices, at which said commodities would be sold;
 - (b) Fixing prices at which their wholesaler and retailer customers would be required to sell such commodities;
 - (c) Fixing prices at which they would sell, or offer to sell, such commodities to cities, States and other governmental and public agencies;
 - (d) Communicating in any manner to one another, or other manufacturers or competitors, the price at which they proposed or intended to sell commodities in the future, for the purpose and with the effect of hindering or preventing competition between and among themselves, or any two or more of them, or with others; provided that nothing herein shall prevent the disclosure of future prices in the ordinary course of business;
 - (e) Fixing uniform terms and conditions of sale under which they propose to sell such commodities, for the purpose or with the effect of hindering or preventing competition;
 - (f) Seeking to influence or persuade competing manufacturers or dealers with regard to the price at which such competitor or competitors would or should sell such commodities, for the purpose or with the effect of suppressing or hindering or preventing competition;
 - (g) Refusing to supply such commodities to any wholesaler or retailer, or other customer because he failed or refused to quote, or agree to quote, or sell at prices fixed by them; and
 - (h) Classifying buyers or prospective buyers of such commodities for the purpose and with the effect of suppressing or preventing competition among themselves, or any two or more of them, or with others; and
- Ordered further, that complaint be dismissed as to two specified individual respondents who only recently became members of the code authority for the rubber industry and did not participate in any of the activities of said authority during the time when the acts and things alleged in the complaint were done.

Before *Mr. William C. Reeves*, trial examiner.

Mr. Edward L. Smith and *Mr. Robt. N. McMillen* for the Commission.

Davis, Polk, Wardwell, Gardiner & Reed, of New York City, for respondents, who were also severally and variously represented, as