

Complaint

IN THE MATTER OF

WHITE CROSS LABORATORIES, INC.

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

Docket 2492. Complaint, July 6, 1935—Order, Sept. 17, 1935

Consent order requiring respondent corporation, its officers, etc., in connection with the manufacture, sale and distribution of so-called "Turtle Oil Cream" in interstate commerce, the District of Columbia, or any territory of the United States, to cease and desist from—

- (a) Using words "turtle oil" either independently or in connection or conjunction with any word or words as part of the trade or brand name for its product unless and until the oil, fatty substance and any derivative thereof used in the production of the said turtle oil cream is, in fact, wholly derived from turtles; or
- (b) Using said words either independently or in connection or conjunction with any word, words, or phrases, in advertisements, advertising literature, radio broadcasts, or by any of these agencies in any manner whatsoever to describe turtle oil cream unless and until the oil, fatty substance and any derivative thereof used in the production of the said turtle oil cream is, in fact, wholly derived from turtles.

Mr. S. Brogdyne Teu, II 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 White Cross Laboratories, Inc., hereinafter referred to as respondent, 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. White Cross Laboratories, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its principal place of business in the city of Chicago, in the State of Illinois. It is now and for more than one year last past has been engaged in the manufacture, sale and distribution in interstate commerce of a cosmetic designated as La Paz Turtle Oil Cream. Said respondent has caused and still causes said product when sold to be shipped from its place of business in the State of Illinois to purchasers thereof located in a State or States of the United States other than the State of Illinois. In the course and conduct of its business White Cross Laboratories, Inc., was and is at all

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times herein referred to in competition with other individuals, partnerships, firms, and corporations likewise engaged in the manufacture, sale and distribution to purchasers of like and similar products between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business as described in paragraph 1 above, White Cross Laboratories, Inc., caused and still causes its said facial cream product to be packed in containers with labels reading as follows, to wit:

LA PAZ
TURTLE OIL CREAM
WHITE CROSS LABORATORIES, INC.
CHICAGO

The said product so marked, labeled and represented was and is still sold and distributed by said respondent in interstate commerce as hereinabove set forth. In truth and in fact the amount of turtle oil forming part of the oil content of the product of said respondent was and is not substantial, was and is not sufficient to warrant a marking, branding or representation that said product was or is a "Turtle Oil" cream.

PAR. 3. There are among competitors of said respondent individuals, partnerships and corporations engaged in the manufacture, sale and distribution of like and similar products as hereinbefore set out among the various States of the United States and in the District of Columbia who truthfully and honestly represent their products. The false and misleading representations made by respondent, as hereinabove set forth, have a tendency and capacity to and do divert trade to respondent from those individuals, firms, and corporations who honestly advertise, sell and distribute to purchasers like and similar products between and among the various States of the United States and in the District of Columbia.

PAR. 4. The above alleged acts and things done by the respondent are all to the injury and prejudice of the public and the competitors of the respondent in interstate commerce and constitute unfair methods of competition 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 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 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 the 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 White Cross Laboratories, Inc., its officers, directors, agents, representatives, servants, and employees in connection with the manufacture, sale, and distribution of so-called "turtle oil cream" in interstate commerce or in the District of Columbia or in any territory of the United States, cease and desist from:

(1) The use of the words "turtle oil" either independently or in connection or conjunction with any word or words as part of the trade or brand name for its product unless and until the oil, fatty substance and any derivative thereof used in the production of the said turtle oil cream is, in fact, wholly derived from turtles.

(2) Using the words "turtle oil" either independently or in connection or conjunction with any word, words, or phrases, in advertisements, advertising literature, radio broadcasts, or by any of these agencies in any manner whatsoever to describe turtle oil cream unless and until the oil, fatty substance and any derivative thereof used in the production of the said turtle oil cream is, in fact, wholly derived from turtles.

It is further ordered, That the respondent White Cross Laboratories, Inc., shall within 60 days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form of its compliance with this order.

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IN THE MATTER OF

SCIENTIFIC SHAMEY COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2247. Complaint, Nov. 9, 1934—Decision, Sept. 24, 1935*

Where a corporation engaged in the sale and distribution of a cloth fabric to various retail and chain stores—

- (a) Advertised and sold same under trade name and designation "Scientific Washable Shamey", with pronunciation, and in simulation of, name of genuine "chamois" or "shammy", and set forth upon the labels thereof "Directions how to use Scientific Shamey", notwithstanding fact said fabric was not genuine "chamois" or "shammy", frequent phonetic synonym therefore, to wit, a soft leather originally made of the skin of the chamois antelope, for use for manufacture of leather gloves and the polishing of silverware and other metals, or, as more recently used, the inner part of oil-dressed sheepskin; and
- (b) Advertised said product as "manufactured by Scientific Shamey Co., Inc.", notwithstanding fact it had never owned, operated, or controlled a factory or factories in which said product was made;

With result of furnishing its retail and chain store customers an instrumentality having tendency and capacity to deceive and mislead their customers into believing that in purchase of said product, thus named, labelled and advertised, they were purchasing the much more valuable, genuine chamois or shammy, and to divert trade to it from competitors dealing therein, and from those who do not so deal, or so misleadingly advertise their product as a result thereof, and through inducing purchase from it as and for a direct purchase from the manufacturer, as a distinct trade advantage:

Held, That such acts and practices were to the prejudice of the public, and constituted unfair methods of competition.

Before *Mr. Edward M. Averill*, trial examiner.

Mr. John W. Hilldrop for the Commission.

Mr. Arthur M. Becker, of New York City, 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 Scientific Shamey Company, Inc., 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, the Federal Trade Commis-