

Complaint

21 F. T. C.

IN THE MATTER OF

PHILIP WONG

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2545. Complaint, Sept. 7, 1935—Order, Dec. 31, 1935*

Where an individual, engaged in the offer, sale and distribution of a product known as "Soft Corn Valuable"—

- (a) Represented in advertisements, circulars and letters that said preparation would cure corns, callouses, all kinds of skin diseases, goiter, cancer, and a number of other diseases and ailments, and that it constituted an efficacious, safe and proper treatment for said various maladies and was a remedy and specific therefor and had therapeutic value in the treatment thereof;
- (b) Set forth on the label directions for use for throat cancer and "for disease use", together with the assertion that the preparation was good for corns and callouses and all kinds of diseases and would "cure them wonderful. No danger. But you must not eat or drink this medicine. Little poison", etc.; and
- (c) Set forth in a circular distributed to prospective purchasers many of the statements and representations hereinbefore referred to and a further one which asserted or implied that its said claims were sanctioned by the Commission through its Special Board;

The facts being that preparation in question was not an effective, safe or proper treatment for all kinds of skin diseases, goiter, cancer, etc., and all diseases generally, and did not have therapeutic value in the treatment of the aforesaid ailments, was not harmless, but was poisonous and dangerous when taken internally, and advertisement, offer for sale, sale or distribution of said preparation had never been authorized, sanctioned or permitted by the Commission or any administrative agency thereof;

With tendency and capacity to confuse, mislead and deceive members of the public into buying said preparation as a cure or effective, safe and proper treatment for the various diseases and ailments mentioned, and to divert trade to said individual from competitors engaged in the sale of preparations and products designed, adapted and used for the treatment or cure of the aforesaid various diseases and ailments; to the injury and prejudice of the public and competitors:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. Allen C. Phelps for the Commission.

Avery, Dooley, Post & Carroll, of Boston, Mass., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Com-

722

Complaint

mission, to define its powers and duties, and for other purposes", the Federal Trade Commission, having reason to believe that Philip Wong 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. Respondent is an individual trading in his own name with his principal office and place of business at 126 Prospect Street in the city of Cambridge, State of Massachusetts. He is and has been since prior to April 1, 1935, engaged in the conduct and operation of a certain business hereinafter described, of which he is the sole owner and manager, at the above address.

PAR. 2. Said business so owned, maintained, and operated by respondent consists in the offering for sale, sale, and distribution in interstate commerce, of a certain preparation or product known as "Soft Corn Valuable". Said preparation and product is alleged to be useful in the treatment of and a cure for soft corns, callouses, all kinds of skin diseases, goitre, cancer, tumors, mouth and throat cancer, rheumatism, backache, and other diseases and ailments. Respondent in the course and conduct of the said business causes his said preparation and product to be transported in interstate commerce from said place of business in Massachusetts to, into and through States of the United States other than Massachusetts and the District of Columbia to the various members of the consuming public in the several States, to whom they are or have been sold. Respondent usually sells and distributes his said products directly to the purchasing public by and through the use of the United States mails.

PAR. 3. During the time above mentioned, other individuals, firms, and corporations in various States of the United States are and have been engaged in the sale and distribution in interstate commerce of preparations, medicines, and products designed, intended, and used for the same general purpose as respondent's preparation and product and designed and intended as a remedy or cure for the various conditions and diseases for which respondent's said preparations and products are advertised as a remedy, as hereinafter shown; and such other individuals, firms, and corporations have caused and do now cause their said treatments, medicines, and preparations, when sold by them, to be transported from various States of the United States to, into and through States other than the State of the origin of the shipment thereof. Said respondent has been during the aforesaid time in competition in interstate commerce in the sale and distribution of the said preparation and product with such other indi-

Complaint

21 F. T. C.

viduals, firms, and corporations. Said competing products are sold in interstate commerce directly to the consumer and also by wholesalers to retail drug stores for resale to the consumer on prescription and otherwise.

PAR. 4. Respondent in advertising his said preparation and product causes advertisements to be inserted in magazines and other publications circulated to the purchasing public in the various States of the United States and also distributes advertising circulars and letters by mail to prospective customers in various States of the United States, which said advertisements, advertising circulars and letters represent or imply:

That said preparation "Soft Corn Valuable", when taken or used as directed, will cure soft corns, callouses, goitre, cancer, piles, tumors, rheumatism, backache, rupture, all kinds of skin diseases, eye, ear, nose and throat diseases, stomach and bowel trouble and old diseases inside and outside; that said preparation and product constitutes an efficacious, safe and proper treatment for the above diseases and maladies; that said preparation and product is a remedy and specific for said diseases and maladies and has a therapeutic value in the treatment thereof, and other representations of like import.

Respondent in advertising said "Soft Corn Valuable", as aforesaid, causes the advertisements thereof to be transmitted to prospective purchasers in various States of the United States, an example of such an advertisement being as follows:

"PHILIP WONG WONDERFUL DEEP SOFT CORN VALUABLE

Guarantee of 20 Years

Soft Corns, Callouses and all kinds of Skin Diseases can be cured. This Valuable will eat up the corns little by little.

1. For deep Soft Corns, Hard Corns and Callouses use. Do not add water. Use three times a day. Put Soft Corns Valuable up and down all over and between your toes, both sides, and put some on the bottom part near the toes, after half inch deep corn. Scrape your corns very clean with dull knife. Scrape the head of soft corns as deep as you can twice a week. Keep putting on for six months or more if necessary. The corns will ache a little the first two or three weeks. After that time your corns will get better and better every day and you will notice how many corns this Valuable has destroyed, large ones and small ones, as many as ten. Use a wire to put on the Valuable—it will last longer. I cured my soft corns good using this same Valuable. Scrape whole corns off very easy.

2. For Cancer, Tumor, Skin disease use. Take one teaspoon of Soft Corns Valuable and add five teaspoons of pure water. Mix well. Put a very little over your affected part. Use only once a week. It will cure them quickly. Good for Rheumatism aches, Skin ache and Back ache.

Wash your hands after using. Be careful of the mouth and eyes. The General Law told me to sign the bottle poison, showing you cannot eat the

Valuable. I cured my skin disease wonderful using the same Valuable. Don't be afraid to use it. I have used this Valuable hundreds and hundreds of times.

PHILIP WONG

126 Prospect Street, Cambridge, Mass."

PAR. 5. In truth and in fact respondent's said preparation and product, known as "Soft Corn Valuable", when taken or used as directed, will not cure any of the diseases, ailments or maladies hereinabove mentioned; said preparation and product does not constitute an efficacious, safe, or proper treatment for any of said diseases or maladies, nor does it have any therapeutic value in the treatment thereof nor is it a remedy or specific for the same; said preparation and product is not harmless, but on the contrary it is poisonous and dangerous to be used for any purpose. All of the statements, representations, and implications set forth in paragraph 4 above are wholly unfounded in fact, or are greatly exaggerated or wholly inaccurate.

PAR. 6. The representations of respondent, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondent's said preparation and product is a cure, remedy or efficacious, safe and proper treatment for the various disease and ailments hereinabove set forth, when in truth and in fact such are not the facts. Said representations of respondent have had and do have the tendency and capacity to induce members of the public to buy and use said preparation and product because of the erroneous belief engendered as above set forth and to divert trade to respondent from competitors engaged in the sale, in interstate commerce of preparations and products designed, adapted, and used for the treatment or cure of the various diseases, ailments, and maladies hereinabove referred to.

PAR. 7. The above acts and things done by the 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 7th day of September 1935 issued

Findings

21 F. T. C.

and thereafter served its complaint against the respondent named in the caption hereof, charging him with the use of unfair methods of competition in commerce in violation of said act. Respondent, after entering his appearance and filing his answer to said complaint thereafter on to wit, the 18th day of October 1935, entered into a stipulation as to the facts with Allen C. Phelps, special counsel, for the Federal Trade Commission, in which it was stipulated and agreed that the statement of facts in said agreement between respondent and said counsel for the Commission may be taken as the facts in this proceeding and in lieu of the testimony in support of the charges stated in the complaint, or in opposition thereto; and that the Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon, and enter herein its order disposing of the proceeding without the presentation of arguments or the filing of briefs.

The Commission being fully advised in the premises, now approves, ratifies and confirms the said stipulation and agreement entered into as aforesaid by and between respondent and Allen C. Phelps, special counsel, of the Federal Trade Commission, and having duly considered the same makes this its report in writing and states its findings as to the facts and its conclusion drawn therefrom, as follows, to wit:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Philip Wong, is an individual trading in his own name with his principal office and place of business at 126 Prospect Street, Cambridge, Mass. He is the sole owner and manager of a business which consists in the offering for sale, sale and distribution in interstate commerce of a certain preparation or product known as "Soft Corn Valuable". Said preparation and product is and has been advertised and represented by the respondent as being a cure and remedy for corns, callouses, all kinds of skin diseases, goiter, appendicitis, cancer, tumors, consumption, mouth and throat cancer, rheumatism, backache, snake and dog bite poisoning, piles, venereal disease, rupture, stomach and bowel ailments, eye diseases, and generally all kinds of diseases.

PAR. 2. In the course and conduct of his said business respondent causes and has caused the said preparation or product to be transported in interstate commerce from his said place of business in Massachusetts to, into and through States of the United States other than Massachusetts, and the District of Columbia, to various members of the consuming public to whom it is or has been sold.

PAR. 3. Since December 1934, when respondent first offered his said preparation for sale there are and have been other individuals, firms, and corporations in various States of the United States engaged in the sale and distribution in interstate commerce of preparations, medicines and products designed, adapted, intended and used for the same general purposes as respondent's preparation and product and designed, adapted, intended and used as a remedy, cure or treatment for corns and for the various ailments and diseases for which respondent's said preparation is advertised as a remedy. Such other individuals, firms and corporations have caused and do cause their said treatments, medicines and preparations, when sold by them to be transported from various States of the United States in which the same are manufactured or sold to, into and through States other than the State of the origin thereof. Respondent has during the aforesaid time been in competition in interstate commerce in the offering for sale, sale and distribution of his said preparation and product with such other individuals, firms, and corporations.

PAR. 4. Respondent has advertised his said preparation and product by advertisements inserted in magazines and other publications circulated to and among the purchasing public in various States of the United States, and also has distributed advertising circulars and letters by mail and otherwise to prospective customers in various States of the United States. Said advertisements, circulars and letters represent and imply that said preparation "Soft Corn Valuable", when taken or used as directed, will cure the following diseases and ailments: Corns, callouses, all kinds of skin diseases, goiter, cancer, appendicitis, tumors, consumption, mouth and throat cancer, rheumatism, backache, snake and dog bite poisoning, piles, venereal disease, rupture, stomach and bowel ailments, eye diseases, and generally all kinds of diseases. Respondent, by such means, represents and has represented that said preparation constitutes an efficacious, safe and proper treatment for all of the above diseases, ailments and maladies, is a remedy and specific therefor, and has a therapeutic value in the treatment thereof. Some of the said advertisements have been published in the following publications:

- St. Paul Daily News, St. Paul, Minn.
- Worcester Evening Post, Worcester, Mass.
- Vancouver Sun, Vancouver, B. C.
- Burlington Daily News, Burlington, Vt.
- Woman's Home Life, Winona, Minn.
- Home Circle, Winona, Minn.

PAR. 5. The label used by respondent on the bottles of his said preparation "Soft Corn Valuable", is as follows:

Findings

21 F. T. C.

“Directions.—For corn use do not add water. For disease use, take one teaspoonful of this medicine, add five teaspoonsful of water. For throat cancer, take one teaspoonful and add ten teaspoonsful of water. Valuable soft corn medicine is worth a thousand dollars in gold; good for soft corns, hard corns, callouses and all kinds of diseases. It will cure them wonderful. No danger. But you must not eat or drink this medicine. Little poison, manufactured by Philip Wong, 126 Prospect Street, Cambridge, U. S. A.”

Respondent has caused to be printed a certain circular which he distributes to prospective purchasers, advertising said preparation “Soft Corn Valuable”, which contains many of the statements and representations hereinabove set forth, and in addition states as follows:

“In 1935, May 2, Federal Trade Commission, Special Board of Investigation, been called sample a bottle of my soft corn valuable medicine and this record, June 5, permitted by Government. Mr. E. J. Adams, Chairman, Washington, D. C.”

PAR. 6. In truth and in fact respondent’s preparation and product known as “Soft Corn Valuable”, when taken and used as directed, will not cure any of the diseases, ailments or maladies hereinabove enumerated. Said preparation and product does not constitute an efficacious, safe, or proper treatment for, nor does it have therapeutic value in the treatment of, nor is it a remedy or a specific for all kinds of skin diseases, goiter, cancer, appendicitis, tumors, consumption, mouth and throat cancer, rheumatism, backache, snake and dog bite poisoning, piles, venereal diseases, rupture, stomach and bowel ailments, eye diseases, and generally all kinds of diseases. Said preparation “Soft Corn Valuable” is not harmless, but on the contrary it is poisonous and dangerous to be taken internally. The advertisement, offering for sale, sale or the distribution of said preparation has never been authorized, sanctioned or permitted by the Federal Trade Commission nor any administrative agency thereof.

PAR. 7. The representations which have been so made by respondent, the same being false and untrue as above stated, have had and do have the tendency and capacity to confuse, mislead and deceive members of the public into the belief that respondent’s said preparation is a cure, a remedy or an efficacious, safe and proper treatment for the various diseases, ailments and maladies as above mentioned, when in truth and in fact such are not the facts.

PAR. 8. Said false representations so made by respondent have had and do have the tendency and capacity to induce members of the public to buy and use said preparation and product because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale in interstate

722

Order

commerce of preparations and products designed, adapted and used for the treatment or cure of the various diseases, ailments and maladies above enumerated.

PAR. 9. All of the said acts and things which have been so done by respondent are to the injury and prejudice of the public and his competitors 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.

CONCLUSION

The practices of said respondent under the conditions and circumstances described in the foregoing findings of facts are to the prejudice of the public and of competitors of respondent and are unfair methods of competition in commerce in violation 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."

ORDER TO CEASE AND DESIST

This proceeding having come on to be heard by the Federal Trade Commission upon complaint of the Commission, the answer of the respondent, and the stipulation as to the facts entered into and made a part of the record between respondent and counsel for the Commission, which stipulation was made in lieu of the testimony in support of the charges stated in the complaint and in opposition thereto and the Commission having made its report in writing in which it stated its findings as to the facts with its conclusion that the respondent, Philip Wong, had violated 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," and the Commission having been fully advised in the premises,

It is now ordered, That the respondent Philip Wong, in advertising, offering for sale, selling or distributing his preparation and product known as "Soft Corn Valuable" in interstate commerce and in the District of Columbia, cease and desist from representing in any manner, through the circulation or use of printed advertisements, circulars, letters, labels or literature of any description or otherwise;

(1) That said preparation and product, known as "Soft Corn Valuable", when taken or used as directed, will cure any of the following

Order

21 F. T. C.

diseases, ailments or maladies, to wit: corns, callouses, all kinds of skin diseases, goitre, cancer, appendicitis, tumors, consumption, mouth and throat cancer, rheumatism, backache, snake and dog bite poisoning, piles, venereal diseases, rupture, stomach and bowel ailments, and generally all kinds of diseases.

(2) That said preparation and product, known as "Soft Corn Valuable" constitutes an efficacious, safe or proper treatment for all kinds of skin diseases, goitre, cancer, appendicitis, tumors, consumption, mouth and throat cancer, rheumatism, backache, snake and dog bite poisoning, piles, venereal disease, rupture, stomach and bowel ailments and generally all kinds of diseases.

(3) That said preparation and product known as "Soft Corn Valuable" is a remedy or specific which will relieve any of the diseases or ailments enumerated in the preceding paragraph or that it has any therapeutic value in the treatment thereof.

(4) That said preparation and product known as "Soft Corn Valuable" is harmless or non-poisonous, or that it may be safely taken internally by any person.

(5) That said preparation and product known as "Soft Corn Valuable" has been analyzed or examined by the Federal Trade Commission or any administrative agency thereof, or that the advertising, offering for sale, selling or distribution of the preparation has ever been authorized, sanctioned or permitted by said Commission or any administrative agency thereof.

(6) That said preparation and product known as "Soft Corn Valuable" is worth a thousand dollars in gold or any other sum of money.

It is further ordered, That respondent shall within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Syllabus

IN THE MATTER OF
SPEIDEL CORPORATION

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

Docket 2555. Complaint, Sept. 18, 1935—Order, Dec. 31, 1935

Where a corporation, engaged in the manufacture and sale and distribution at wholesale of watch chains made by a special electrolytic method similar to heavy gold electroplating, with gold deposit thereon by weight approximately ten times greater than that produced by light electroplating processes known to the trade as "gold wash" or "gold flashing", but not with the maximum amount obtainable through the electroplating process, or with a substantial deposit as compared with "gold-filled" articles, or of the grade or quality of "rolled gold plate" as understood by the trade—

Represented to the purchasing public that a substantial quantity of gold, both in weight and thickness, had been deposited upon the metal core of said links, through use of words "gold shell" together with its trade name "Oresto", in legend on cardboard mountings on which said chains were sold by it and displayed by jobbers and retailers in windows and show-cases, and which legend was made use of by jobber-purchasers in describing and selling to consuming public, products in question, sold by it in competition with those who do not in any way misrepresent the composition, nature, character, or quality of articles produced through electroplating process, but truthfully represent the same;

With result of placing in the hands of such jobbers and retailers an instrument and means whereby a portion of the consuming public might be led to the mistaken and erroneous belief that the products thus marked or designated were encased in a layer or shell of gold of such substantial thickness that in purchasing said chains, it was buying a product of a quality comparable to that generally known and designated as "gold-filled", and to that produced by electroplating, in which heavier gold deposits are obtained than in the articles herein involved, and to purchase substantial quantities thereof in such mistaken belief, and with tendency to enable such jobbers and retailers to confuse aforesaid articles in the minds of a substantial portion of the public with products designated "rolled gold plate", which exceed in value those herein concerned irrespective of whether or not the gold deposit by weight and thickness is greater, and with result of unfairly diverting trade from and otherwise substantially injuring competitors engaged in the sale of gold-covered articles, properly described and designated as "gold-filled", and as "rolled gold plate":

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