

IN THE MATTER OF
HOLLYWOOD MASK, INC.

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

Docket 2759. Complaint, Apr. 10, 1936—Decision, July 6, 1936

Where a corporation engaged in the sale of cosmetic preparations and in mailing or shipping its merchandise to purchasers in various other States, in substantial competition with other similar concerns—

- (a) Represented, through pamphlets, circulars, and other advertisements and through labels attached to containers, that its products possessed ingredients of such character and in such quantity as to serve as food for the skin and muscles, had a beneficial effect in filling out and tightening the lines of broken tissues, served to restore elasticity to the skin, and muscles and to fill out hollows therein, removed wrinkles and revitalized the skin, etc.; and
- (b) Set forth on labels of containers that its "Hollywood Vitamin Hand and Skin Lotion" was "rich in vitamins" and nourished impoverished skins, and that its Hollywood Creme was "Turtle Oil" and "a hormone tissue builder for tired skins," was "soothing" and "rejuvenating," and, left on over night, resulted in a soft, clear, and wrinkle-free skin;

Facts being said representations were grossly exaggerated, false, misleading, and untrue, and said products did not possess properties or contain ingredients that would remove or lessen lines or wrinkles, nourish the skin, penetrate beyond the epidermis so as to reach and beneficially affect muscles and tissues and inner layers of the skin;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all said representations were true and that results claimed would follow use of said products, and with result that a substantial volume of its said products was purchased due to such representations, and trade was thereby unfairly diverted to it from those truthfully advertising their cosmetic products; to the substantial injury of substantial competition:

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

Mr. Wm. T. Chantland for the Commission.

Mr. Royal C. Johnson, of Washington, D. C., and *Mr. Milo F. Lewis*, of Chicago, Ill., 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 Hollywood Mask, Inc., hereinafter referred to as "respondent," has been, and is now, using unfair methods of competition in commerce as "com-

merce" is defined in said act, and it appearing to the 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, Hollywood Mask, Inc., is an Illinois corporation, which has its principal office and place of business at 105 West Monroe Street in the city of Chicago, State of Illinois. Respondent is now, and has been for some time, engaged in the business of distributing and selling, in commerce as herein set out, a line of cosmetics.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes said cosmetics, when sold, to be transported from its office and place of business in the State of Illinois to purchasers thereof located at various points in States of the United States other than the State from which said shipments were made. Respondent now maintains a constant current of trade in commerce in said cosmetics, manufactured, distributed, and sold by it, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now, and has been, in substantial competition with other individuals and with firms and corporations likewise engaged in the business of distributing and selling cosmetics and kindred preparations for treatment of the skin, in commerce, among and between the various States of the United States and in the District of Columbia. In the course and operation of said business, and for the purpose of inducing the purchase of said cosmetics, respondent has caused advertisements to be inserted in newspapers and magazines of general circulation throughout the United States and has printed and circulated throughout the various States, to customers and prospective customers, advertising folders and literature. In all of its advertising literature, through statements and representations therein set out, and through statements and representations of similar import and effect displayed on the containers of said cosmetics, the respondent represents that said cosmetic preparations possess properties and ingredients of such character, and in such quantity, as to serve as a food for the human skin, muscles, or tissues; that said preparations have a beneficial effect in feeding, nourishing, building up, toning, firming, filling out, and tightening the lines of broken tissues; that said preparations serve to restore elasticity to the human skin, muscles, or tissue, and fill out hollows therein; that said preparations eliminate dryness from, remove wrinkles, and revitalize the human skin, muscles, or tissue; and that the use of said preparations will have a beneficial effect in the treatment of the various conditions of

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the human skin, muscles, or tissue, above set out. Certain advertising matter used by the respondent in making said representations is herein set out as illustrative of said representations, but is not all inclusive. Such advertisements are as follows:

In advertisements and on cartons of its product "Hollywood Mask," it stated and represented:

Remove Wrinkles * * * instead of worrying about them * * * Hollywood Mask * * * forms a thin, Transparent non-elastic film over the face which irons out ugly wrinkles and lines, removes blackheads and unsightly blemishes, and leaves the skin beautiful and velvety-smooth * * *.

HOLLYWOOD MASK DEAL \$1.50 Value! The Marvelous Facial that Really Removes Wrinkles! Being a deep, penetrating skin beautifier, it strengthens and revitalizes under skin facial muscles. Lines and wrinkles smooth out. Restores youth to your skin * * *.

On labels attached to the bottles in which its "Hollywood Vitamin Hand and Skin Lotion" was packed, the following appeared:

Rich in VITAMINS, it nourishes impoverished skins, imparting a Satin-like smoothness.

On labels attached to the jars in which its "Hollywood Mask Turtle Oil" was packed, the following appeared:

Smooth Hollywood Mask Turtle Oil Creme (8% turtle oil) into skin from throat line to temples with gentle upward and outward circular motion. Also pat gently around the eyes. Leave over night.

Apply Hollywood Mask Turtle Oil Creme, and leave it on over night, the skin will be soft, clear and wrinkle free.

On labels attached to the jars in which its "Hollywood Mask Tissue Creme" (Turtle Oil) was packed the following appeared:

Hollywood Tissue Creme (Turtle Oil), a hormone tissue builder for tired skins. Soothing, rejuvenating, free from borax, stearic acid, wax or mineral oil * * *.

PAR. 4. The representations made by the respondent with respect to the nature and effect of said cosmetic products when used are grossly exaggerated, false, misleading, and untrue. In truth and in fact, said products do not possess properties or contain ingredients that will remove, lessen, or erase lines or wrinkles of the skin on the human face, or elsewhere on the body. Said cosmetic products do not nourish the skin, or the pores thereof, or penetrate the skin beyond the epidermis, or outer layer thereof, so as to reach the muscles and tissues, and said products do not possess properties or ingredients that beneficially affect the muscles, tissues, or layers of skin beneath the epidermis, and said muscles, tissues, and inner layers of skin are not nourished by said preparation or the ingredients thereof when externally applied.

PAR. 5. There are among respondent's competitors many who distribute and sell similar cosmetic products, designed, intended, and

sold for the purpose of treating the same or similar conditions of the human skin, tissues, and muscles, who do not in any way misrepresent the quality or character of their respective products, or their effectiveness in treating said conditions of the human skin, tissues, and muscles.

PAR. 6. Each and all of the false and misleading statements and representations made by the respondent in designating or describing its product, or the effectiveness of said product in treating the human skin, tissues and muscles, as hereinabove set out, in its advertising in newspapers, booklets, pamphlets, labels, and other advertising literature, in the course of distributing its product, were and are calculated to, and had, and now have a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true, and that the results claimed by the respondent will be obtained by the purchasers thereof upon the use of said products in the treatment of the various conditions named herein. Further, as a true consequence of the mistaken and erroneous beliefs induced by the acts, advertisements, and representations of respondent, as hereinbefore set out, a substantial number of the consuming public has purchased a substantial volume of respondent's cosmetic products with the result that trade has been unfairly diverted to the respondent from individuals, firms, and corporations likewise engaged in the business of distributing and selling cosmetic products, who truthfully advertise their respective products. As a result thereof, substantial injury has been and is now being done by respondent to substantial competitors, in commerce, among and between the various States of the United States and in the District of Columbia.

PAR. 7. The above and foregoing acts, practices, and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent of 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."

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 April 10, 1936, issued and served its complaint in this proceeding upon respondent, Hollywood Mask, Inc., charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act. After the issuance of said complaint, the respondent filed an amended and substituted

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answer thereto wherein and whereby it states that it desires to waive hearing on the charges set forth in the complaint, and not to contest the proceeding; that it admits all of the material allegations of the complaint to be true, and that without further evidence or other intervening procedure the Commission may make, issue, and serve upon respondent, findings of fact, and an order to cease and desist from the violations of law charged in the complaint; and the Commission having duly considered the same, and being fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Hollywood Mask, Inc., has been engaged in the sale of cosmetic preparations, selling its merchandise in many States of the United States. When sold, the respondent mails or ships its merchandise from its place of business in Chicago, Ill., to purchasers located in the said State of Illinois and in various other States.

PAR. 2. For more than 2 years last past the respondent has been selling its merchandise in substantial competition with other business concerns selling similar merchandise at wholesale and retail in interstate commerce by circulars circulated throughout the United States, and by various other forms of advertising.

PAR. 3. The respondent, in soliciting the sale of and selling its merchandise in interstate commerce, has represented and does now represent in and by pamphlets, circulars, and other advertisements, circulated generally throughout the United States, and by labels attached to respondent's merchandise:

That said cosmetic preparations possess properties and ingredients of such character, and in such quantity, as to serve as a food for the human skin, muscles or tissues; that said preparations have a beneficial effect in feeding, nourishing, building up, toning, firming, filling out and tightening the lines of broken tissues; that said preparations serve to restore elasticity to the human skin, muscles or tissue, and fill out hollows therein; that said preparations eliminate dryness from, remove wrinkles, and revitalize the human skin, muscles or tissue; and that the use of said preparations will have a beneficial effect in the treatment of the various conditions of the human skin, muscles or tissue, above set out.

That certain advertising matter used by the respondent in making said representations are as follows:

In advertisements and on cartons of its product "Hollywood Mask," it stated and represented:

Remove Wrinkles * * * instead of worrying about them * * * Hollywood Mask * * * forms a thin, Transparent non-elastic film over the face

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which irons out ugly wrinkles and lines, removes blackheads and unsightly blemishes, and leaves the skin beautiful and velvety-smooth * * *.

HOLLYWOOD MASK DEAL \$1.50 Value! The Marvelous Facial that Really Removes Wrinkles! Being a deep, penetrating skin beautifier, it strengthens and revitalizes under skin facial muscles. Lines and wrinkles smooth out. Restores youth to your skin * * *.

On labels attached to the bottles in which its "Hollywood Vitamin Hand and Skin Lotion" was packed, the following appeared:

Rich in VITAMINS, it nourishes impoverished skins, imparting a Satin-like smoothness.

On labels attached to the jars in which its "Hollywood Mask Turtle Oil" was packed, the following appeared:

Smooth Hollywood Mask Turtle Oil Creme (8% turtle oil) into skin from throat line to temples with gentle upward and outward circular motion. Also pat gently around the eyes. Leave over night.

Apply Hollywood Mask Turtle Oil Creme, and leave it on over night, the skin will be soft, clear, and wrinkle free.

On labels attached to the jars in which its "Hollywood Mask Tissue Creme" (Turtle Oil) was packed the following appeared:

Hollywood Tissue Creme (Turtle Oil), a hormone tissue builder for tired skins. Soothing, rejuvenating, free from borax, stearic acid, wax or mineral oil * * *.

PAR. 4. The representations made by the respondent with respect to the nature and effect of said cosmetic products when used are grossly exaggerated, false, misleading, and untrue. In truth and in fact, said products do not possess properties or contain ingredients that will remove, lessen or erase lines or wrinkles of the skin on the human face, or elsewhere on the body. Said cosmetic products do not nourish the skin, or the pores thereof, or penetrate the skin beyond the epidermis, or outer layer thereof, so as to reach the muscles and tissues, and said products do not possess properties or ingredients that beneficially affect the muscles, tissues or layers of skin beneath the epidermis, and said muscles, tissues and inner layers of skin are not nourished by said preparation or the ingredients thereof when externally applied.

PAR. 5. Respondent has stated that it believed at the time the complaint herein issued that its representations with respect to the nature and effect of its cosmetic properties were not grossly exaggerated, false, misleading, and untrue.

PAR. 6. There are among respondent's competitors many who distribute and sell similar cosmetic products, designed, intended and sold for the purpose of treating the same or similar conditions of the human skin, tissues, and muscles, who do not in any way misrepresent the quality or character of their respective products, or

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their effectiveness in treating said conditions of the human skin, tissues, and muscles.

PAR. 7. Each and all of the false and misleading statements and representations made by the respondent in designating or describing its product, or the effectiveness of said product in treating the human skin, tissues and muscles, as hereinabove set out, in its advertising in newspapers, booklets, pamphlets, labels, and other advertising literature, in the course of distributing its product, were and are calculated to, and had, and now have a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true, and that the results claimed by the respondent will be obtained by the purchasers thereof upon the use of said products in the treatment of the various conditions named herein. Further, as a true consequence of the mistaken and erroneous beliefs induced by the acts, advertisements and representations of respondent, as hereinbefore set out, a substantial number of the consuming public has purchased a substantial volume of respondent's cosmetic products with the result that trade has been unfairly diverted to the respondent from individuals, firms, and corporations likewise engaged in the business of distributing and selling cosmetic products, who truthfully advertise their respective products. As a result thereof, substantial injury has been and is now being done by respondent to substantial competitors, in commerce, among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, Hollywood Mask, Inc., are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission, the answer of the respondent thereto, wherein and whereby it states that it desires to waive hearing on the charges set forth in the complaint; and not to contest the proceeding; that it admits all of the material allegations of the complaint to be true, and that without further evidence, or other intervening procedure the Commission may make, issue and serve upon respondent, findings of facts, and an order to cease and

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desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts, and its conclusion that said respondent has 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."

It is ordered, That the respondent, Hollywood Mask, Inc., its officers, representatives, agents, and employees in connection with the advertising, offering for sale, and sale in interstate commerce or in the District of Columbia of cosmetic preparations through the use of pamphlets, circulars, and other advertisements, or by labels attached to respondent's said merchandise or in any other manner, do forthwith cease and desist from:

(1) Representing that any of its cosmetic preparations for external application and use possess properties, or contain ingredients of such character, or in such quantity,

(a) That any or all of said cosmetic preparations serve as a food for the human skin, muscles, or tissues, or have a beneficial effect in feeding, nourishing, building up, toning, firming, filling out, and tightening the lines of broken tissues;

(b) That any or all of said preparations serve to restore elasticity to the human skin, muscles, or tissues, or fill out hollows therein;

(c) That any or all of said preparations eliminate dryness or remove wrinkles from, or revitalize the human skin, muscles, or tissue, or that the use of any or all of said preparations will have any beneficial effect in the treatment of the various conditions, as above set out, of the human skin, muscles, or tissues;

(d) That the use of any or all of said preparations will remove, erase, iron out, or lessen wrinkles or lines of the human skin, remove blackheads or unsightly blemishes;

(e) That any of said preparations will penetrate the skin, beyond the epidermis so as to reach or beneficially affect the muscles or tissues or layers of skin beneath the epidermis;

(f) That any of said preparations are a turtle oil, or possess any special qualifications on that account, or are tissue builders or nourish the skin or pores thereof, or rejuvenate the skin, or are rich in vitamins.

(2) From making any other similar representations of like import or effect.

It is further ordered, That the respondent 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 in which it has complied with this order.

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IN THE MATTER OF
BUNO 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 2831. Complaint, June 3, 1936—Decision, July 6, 1936

Where a corporation engaged in the sale of a medicinal preparation and treatment for the relief or cure of scalp and skin ailments under designation "Buno"—

Falsely represented in radio broadcasts and in newspaper and periodical and other advertising matter circulated through the United States, that said preparation, in all cases, would keep the skin clear and healthy, and give instant relief from sunburn, mosquito, and other insect bites, and that it constituted an effective remedy for dandruff, eczema, perspiration, itching, athlete's foot, falling hair, and psoriasis, and also for pimples and all skin eruptions of whatever nature;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into erroneous belief that all said representations were true, and with result that a number of the consuming public purchased a substantial volume of its said preparation and trade was diverted unfairly from others similarly engaged who truthfully advertise their preparations and treatments; to the substantial injury of competition in commerce:

Held, That such practices, under the conditions and circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. George Foulkes for the Commission.

Stradley, Ronon, Stevens & Denby, of Philadelphia, Pa., 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 Buno Co., Inc., a corporation hereinafter referred to as respondent, has been and is now using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to the 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, Buno Co., Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 507 Green Street, in the city of Philadelphia and State of Pennsylvania. Respondent is now and for more than 1 year last past has been