

Syllabus

IN THE MATTER OF
QUALITY PRODUCTS 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 2347. Complaint, Sept. 10, 1936¹—Decision, Oct. 19, 1936

Where a corporation, engaged in the manufacture, distribution, and sale of a line of cosmetics, including sets of creams and cleansers designated by it as "Hormonique Glandular Skin Treatment," consisting of the "Hormonique Liquid Skin Cleanser," "Hormonique Finishing Cream," and "Unguent Hormonique"; in advertising said treatment in newspapers and periodicals of general circulation throughout the United States, and by means of advertising folders and literature circulated to its customers and prospective customers—

Falsely represented that such treatment would penetrate and nourish the skin, so that crows' feet and wrinkles would disappear, and that such penetration would give new vigor and elasticity to sagging muscles and eliminate old-looking chin and neck lines, thereby giving the face youthful contour, and that it would reactivate countless tiny glands underneath the skin's surface and banish blackheads, whiteheads, and enlarged pores, through such statements as: "When wrinkles, crows' feet, and sagging muscles appear, it is a sign that the glands are not functioning properly. * * * In order to effect a true correction of the condition, the Hormone Producing Gland must be stimulated back into action. It is with pride, therefore, that we announce that this truly amazing result has been accomplished by the new discovery—'Unguent Hormonique.' * * * Contains the essence of genuine gland secretions—Hormones, Dermine, and Vitamins * * * carefully selected for their ability to stimulate your own skin glands to supply the skin with the natural nourishment it needs to make it velvety smooth, etc. * * * The vital gland substances in this product are completely absorbed by the skin. These essentials awaken and reactivate those countless tiny glands underneath the skin surface," etc.;

The facts being that the said treatment would not penetrate the skin with the result that it would be nourished, crows' feet and wrinkles disappear, etc., reactivate Hormone producing glands, or reactivate countless tiny glands underneath the skin surface, etc., and said various representations made by it with respect to the nature and effect of its product when used were grossly exaggerated, false, misleading, and untrue;

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 with the result that a number of the consuming public purchased a substantial volume of its said product, and trade was unfairly diverted to it from those likewise engaged in the sale of cosmetics who truthfully advertise their products; to the substantial injury of competition in commerce:

¹ Amended and supplemental.

Complaint

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

Mr. George Foulkes for the Commission.

Kenyon & Kenyon, of New York City, for respondent.

AMENDED AND SUPPLEMENTAL 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 Quality Products Company, Inc., a corporation, 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 the 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, Quality Products Company, Inc., is a corporation, organized, existing, and doing business under the laws of the State of New York, with its principal office and place of business located at 382 Jefferson Street, Brooklyn, N. Y. Respondent is now, and has been for some time, engaged in the business of manufacturing, 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 New York to purchasers thereof located at various points in States of the United States other than the State from which such 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 corporations and with individuals and firms likewise engaged in the business of manufacturing, 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. Among the cosmetics manufactured by respondent are included sets of creams and cleansers designated by respondent as "Hormonique Glandular Skin Treatment," each set consisting of so-called "Hormonique Liquid Skin Cleanser," "Hormonique Finishing Cream" and "Unguent Hormonique," the latter being the essential cream of the said treatment.

In the course and operation of its business and for the purpose of inducing individuals to purchase "Hormonique Glandular Skin Treatment" 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. Respondent represented, and now represents that said "Hormonique Glandular Skin Treatment" possesses properties and ingredients of such character as to stimulate into action the "Hormone Producing Glands", and that "Unguent Hormonique" when applied externally to the skin will be absorbed by, or penetrate, nourish, and stimulate the skin, and thereby cause crows' feet to disappear, or cause sagging muscles to take on new vigor and elasticity. 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:

* * * The normal healthy skin is like that crystal clear pool of water, lovely and inviting, because it is constantly being fed such vital elements called "hormones" from the thousands and thousands of tiny glands that lie under the skin. As long as these glands supply their wonderful secretions to the skin, that youthful firmness and unblemished texture is maintained.

When wrinkles, crows' feet, and sagging muscles appear, it is a sign that the glands are not functioning properly. The condition is one that cannot be helped by an ordinary "facial" or by anything that is merely external in its action. In order to effect a true correction of the condition, the Hormone Producing Gland must be stimulated back into action.—It is with pride, therefore, that we announce that this truly amazing result has been accomplished by the new discovery of science—"Unguent Hormonique."

So this scientist finally discovered that these skin glands send their health-giving hormone secretions to the skin. He incorporated these hormones, together with Dermine and Vitamins in an Unguent and tried it on a group of women. The results exceeded his expectations.

Crows' feet and wrinkles disappear as if by magic because the glands were sending nourishment to the skin cells and consequently their condition improved. Muscles that were sagging and giving women that old-looking chin and neck-line, took on new vigor and elasticity and gained the strength to hold the skin in a firm, youthful contour. Facial blemishes, such as blackheads, whiteheads, and enlarged pores were quickly banished because the reactivated skin organs had the vigor to throw off impurities just as a healthy body resists disease.

Unguent Hormonique contains the essence of genuine gland secretions—Hormones, Dermine, and Vitamins. They have been carefully selected for their ability to stimulate your own skin glands to supply the skin with the natural nourishment it needs to make it velvety smooth, crystal clear, and youthfully firm.

UNGUENT HORMONIQUE. The vital gland substances in this product are completely absorbed by the skin. These essentials awaken and re-activate those

countless tiny glands underneath the skin surface, and should they produce a tingling sensation, it will soon be replaced by a refreshed stimulated feeling, arousing in the skin increased vitality.

In all of its advertising literature, respondent represents, through statements and representations herein set out and through statements of similar import and effect, that,

(1) Its product will penetrate the skin, with the result that the skin will be nourished, and that crows' feet and wrinkles will disappear; or that such penetration will give new vigor and elasticity to sagging muscles, or eliminate old-looking chin and neck lines, thereby giving the face youthful contour; or that such penetration will reactivate countless tiny glands underneath the skin's surface, or banish blackheads, whiteheads, and enlarged pores.

(2) Its product will stimulate into action the "Hormone Producing Glands";

(3) Its product will nourish the skin as well as cause crows' feet and wrinkles to disappear;

(4) Its product will give new vigor and elasticity to sagging muscles and eliminate old-looking chin and neck-lines, thereby giving the face a youthful contour;

(5) Its product will banish blackheads, whiteheads, and enlarged pores;

(6) Its product will penetrate the skin and re-activate the skin organs.

(7) Its product will be completely absorbed by the skin and re-activate countless tiny glands underneath the skin surface.

PAR. 4. The representations made by respondent with respect to the nature and effect of its product when used, are grossly exaggerated, false, misleading, and untrue. In truth and in fact, said "Hormonique Glandular Skin Treatment" does not penetrate the skin with the result that the skin will be nourished, and that crows' feet and wrinkles will disappear; nor will such penetration give new vigor and elasticity to sagging muscles or eliminate old looking chin and neck lines, thereby giving the face youthful contour; nor will such penetration re-activate countless tiny glands underneath the skin's surface or banish blackheads, whiteheads, or enlarged pores. Said product will not nourish the skin and cause crows' feet and wrinkles to disappear; nor will it give new vigor and elasticity to sagging muscles, nor will said product eliminate old looking chin and neck lines thereby giving the face a youthful contour. Said product will not re-activate hormone producing glands or re-activate countless tiny glands underneath the skin's surface. Said product will not banish blackheads, whiteheads, and enlarged pores.

PAR. 5. Each and all of the false and misleading statements and misrepresentations made by respondent, as hereinabove set forth, in his advertising in newspapers, magazines, pamphlets, and other advertising literature in offering for sale, and selling, his product, had, and now has 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. Further, as a direct consequence of the mistaken and erroneous beliefs induced by the advertisements and misrepresentations of respondent, as hereinabove enumerated, a number of the consuming public purchased a substantial volume of respondent's product, with the result that trade has been unfairly diverted to respondent from individuals, firms, and corporations likewise engaged in the business of selling cosmetics, and who truthfully advertise their products. As a result thereof, substantial injury has been done, and is now being done, by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 6. 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 September 11, 1936, issued and served its complaint in this proceeding upon respondent, Quality Products Company, Inc., a corporation, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. On September 23, 1936, the respondent filed its answer in which answer it admitted all the material allegations of the complaint to be true and stated that it waived hearing on the charges set forth in the said complaint and consented that, without further evidence or other intervening procedure, the Commission might issue and serve upon it findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the

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Commission having duly considered the same, and being now 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, Quality Products Company, Inc., is a corporation organized, existing, and doing business under the laws of the State of New York, with its principal office and place of business located at 382 Jefferson Street, Brooklyn, N. Y.

Quality Products Company, Inc., is now, and has been for some time, engaged in the business of manufacturing, distributing, and selling in commerce, as herein set out, a line of cosmetics.

PAR. 2. In the operation of its business respondent caused said cosmetics when sold to be transported from its office and place of business in the State of New York to purchasers thereof at various points in States of the United States other than the State from which such 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 of the operation of its business, respondent is now and has been in substantial competition with other corporations and with individuals and firms likewise engaged in the business of manufacturing, distributing, and selling cosmetics and kindred preparations for treatment of the skin, among and between the various States of the United States and in the District of Columbia.

Among the line of cosmetics manufactured by respondent are included sets of creams and cleansers designated by respondent as "Hormonique Glandular Skin Treatment," each set consisting of so-called "Hormonique Liquid Skin Cleanser," "Hormonique Finishing Cream," and "Unguent Hormonique," the latter being the essential cream of the said treatment.

In the course of the operation of its business and for the purpose of inducing individuals to purchase "Hormonique Glandular Skin Treatment" 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.

Respondent represented, and now represents that said "Hormonique Glandular Skin Treatment" possesses properties and ingredients of

such character as to stimulate into action the "Hormone Producing Glands," and that "Unguent Hormonique" when applied externally to the skin will be absorbed by, or penetrate, nourish, and stimulate the skin, and thereby cause crows' feet to disappear, or cause sagging muscles to take on new vigor and elasticity.

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:

* * * The normal healthy skin is like that crystal clear pool of water, lovely and inviting, because it is constantly being fed such vital elements called "hormones" from the thousands and thousands of tiny glands that lie under the skin. As long as these glands supply their wonderful secretions to the skin, that youthful firmness and unblemished texture is maintained.

When wrinkles, crows' feet, and sagging muscles appear, it is a sign that the glands are not functioning properly. The condition is one that cannot be helped by an ordinary "facial" or by anything that is merely external in its action. In order to effect a true correction of the condition, the Hormone Producing Gland must be stimulated back into action.—It is with pride, therefore, that we announce that this truly amazing result has been accomplished by the new discovery of science—"Unguent Hormonique".

So this scientist finally discovered that these skin glands send their health-giving hormone secretions to the skin. He incorporated these hormones, together with Dermine, and Vitamine in an Unguent and tried it on a group of women. The results exceeded his expectations.

Crows' feet and wrinkles disappear as if by magic because the glands were sending nourishment to the skin cells and consequently their condition improved. Muscles that were sagging and giving women that old-looking chin and neck-line, took on new vigor and elasticity and gained the strength to hold the skin in a firm, youthful contour. Facial blemishes, such as blackheads, whiteheads, and enlarged pores were quickly banished because the reactivated skin organs had the vigor to throw off impurities just as a healthy body resists disease.

Unguent Hormonique contains the essence of genuine gland secretions—Hormones, Dermine, and Vitamine. They have been carefully selected for their ability to stimulate your own skin glands to supply the skin with the natural nourishment it needs to make it velvety smooth, crystal clear, and youthfully firm.

UNGUENT HORMONIQUE. The vital gland substances in this product are completely absorbed by the skin. These essentials awaken and re-activate those countless tiny glands underneath the skin surface, and should they produce a tingling sensation, it will soon be replaced by a refreshing stimulated feeling, arousing in the skin increased vitality.

In all of its advertising literature, respondent represents, through statements and representations herein set out and through statements of similar import and effect, that,

(1) Its product will penetrate the skin, with the result that the skin will be nourished, and that crows' feet and wrinkles will disappear; or that such penetration will give new vigor and elasticity to sagging muscles, or eliminate old-looking chin and neck lines, thereby giving

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the face youthful contour; or that such penetration will re-activate countless tiny glands underneath the skin's surface, or banish blackheads, whiteheads, and enlarged pores.

(2) Its product will stimulate into action the "Hormone Producing Glands";

(3) Its product will nourish the skin as well as cause crows' feet and wrinkles to disappear;

(4) Its product will give new vigor and elasticity to sagging muscles and eliminate old-looking chin and neck-lines, thereby giving the face a youthful contour;

(5) Its product will banish blackheads, whiteheads, and enlarged pores;

(6) Its product will penetrate the skin and re-activate the skin organs;

(7) Its product will be completely absorbed by the skin and re-activate countless tiny glands underneath the skin surface.

PAR. 4. The representations made by respondent with respect to the nature and effect of its product when used, are grossly exaggerated, false, misleading, and untrue.

In truth and in fact, said "Hormonique Glandular Skin Treatment" does not penetrate the skin with the result that the skin will be nourished, and that crows' feet and wrinkles will disappear; nor will such penetration give new vigor and elasticity to sagging muscles or eliminate old-looking chin and neck lines, thereby giving the face youthful contour; nor will such penetration re-activate countless tiny glands underneath the skin's surface or banish blackheads, whiteheads, or enlarged pores.

Said product will not nourish the skin and cause crows' feet and wrinkles to disappear; nor will it give new vigor and elasticity to sagging muscles, nor will said product eliminate old-looking chin and neck lines thereby giving the face a youthful contour.

Said product will not re-activate hormone producing glands or re-activate countless tiny glands underneath the skin's surface. Said product will not banish blackheads, whiteheads, and enlarged pores.

PAR. 5. Each and all of the false and misleading statements and misrepresentations made by respondent, as hereinabove set forth, in its advertising in newspapers, magazines, pamphlets, and other advertising literature in offering for sale, and selling, its product, had, and now has 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. Further, as a direct consequence of the mistaken and erroneous beliefs induced by the advertisements and misrepresentations of respondent, as hereinabove

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enumerated, a number of the consuming public purchased a substantial volume of respondent's product, with the result that trade has been unfairly diverted to respondent from individuals, firms, and corporations likewise engaged in the business of selling cosmetics, and who truthfully advertise their products. As a result thereof, substantial injury has been done, and is now being done, by respondent to competition 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, Quality Products Company, Inc., a corporation, 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 and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true and states that it waives hearing on the charges set forth in said complaint and consents that, without further evidence for other intervening procedure, the Commission may issue and serve upon it findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and 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, Quality Products Company, Inc., a corporation, its officers, representatives, agents, and employees, in connection with the sale or offering for sale in interstate commerce of a line of cosmetics, do forthwith cease and desist from:

Representing, directly or by inference, or through any other means whatever, that,

(1) Its cosmetics will penetrate the skin, with the result that the skin will be nourished, and that crows' feet and wrinkles will disappear; or that such penetration will give new vigor and elasticity to sagging muscles or eliminate old-looking chin and neck lines, there-

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by giving the face youthful contour; or that such penetration will re-activate the hormone producing glands or re-activate countless tiny glands underneath the skin's surface, or banish blackheads, whiteheads, and enlarged pores.

(2) Its cosmetics will nourish the skin, and cause crows' feet and wrinkles to disappear; or will give new vigor and elasticity to sagging muscles; or will eliminate old-looking chin or neck lines, thereby giving the face a youthful contour; or will re-activate hormone producing glands and countless tiny glands underneath the skin's surface; or will banish blackheads, whiteheads and enlarged pores.

It is further ordered, That the respondent shall, within 30 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.

Syllabus

IN THE MATTER OF

THE HEWITT SOAP COMPANY, INC., AND THE CROWN SOAP COMPANY, ALSO TRADING UNDER THE NAME OF DAYTON SOAP COMPANY

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

Docket 2897. Complaint, Aug. 13, 1936—Decision, Oct. 19, 1936

Where a corporation and its subsidiary, engaged in the manufacture of a line of toilet and alleged medicated soaps, and soap powders—

- (a) Used such designations and descriptive matter on the labels thereof as "Physician's Antiseptic Castile Soap" or "Castile Soap," "Dr. Renner's Medicated Skin Soap," and "Medicinal Cream Castile Soap," and applied such legends to certain of said soaps as "Used by Doctors and Nurses," and designated and described certain other soaps as "Almond Cream," "Almond Cream Castile," and "Lemonized Complexion Soap;"

The facts being that the aforesaid alleged antiseptic or medicinal soaps did not contain requisite ingredients in sufficient strength to warrant such designations, individual referred to was not a physician but a chemist in their employ, and the particular soaps involved were not in any respect physicians' antiseptic soaps, nor specially used by doctors and nurses, and had no medication value and were not medicinal, and so-called "Almond" and "Lemonized" soaps, respectively, contained no almond oil cream made from the fatty sweet almond oil, or enough lemon, if any, to make even the slightest lemon odor, though they, respectively, contained a slight amount of volatile oil of bitter almonds and oil of lemongrass; and

- (b) Placed upon the labels or containers of the various soaps thus designated by it, and on other soap products or powders, such designations as "Combination price 75 cents," for 3-cake combination, or "Total exceptional value \$1.00" for "Big Seven Assortment of the Finest Toilet Soaps," as therein specified, or "1/4 doz. 75 cents," or "2-cakes-25¢," or "2 cakes 50 cents";

The facts being said soaps and soap powders were never sold or offered for sale at the fictitious and excessive prices marked on the boxes, the soaps listed at prices from "2-cakes-25¢" to a price of 25¢ per cake were sold to their canvassers at from 2¢ to 4½¢ per cake, and were comparable to soaps ordinarily sold at retail at from 2 cakes for 5¢, to 10¢ per cake or 3 cakes for 25¢, powdered soap sold in cartons marked "15¢ size" and in boxes marked "10 cents," were sold to such canvassers at 2¢ or slightly less per package, and were such small boxes as ordinarily sell for not to exceed 5¢, or 3 for 10¢, and said prices generally, thus marked on the boxes in which its products were sold, were many times in excess of the actual selling price to said house-to-house canvassers, and in excess of the actual value thereof, and much greater than actual price at which they were to be sold by such canvassers to ultimate purchasing and using public, and were not intended to be true retail price or value of said products, but to be far in excess of price actually charged ultimate consumer;