

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 "¼ 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;

Complaint

23 F T. C.

With tendency and capacity to mislead and deceive a substantial portion of purchasing public into erroneous belief that all said representations were true, and with result that substantial number of consuming public purchased substantial volume of their products, and trade was unfairly diverted to them from those who distribute and sell toilet and medicated soaps which actually have ingredients and qualities claimed by said corporations for their products, and who truthfully advertise and sell same at such higher prices as inclusion therein of their effective ingredients and qualities warrant; to the substantial injury of competitors in commerce:

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

Before *Mr. John J. Keenan*, trial examiner.

Mr. Wm. T. Chantland for the Commission.

Estabrook, Finn & McKee, of Dayton, Ohio, for respondents.

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 Hewitt Soap Company, Inc., a corporation, and the Crown Soap Company, a corporation, also trading under the name of Dayton Soap Company, hereinafter referred to as respondents, have been, and are 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 Hewitt Soap Company, Inc., is an Ohio corporation, which has its principal office and place of business at 415 Linden Avenue, in the city of Dayton, State of Ohio. Respondent Crown Soap Company is an Ohio corporation, which has its principal office and place of business at 289 Linden Avenue, in the City of Dayton, State of Ohio. Respondent Crown Soap Company also trades under the name of Dayton Soap Company. The respondent Crown Soap Company is a wholly-owned subsidiary of the respondent Hewitt Soap Company, Inc., and the policies and practices of the respondent Crown Soap Company are controlled and directed by the respondent Hewitt Soap Company, Inc., and the said respondents have acted together during all of the times herein mentioned and in doing the acts and things hereinafter alleged. Respondent Hewitt Soap Company, Inc. is now, and for some time has been, engaged in the business of manufacturing a line of toilet and alleged medicated soaps and soap powders and both of said respondents are now, and have been for more

than two years, engaged in the business of selling and distributing said toilet and alleged medicated soaps and soap powders in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 2. Said respondents, being engaged in business as aforesaid, cause said soaps and soap powders, when sold, to be transported from their places of business in the State of Ohio to purchasers thereof located at various points in States of the United States other than the State of Ohio and in the District of Columbia. Respondents now maintain a constant current of trade in commerce in said products, manufactured, sold, and distributed by them, as above stated, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now, and have been, in substantial competition with other individuals and with firms and corporations engaged in the business of manufacturing, selling, and distributing toilet and medicated soaps and soap powders of the claimed price, ingredients, quality, and character of respondents' products, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and operation of said business and for the purpose of inducing the purchase of their said soaps and soap powders, respondents have been, and are now, individually engaged in, and have conspired to engage in, misbranding, fictitious price marking, misrepresentation and false and misleading advertising.

Among the acts done and representations made by respondents, individually, and in furtherance of said conspiracy, are the following:

(1) Respondents sell one 3-cake combination called "Crown Cold Cream and Germicidal Soap Combination", consisting of 2 cakes of "Cold Cream" soap and 1 of "Germicidal" soap. The box containing this 3-cake combination is marked "Combination price 75 cents".

(2) Respondents sell a soap called "Crown Lavender Soap—Olde English", in boxes containing 3 cakes, marked "3 cakes for 75 cents".

(3) Respondents sell a combination of 7 cakes in a box called "Big Seven Special Assortment Fine Toilet Soaps", which is also marked "Big Seven Assortment of the Finest Toilet Soaps" and "Seven Unusual Soaps of the Highest Quality", and which consists

Complaint

23 F. T. C.

of 1 cake each of the following named soaps, with the price for each stated as indicated:

Cocoonut Oil Shampoo Soap-----	\$0.15
Creme De Savon-----	.10
Dr. Renner's Medicinal Foot Soap-----	.25
Evergreen Medicated Soap-----	.15
Beauty Pure Baby Castile-----	.15
Lotus De Ore-----	.10
Lemonized Complexion Soap-----	.10

Total exceptional value-----	\$1.00
------------------------------	--------

(4) Respondents sell a soap called "Physician's Antiseptic Skin Soap", in boxes containing 3 cakes. These boxes are marked "1/4 doz. 75 cents", "Used by Doctors and Nurses", "An Ideal Medicated Soap".

(5) Respondents sell a soap called "Physician's Antiseptic Castile Soap", in boxes containing 2 cakes. These boxes are marked "2-cakes-25¢", "Used by Doctors and Nurses".

(6) Respondents sell a soap called "Almond Cream Castile—A Mild Soothing Soap", in boxes containing 2 cakes. These boxes are marked "2 cakes 50 cents".

(7) Respondents sell a soap called "Almond Cream Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(8) Respondents sell a soap called "Medical Cream Castile Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(9) Respondents sell a soap called "Dr. Renner's Medicated Skin Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(10) Respondents sell a box of powdered soap called "Ezy-clean Borax'd Compound". This box is marked "15¢ size".

(11) Respondents sell a soap powder called "White Cottage Soap Powder (Boraxated)". The box containing this powder is marked "10 cents".

PAR. 5. The representations made by respondents with respect to the prices, nature, ingredients, and effective qualities of said soaps and soap powders are grossly exaggerated, false, misleading, and untrue. The truth and facts are that said soaps and soap powders are never sold or offered for sale at the excessive prices marked on the boxes; neither are such soaps the fine toilet or medicated soaps which such fictitious high prices and the labels are intended to, and do, claim and imply, but are in fact ordinary, cheap grades of toilet and allegedly medicated soaps without valuable or effective ingredi-

ents or qualities as indicated by their names, with the single exception of the germicidal soap which has some germicidal quality. More specifically, the facts are as follows:

(1) The various soaps labeled at prices from "2-cakes-25¢" to a price of 25¢ per cake are sold to their canvassing sales people at from 2¢ to 4½¢ per cake, and are comparable to soaps ordinarily sold at retail at from 2 cakes for 5¢, to 10¢ per cake or 3 cakes for 25¢.

(2) The soap called "Physician's Antiseptic Skin Soap" contains only one ingredient which might produce an antiseptic action, namely, oil of cassia, and of this ingredient the content is only 0.34 of an ounce in 100 pounds of soap. Such quantity is too minute to produce any antiseptic action. The said soap is not a physician's antiseptic skin soap in any respect nor is it specially used by doctors and nurses. It has no medication value.

(3) The so-called "Physician's Antiseptic Castile Soap" contains three possible antiseptic ingredients, namely, benzyl acetate, oil of cloves and diphenyloxide, but the total of these is approximately ⅓ of an ounce to 100 pounds of soap. Such small quantity of antiseptic ingredients renders the soap negligible as an antiseptic agent. It is not a soap specially used by doctors and nurses.

(4) The so-called "Dr. Renner's Medicated Skin Soap" contains no sufficient amount of medication. Zinc oxide is present to the extent of ¼ of 1 percent, which can produce no effective antiseptic result. The "Dr. Renner" referred to is not a physician but is a Chemist in the employ of respondents.

(5) The so-called "Medicinal Cream Castile Soap" contains no sufficient amount of medication, although zinc oxide is present to the extent of ¾ of 1 percent. The use of the term "medicinal" as applied to this soap is without justification.

(6) The soaps called "Almond Cream" and "Almond Cream Castile" have as the fatty base, tallow, and cocoanut oil. There is no oil of sweet almond present. The perfume in these soaps has as one chemical constituent a slight amount of volatile oil of bitter almonds. The bulk of the perfume is not even bitter almond oil. To the ordinary informed purchasing public, the term "almond" in this connection implies almond oil cream which is made from the fatty sweet almond oil.

(7) The soap called "Lemonized Complexion Soap" has in it no lemon, or not enough to make even the slightest lemon odor, but does contain, among the perfume materials, certain oil of lemongrass.

(8) The powdered soap called "Ezy-clean Borax'd Compound", sold in cartons marked "15¢ size", and the soap powder called "White Cottage Soap powder (Boraxated)", sold in boxes marked "10 cents",

Complaint

23 F. T. C.

are sold to their door-to-door canvassers at 2¢ or slightly less per package, and are such small boxes such as should ordinarily sell for not to exceed 5¢, or 3 for 10¢.

The said products above mentioned are sold by the respondent principally to house to house canvassers for resale to ultimate consumers. The prices marked on the boxes in which the products above mentioned are sold are many times in excess of the actual selling price to said house to house canvassers and many times in excess of the actual value thereof and are much greater than the actual price at which said products are sold by said canvassers to said ultimate purchasing and using public. The prices so indicated were not intended by the respondents to be the true retail price or the true retail value of said products, and are false and fictitious and in no sense represents either the true value or the true selling price of the products so price marked. The prices marked as above indicated were intended by the respondents and the canvasser purchasing for resale to be far in excess of the price actually charged the ultimate consumer.

PAR. 6. There are among respondent's competitors many who distribute and sell similar soaps and soap powders, or soaps which in fact have sufficient of the ingredients and qualities claimed by respondents for their products which justify prices in line with respondents' fictitious prices, who do not in any way misrepresent the prices, ingredients, quality, or character of their respective products.

PAR. 7. Each and all of the false and misleading statements, representations, and implications made by the respondents in pricing, designating and describing their products, and the effectiveness of said products, as hereinabove set out, in their labels and advertising, in the course of distributing their products, 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.

Further, as a true consequence of the mistaken and erroneous beliefs induced by the acts, labeling and representations of respondents, as hereinbefore set out, a substantial number of the consuming public has purchased a substantial volume of respondents' products with the result that trade has been unfairly diverted to the respondents from individuals, firms, and corporations likewise engaged in the business of distributing and selling toilet and medicated soaps which have the ingredients and qualities claimed by respondents for their products, who truthfully advertise their respective products and sell them at such higher prices as the inclusion therein of the effective ingredients and quality warrant. As a result thereof, substantial injury has been and is now being done by respondents to competitors, in

commerce, among and between the various States of the United States and in the District of Columbia.

PAR. 8. The above and foregoing acts, practices, and representations, actual and implied, of the respondents have been, and are, all to the prejudice of the public and respondents' 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 the 13th day of August 1936, issued and served its complaint in this proceeding upon respondents, The Hewitt Soap Company, Inc., and The Crown Soap Company, trading under its own name and under the trade name Dayton Soap Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. On the eighth day of September, the respondents filed their separate answers in this proceeding. Thereafter a stipulation was entered into (subject to the approval of the Commission) whereby it was stipulated and agreed that a statement of facts signed and executed by the attorneys of record for the several respondents and W. T. Kelley, Chief Counsel for the Federal Trade Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto; and that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts (including inferences which it may draw from the said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved and accepted, and the 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 its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent The Hewitt Soap Company, Inc., is an Ohio corporation, which has its principal office and place of business

Findings

23 F. T. C.

at 415 Linden Avenue, in the city of Dayton, State of Ohio. Respondent The Crown Soap Company is an Ohio corporation, which has its principal office and place of business at 289 Linden Avenue, in the city of Dayton, State of Ohio. Respondent The Crown Soap Company also trades under the name of Dayton Soap Company. The respondent The Crown Soap Company is a wholly-owned subsidiary of the respondent The Hewitt Soap Company, Inc. Both of said respondent corporations are wholly owned and controlled by Procter & Gamble Company. Both of the said respondents have acted together during all of the times herein mentioned and in doing the acts and things hereinafter alleged. Respondent The Hewitt Soap Company, Inc. is now, and for some time has been engaged in the business of manufacturing a line of toilet and alleged medicated soaps and soap powders and both of said respondents are now, and have been for more than two years, engaged in the business of selling and distributing said toilet and alleged medicated soaps and soap powders in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 2. Said respondents, being engaged in business as aforesaid, cause said soaps and soap powders, when sold, to be transported from their places of business in the State of Ohio to purchasers thereof located at various points in States of the United States other than the State of Ohio and in the District of Columbia. Respondents now maintain a constant current of trade in commerce in said products, manufactured, distributed, and sold by them, as above stated, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now, and have been, in substantial competition with other corporations and with firms and individuals engaged in the business of manufacturing, selling, and distributing toilet and medicated soaps and soap powders of the claimed price, ingredients, quality, and character of respondents' products, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and operation of said business and for the purpose of inducing the purchase of their said soaps and soap powders, respondents have been, and are now, individually engaged in misbranding, fictitious price marking, misrepresentation, and misleading advertising.

Among the acts done and representations made by respondents, individually, and in furtherance of their conduct hereinbefore described, are the following:

Findings

(1) Respondents sell one 3-cake combination called "Crown Cold Cream and Germicidal Soap Combination", consisting of 2 cakes of "Cold Cream" soap and 1 of "Germicidal" soap. The box containing this 3-cake combination is marked "Combination price 75 cents."

(2) Respondents sell a soap called "Crown Lavender Soap—Olde English", in boxes containing 3 cakes, marked "3 cakes for 75 cents".

(3) Respondents sell a combination of 7 cakes in a box called "Big Seven Special Assortment Fine Toilet Soaps", which is also marked "Big Seven Assortment of the Finest Toilet Soaps" and "Seven Unusual Soaps of the Highest Quality", and which consists of 1 cake each of the following named soaps, with the price for each stated as indicated:

Cocoonut Oil Shampoo Soap-----	\$0.15
Creme De Savon-----	.10
Dr. Renner's Medicinal Foot Soap-----	.25
Evergreen Medicated Soap-----	.15
Beauty Pure Baby Castile-----	.15
Lotus De Ore-----	.10
Lemonized Complexion Soap-----	.10

Total Exceptional Value----- 1.00

(4) Respondents sell a soap called "Physician's Antiseptic Skin Soap", in boxes containing 3 cakes. These boxes are marked "1/4 doz. 75 cents", "Used by Doctors and Nurses", "An Ideal Medicated Soap".

(5) Respondents sell a soap called "Physician's Antiseptic Castile Soap", in boxes containing 2 cakes. These boxes are marked "2-cakes-25¢", "Used by Doctors and Nurses."

(6) Respondents sell a soap called "Almond Cream Castile—A Mild Soothing Soap", in boxes containing 2 cakes. These boxes are marked "2 cakes 50 cents".

(7) Respondents sell a soap called "Almond Cream Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(8) Respondents sell a soap called "Medicinal Cream Castile Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(9) Respondents sell a soap called "Dr. Renner's Medicated Skin Soap", in boxes containing 3 cakes. These boxes are marked "3 cakes 50 cents".

(10) Respondents sell a box of powdered soap called "Ezy-clean Borax'd Compound". This box is marked "15¢ size".

Findings

23 F. T. C.

(11) Respondents sell a soap powder called "White Cottage Soap Powder (Boraxated)". The box containing this powder is marked "10 cents".

PAR. 5. The representations made by respondents with respect to the prices, nature, ingredients, and effective qualities of said soaps and soap powders are grossly exaggerated, false, misleading and untrue. In truth and in fact said soaps and soap powders are never sold or offered for sale at the fictitious and excessive prices marked on the boxes; and such soaps are not the fine toilet or medicated soaps which such fictitious high prices and the labels are intended to, and do, claim and imply, but are in fact ordinary, cheap grades of toilet and allegedly medicated soaps without valuable or effective ingredients or qualities as indicated by their names, with the single exception of the germicidal soap which has some germicidal quality. More specifically, the facts are as follows:

(1) The various soaps labeled at prices from "2-cakes-25¢" to a price of 25¢ per cake are sold to their canvassing sales people at from 2¢ to 4½¢ per cake, and are comparable to soaps ordinarily sold at retail at from 2 cakes for 5¢, to 10¢ per cake or 3 cakes for 25¢.

(2) The soap called "Physician's Antiseptic Skin Soap" contains only one ingredient which might produce an antiseptic action, namely, oil of cassia, and of this ingredient the content is only .34 of an ounce in 100 pounds of soap. Such quantity is too minute to produce any antiseptic action. The said soap is not a physician's antiseptic skin soap in any respect nor is it specially used by doctors and nurses. It has no medication value.

(3) The so-called "Physician's Antiseptic Castile Soap" contains three possible antiseptic ingredients, namely, benzyl acetate, oil of cloves and diphenyloxide, but the total of these is approximately 1/8 of an ounce to 100 pounds of soap. Such small quantity of antiseptic ingredients are negligible and do not make the soap an antiseptic agent. It is not a soap specially used by doctors and nurses.

(4) The so-called "Dr. Renner's Medicated Skin Soap" does not contain a sufficient amount of medication to be of any medicating value. Zinc oxide is present to the extent of 1/4 of 1 percent, which can produce no effective antiseptic result. The "Dr. Renner" referred to is not a physician but is a chemist in the employ of respondents.

(5) The so-called "Medicinal Cream Castile Soap" does not contain a sufficient amount of medication, although zinc oxide is present to the extent of 3/4 of 1 percent. The use of the term "medicinal" as applied to this soap is without justification.

(6) The soaps called "Almond Cream" and "Almond Cream Castile" have as the fatty base, tallow and cocoanut oil. There is no oil

of sweet almond present. The perfume in these soaps has as one chemical constituent a slight amount of volatile oil of bitter almonds. The bulk of the perfume is not even bitter almond oil. To the ordinary informed purchasing public, the term "Almond" in this connection implies almond oil cream which is made from the fatty sweet almond oil.

(7) The soap called "Lemonized Complexion Soap" has in it no lemon, or not enough to make even the slightest lemon odor, but does contain, among the perfume materials, certain oil of lemongrass.

(8) The powdered soap called "Ezy-clean Borax'd Compound," sold in cartons marked "15¢ size", and the soap powder called "White Cottage Soap Powder (Boraxated)", sold in boxes marked "10 cents", are sold to their door-to-door canvassers at 2¢ or slightly less per package, and are such small boxes as ordinarily sell for not to exceed 5¢, or 3 for 10¢.

PAR. 6. The said products above mentioned are sold by the respondents principally to house to house canvassers for resale to ultimate consumers. The prices marked on the boxes in which the products above mentioned are sold are many times in excess of the actual selling price to said house to house canvassers and many times in excess of the actual value thereof and are much greater than the actual price at which said products are sold by said canvassers to said ultimate purchasing and using public. The prices so indicated were not intended by the respondents to be the true retail price or the true retail value of said products, and are false and fictitious and in no sense represent either the true value or the true-selling price of the products so price marked. The prices marked as above indicated were intended by the respondents and the canvasser purchasing for resale to be far in excess of the price actually charged the ultimate consumer.

PAR. 7. There are among respondents' competitors many who distribute and sell similar soaps and soap powders, or soaps which in fact have sufficient of the ingredients and qualities claimed by respondents for their products which justify prices in line with respondents' fictitious prices, who do not in any way misrepresent the prices, ingredients, quality or character of their respective products.

PAR. 8. Each and all of the false and misleading statements, representations and implications made by the respondents in pricing, designating, and describing their products, and the effectiveness of said products, as hereinabove set out, in their labels and advertising, in the course of distributing their products, were and are calculated to, and had, and now have, a tendency and capacity to mislead and

Order

23 F. T. C.

deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true.

PAR. 9. As a true consequence of the mistaken and erroneous beliefs induced by the acts, and representations of respondents, as hereinbefore set out, a substantial number of the consuming public has purchased a substantial volume of respondents' products with the result that trade has been unfairly diverted to the respondents from individuals, firms, and corporations likewise engaged in the business of distributing and selling toilet and medicated soaps which have the ingredients and qualities claimed by respondents for their products, who truthfully advertise their respective products and sell them at such higher prices as the inclusion therein of the effective ingredients and quality warrant. As a result thereof, substantial injury has been and is now being done by respondents to competitors, in commerce, among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The above and foregoing acts, practices and representations of the respondents have been, and are, all to the prejudice of the public, 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of the respondents and the agreed stipulation of facts entered into between the attorneys of record for the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which stipulation provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs, and the Commission having made its findings as to the facts and conclusion that said respondents have 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 respondents, The Hewitt Soap Company, Inc., and The Crown Soap Company, trading under its own name

Order

and under the trade name Dayton Soap Company, their officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of soap and soap products in interstate commerce or in the District of Columbia, through any corporate or other device, do forthwith cease and desist from representing directly or indirectly:

(1) By fictitious or exaggerated price markings and labels, or in any other manner, that their soaps and soap products have values in excess of their actual values, or in excess of the prices at which they are ordinarily sold or offered for sale;

(2) that their soaps and soap products have medicinal or germicidal properties or content which they do not in fact possess, or do not have in sufficient quantities to make them effective as represented;

(3) that their soaps are especially for physicians' or nurses' use, or are "medicinal," or "medicated," or are made according to a doctor's formula, when such are not the facts.

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

Complaint

23 F. T. C.

IN THE MATTER OF

HELMCO, INC.

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

Docket 2928. Complaint, Sept. 22, 1936—Decision, Oct. 19, 1936

Where a corporation engaged for a number of years past in the manufacture and sale of electric "fudge warmers" and "hot cups" for the heating of liquid mixtures of chocolate and other ingredients used in making candy and soda fountain drinks, and in the advertisement and sale thereof under the trade name "Lacy Hot Cups," and said cups had become widely and favorably known to the drug trade under such name, and members of said trade had, through long usage and over a long period of time, identified such products bearing the name "Lacy" as being those of the well and favorably known "Lacy Products Corporation," advertised, as hereinabove set forth, both by it and by its predecessor under said name; and thereafter a second manufacturer engaged in the sale of such products similar to those made and sold by the aforesaid corporation, and the corporate name of which included the word "Lacy,"—

Made use of its said corporate and trade name, including said word, in advertisements issued, published, and circulated by it to the general public through various periodicals and publications and in other forms of printed matter, and included its said corporate and trade name and the word "Lacy" thereby on its products, as well as in all of its said advertising literature, in sale of its said products in competition with many other distributors of like and similar articles or products who truthfully advertise and represent the origin and manufacture thereof, and do not simulate those of their competitors, or advertise and represent the same in such a way as to deceive and mislead purchasers into the erroneous and mistaken belief that their said products are those of their competitors;

With capacity and tendency to mislead purchasers and prospective purchasers of said products into the erroneous and mistaken belief that the products made and sold by said manufacturer were those of the aforesaid corporation first named herein, notwithstanding fact said competitor manufacturer was not in any way affiliated therewith, and with the result that a substantial number of the purchasing public, on account of the erroneous and mistaken beliefs thus induced, bought the said products of such manufacturer, and trade was unfairly diverted to it from said corporation, and from other competitors who do not engage in similar practices; to the substantial injury of competition in commerce:

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

Mr. J. T. Welch for the Commission.

Mr. Paul G. Ceaser, 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 Com-