

Syllabus

IN THE MATTER OF

GUSTAVE GOLDSTEIN, TRADING AS HUMANIA HAIR
& SPECIALTY MFG. CO.¹COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2724. Complaint, Feb. 18, 1936—Decision, Oct. 26, 1936*

Where an individual, engaged in the sale of hair goods, cosmetics, and toilet preparations, mailed or shipped to purchasers in various States—

- (a) Represented, through pamphlets, catalogs, and other advertisements circulated generally throughout the United States, and through labels attached to his merchandise, that he was a manufacturer of hair and specialty goods; facts being he had no factory which he owned, leased, or controlled, but bought his said merchandise from various manufacturing companies and jobbers;
- (b) Represented, as aforesaid, that he was an importer of hair goods; facts being he was not such an importer, though he did, in fact, sell some imported hair goods purchased by him in this country;
- (c) Falsely represented, as aforesaid, that his "Reguas Ear Oil" would bring relief from deafness, and that his "Magic Shaving Powder" did not affect the growth of hair nor injure the skin;
- (d) Falsely represented, as aforesaid, that his "La-Em-Strait" and "Madam Walker's Hair Grower" prevented dandruff and falling hair and promoted hair growth, and that his "High Brown Hair Grower" was a combination hair grower and straightener, and falsely set forth that other preparations sold by him under various names made harsh hair soft and silky, promoted growth of hair on the temples, made kinky hair glossy, long, and straight, or grew hair, or restored white and gray hair to a lustrous black, etc.; and
- (e) Falsely represented that his "High Brown Beauty Ointment," "Dr. Ford Palmer's Skin Whitener," and other preparations sold by him under various names, rid the face of blemishes, pimples, etc., got rid of eczema, whitened and lightened dark blotchy skin almost over night, etc., without injury, and that other cosmetics and toilet preparations sold by him were efficacious in the restoration and treatment of the hair and skin and not injurious to latter or to the scalp;

With effect of misleading and deceiving a substantial portion of the purchasing public into the belief that he owned, operated or controlled a plant for the manufacture of the various products dealt in by him, as aforesaid, and that in purchasing of him they were dealing directly with the factory and securing for themselves advantages of closer prices and superior quality, as well as eliminating middleman, and that he actually imported certain of his hair goods, and that the various products sold by him would actually accomplish the results represented or claimed, as aforesaid, and

¹ Prior findings of facts and conclusion and order to cease and desist in this matter made as of May 13, 1936, were vacated and set aside by order of the Commission on October 26, 1936.

Complaint

23 F. T. C.

of inducing a substantial number of such public to buy a substantial volume of his said products as a result of such mistaken and erroneous beliefs, and of diverting trade unfairly thereby to himself from individuals or concerns similarly engaged in the manufacture, importation, distribution, and sale of such products, and who truthfully represent, or do not misrepresent, their business status or operations or the benefits that may reasonably be expected to accrue to the user of the products sold by them; to the substantial injury of substantial 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. Reuben J. Martin for the Commission.

Mr. Philip Silverman and *Reeves, Todd, Ely & Beaty*, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress 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 Gustave Goldstein, trading as Humania Hair & Specialty Mfg. Co., hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, and states its charges in that respect as follows:

PARAGRAPH 1. The respondent is an individual, trading as Humania Hair & Specialty Mfg. Co., with his principal office and place of business at 10-12 East 23rd Street, New York, N. Y. Respondent is now and for more than two years last past has been engaged in the sale of hair goods, cosmetics, and toilet preparations, and in the distribution thereof in commerce between and among the various States of the United States and the District of Columbia, and causes and has caused said merchandise, when sold, to be transported in interstate commerce from his place of business in the State of New York, to purchasers thereof, some located in said State, and others located in various other States in the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his said business, respondent is now and has been, for more than two years last past, in substantial competition with other corporations and with individuals, partnerships, and firms, engaged in the manufacture, sale, and distribution of hair goods, cosmetics, and toilet preparations, in interstate commerce between and among the various States of the United States and the District of Columbia, used for purposes similar to the purposes for which respondent's merchandise is used.

PAR. 3. In the course and conduct of his said business, as hereinabove described, the respondent, in soliciting the sale of and selling, in interstate commerce, hair goods, cosmetics, and toilet preparations has represented and does now represent, in and by circulars, pamphlets, catalogues, and other advertisements, circulated generally throughout the United States, and by labels attached to respondent's merchandise:

That respondent is a manufacturer of hair and specialty goods;

That respondent is an importer of hair goods;

That some of the wigs advertised and sold by respondent are imported French wigs, made of finest quality soft French hair;

That continued use of respondent's "Requas Ear Oil" will bring relief for deafness;

That respondent's "Magic Shaving Powder" does not affect the growth of hair and does not injure the skin;

That respondent's "LA-EM-STRAIT" and "Madam Walker's Hair Grower" prevent dandruff, falling hair and promote hair growth;

That respondent's "High Brown Hair Grower" is a combination hair grower and straightener;

That respondent's "Black and White Hair Grower" makes harsh, stubborn, nappy hair soft and silky.

That respondent's "High Brown Temple Oil" promotes the growth of hair on the temple;

That respondent's "Herolin" makes kinky, nappy or coarse hair soft, glossy, lustrous, long and straight;

That respondent's "Kongolene" positively straightens the hair;

That respondent's "Madam Walker's Temple Grower" will cause the hair to grow on bald spots;

That respondent's "Apex Pomade" has never failed to grow hair and is positively guaranteed to restore hair;

That respondent's "Moorish Straight Black" will instantly restore white and gray hair to a lustrous jet black and straighten it at the same time;

That respondent's "RO-ZOL FACE BLEACH" is an effective remedy for skin diseases;

That respondent's "High Brown Beauty Ointment", "Golden Brown Beauty Ointment" and "Dr. Ford Palmer's Skin Whitener Ointment" rid the face of blemishes, tetter rash, pimples, liver spots, freckles and blackheads;

That respondent's "Black and White Ointment" is a sure way to get rid of eczema;

That respondent's "Genuine Black and White Bleaching Cream" and "Golden Brown Beauty Ointment" whiten and lighten dark,

Complaint

23 F. T. C.

blotchy skin almost overnight and permit any desired shade to be retained, without injury to the skin, and that other cosmetics and toilet preparations of respondent are efficacious in the restoration and treatment of the hair and skin and are non-injurious to the scalp and skin.

PAR. 4. In truth and in fact, the statements hereinabove in paragraph 3 set forth and respondent's representations in circulars, pamphlets, catalogues and other advertisements in said paragraph 3 specified are, and each of them is, extravagant, false, misleading and deceptive.

The use of respondent's cosmetics and toilet preparations do not have the effects claimed as to either hair or skin.

Respondent is not a manufacturer of hair and specialty goods; and has, and has had, no factory which it owns, leases or controls, but, on the contrary, respondent purchases its merchandise, hereinabove specified, from various manufacturing companies and jobbers;

Respondent is not an importer of hair goods; but, on the contrary, buys and sells only domestic merchandise;

The wigs advertised and sold by respondent are not imported French wigs, nor are they made of finest quality soft French hair;

Continued use of respondent's "Requas Ear Oil" will not bring relief for deafness;

Respondent's "Magic Shaving Powder" does injure the skin;

Respondent's "LA-EM-STRAIT" and "Madam Walker's Hair Grower" do not prevent dandruff, falling hair or promote hair growth;

Respondent's "High Brown Hair Grower" is not a combination hair grower and straightener;

Respondent's "Black and White Hair Grower" does not make harsh, stubborn, nappy hair soft and silky.

Respondent's "High Brown Temple Oil" does not promote the growth of hair on the temple;

Respondent's "Herolin" does not make kinky, nappy or coarse hair soft, glossy, lustrous, long and straight;

Respondent's "Kongolene" does not positively straighten the hair;

Respondent's "Madam Walker's Temple Grower" will not cause the hair to grow on bald spots;

Respondent's "Apex Pomade" has failed to grow hair and to restore hair;

Respondent's "Moorish Straight Black" will not instantly restore white and gray hair to a lustrous jet black or straighten it at the same time;

Complaint

Respondent's "Ro-ZOL FACE BLEACH" is not an effective remedy for skin diseases;

Respondent's "High Brown Beauty Ointment", "Golden Brown Beauty Ointment" and "Dr. Ford Palmer's Skin Whitener Ointment" do not rid the face of blemishes, tetter rash, pimples, liver spots, freckles or blackheads;

Respondent's "Black and White Ointment" is not a sure way to get rid of eczema;

Respondent's "Genuine Black and White Bleaching Cream" and "Golden Brown Beauty Ointment" do not whiten and lighten dark, blotchy skin almost overnight or permit any desired shade to be retained, without injury to the skin; and

Other cosmetics and toilet preparations of respondent are not efficacious in the restoration and treatment of the hair and skin and are injurious to the scalp and skin.

PAR. 5. A substantial portion of the purchasing public prefer to make purchases direct from the manufacturer of the products being purchased, believing that they thereby eliminate from the retail cost of the articles purchased the so-called middleman's profit and that they secure superior quality in dealing direct with the manufacturer rather than a selling agency or middleman.

A substantial portion of the purchasing public have expressed, and actually have, a preference for purchasing articles, such as wigs made from hair, that have been imported from France, believing that wigs and other articles made from hair that are imported from France are of superior quality to those made or manufactured in the United States.

PAR. 6. There are among the competitors of the respondent many who actually manufacture the various hair goods, cosmetics, and toilet preparations sold by them and who truthfully represent themselves to be the manufacturer of said products. Likewise, many of the respondent's competitors do not manufacture the various hair goods, cosmetics, and toilet preparations distributed and sold by them and do not, in any way, represent themselves to be the manufacturers thereof.

Many of the respondent's competitors actually import from France certain articles such as wigs made from hair and truthfully represent that said wigs are imported from France. Likewise, many of respondent's competitors do not import such articles but either manufacture them in the United States or purchase them from those who do manufacture said articles in the United States and do not, in any manner, represent that said articles are imported from France or any other foreign country.

Complaint

23 F. T. C.

Many of respondent's competitors who sell hair goods, cosmetics, and toilet preparations do not, through advertisements or labels or any way whatever, misrepresent the benefits that may be reasonably expected to accrue to the user of the products sold by them and said competitors truthfully advertise and label said products and truthfully represent the benefits that may be reasonably expected to be obtained after a use thereof.

PAR. 7. The use by the respondent of the word "Manufacturing" in his trade name and the use of the various representations set out in paragraph 3 in describing the products sold by him or in designating the efficacy of said products for their intended use, through advertisements, circulars, pamphlets, catalogues, and other advertising literature, in offering for sale and selling the products so advertised, was, and is, calculated to, and had, and now has, the tendency and capacity to, and did, and now does, mislead and deceive a substantial portion of the purchasing public into the erroneous belief: (1) That the respondent owns, operates, and controls a manufacturing plant for the manufacture of the various hair goods, cosmetics and toilet preparations sold by him; (2) that when they purchase products sold by the respondent, they are dealing directly with the factory and are securing for themselves the advantages of closer prices and superior quality as well as eliminating the middleman; (3) that respondent actually imports certain of the hair goods sold by him from France; and (4) that the various products sold by him will actually accomplish the results represented or claimed by the respondent, as set out in paragraph 3 hereof, upon the use of said products by the purchasers thereof. As a direct consequence of these mistaken and erroneous beliefs, induced by the acts, practices, and representations of the respondent, as hereinabove outlined, a substantial number of the purchasing public have purchased a substantial volume of the products sold by the respondent 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 similar products; or in the business of manufacturing, distributing, and selling similar products; or in the business of importing, distributing, and selling similar products, all of which said competitors truthfully advertise and represent the quality, character and nature of their products. As a result thereof, substantial injury has been, and is now being, done by respondent to substantial competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The acts, practices and representations of the respondent hereinabove set forth are all to the injury and prejudice of the pub-

Findings

lic and the competitors of the respondent, in interstate 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."

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 February 18, 1936, issued and served its complaint in this proceeding upon respondent, Gustave Goldstein, charging him 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 answer thereto wherein and whereby he states that he desires to waive hearing on the charges set forth in the complaint, and not to contest the proceeding; that he 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, Gustave Goldstein, trading as Humania Hair & Specialty Mfg. Co., for more than two years last past having his principal office and place of business at 10-12 East 23rd St., New York, N. Y., has been engaged in the sale of hair goods, cosmetics, and toilet preparations, selling his merchandise in many States of the United States. When sold, the respondent mails or ships his merchandise from his place of business in New York City to purchasers located in the said State of New York and some located in various other States.

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

PAR. 3. The respondent, in soliciting the sale of and selling his merchandise in interstate commerce, has represented and does now

Findings

23 F. T. C.

represent in and by pamphlets, catalogues, and other advertisements, circulated generally throughout the United States, and by labels attached to respondent's merchandise:

That respondent is a manufacturer of hair and specialty goods;

That respondent is an importer of hair goods;

That continued use of respondent's "Requas Ear Oil" will bring relief for deafness;

That respondent's "Magic Shaving Powder" does not affect the growth of hair and does not injure the skin;

That respondent's "LA-EM-STRAIT" and "Madam Walker's Hair Grower" prevent dandruff, falling hair and promote hair growth;

That respondent's "High Brown Hair Grower" is a combination hair grower and straightener;

That respondent's "Black and White Hair Grower" makes harsh, stubborn, nappy hair soft and silky.

That respondent's "High Brown Temple Oil" promotes the growth of hair on the temple;

That respondent's "Herolin" makes kinky, nappy or coarse hair soft, glossy, lustrous, long and straight;

That respondent's "Kongolene" positively straightens the hair;

That respondent's "Madam Walker's Temple Grower" will cause the hair to grow on bald spots;

That respondent's "Apex Pomade" has never failed to grow hair and is positively guaranteed to restore hair;

That respondent's "Moorish Straight Black" will instantly restore white and gray hair to a lustrous jet black and straighten it at the same time;

That respondent's "Ro-ZOL FACE BLEACH" is an effective remedy for skin diseases;

That respondent's "High Brown Beauty Ointment", "Golden Brown Beauty Ointment" and "Dr. Ford Palmer's Skin Whitener Ointment" rid the face of blemishes, tetter rash, pimples, liver spots, freckles and blackheads;

That respondent's "Black and White Ointment" is a sure way to get rid of eczema;

That respondent's "Genuine Black and White Bleaching Cream" and "Golden Brown Beauty Ointment" whiten and lighten dark, blotchy skin almost overnight and permit any desired shade to be retained, without injury to the skin, and that other cosmetics and toilet preparations of respondent are efficacious in the restoration and treatment of the hair and skin, and are non-injurious to the scalp and skin.

PAR. 4 Respondent's statements, representations and advertisements by circulars, pamphlets, catalogues, and by labels attached to respondent's merchandise as set forth in paragraph 3 hereof are, and each of them is, not true and are, and each of them is, extravagant, false, misleading, and deceptive, in the following particulars:

The use of respondent's cosmetics and toilet preparations do not have the effects claimed as to either hair or skin.

Respondent is not a manufacturer of hair and specialty goods; and has, and has had, no factory which it owns, leases or controls, but, on the contrary, respondent purchases its merchandise, hereinabove specified, from various manufacturing companies and jobbers;

Respondent is not an importer of hair goods, but does in fact sell some imported hair goods which it buys in this country;

Continued use of respondent's "Requas Ear Oil" will not bring relief for deafness;

Respondent's "Magic Shaving Powder" does injure the skin;

Respondent's "LA-EM-STRAIT" and "Madam Walker's Hair Grower" do not prevent dandruff, falling hair or promote hair growth;

Respondent's "High Brown Hair Grower" is not a combination hair grower and straightener;

Respondent's "Black and White Hair Grower" does not make harsh, stubborn, nappy hair soft and silky;

Respondent's "High Brown Temple Oil" does not promote the growth of hair on the temple;

Respondent's "Herolin" does not make kinky, nappy or coarse hair soft, glossy, lustrous, long and straight;

Respondent's "Kongolene" does not positively straighten the hair;

Respondent's "Madam Walker's Temple Grower" will not cause the hair to grow on bald spots;

Respondent's "Apex Pomade" has failed to grow hair and to restore hair;

Respondent's "Moorish Straight Black" will not instantly restore white and gray hair to a lustrous jet black or straighten it at the same time;

Respondent's "RO-ZOL FACE BLEACH" is not an effective remedy for skin diseases;

Respondent's "High Brown Beauty Ointment," "Golden Brown Beauty Ointment" and "Dr. Ford Palmer's Skin Whitener Ointment" do not rid the face of blemishes, tetter rash, pimples, liver spots, freckles or blackheads;

Respondent's "Black and White Ointment" is not a sure way to get rid of eczema;

Findings

23 F. T. C.

Respondent's "Genuine Black and White Bleaching Cream" and "Golden Brown Beauty Ointment" do not whiten and lighten dark, blotchy skin almost overnight or permit any desired shade to be retained, without injury to the skin; and

Other cosmetics and toilet preparations of respondent are not efficacious in the restoration and treatment of the hair and skin and are injurious to the scalp and skin.

PAR. 5. A substantial portion of the purchasing public prefer to make purchases direct from the manufacturer of the products being purchased, believing that they thereby eliminate from the retail cost of the articles purchased the so-called middleman's profit and that they secure superior quality in dealing direct with the manufacturer rather than a selling agency or middleman.

A substantial portion of the purchasing public has expressed, and actually has, a preference for purchasing articles, such as wigs made from hair, that have been imported from France, believing that wigs and other articles made from hair that are imported from France are of superior quality to those made or manufactured in the United States.

PAR. 6. There are among the competitors of the respondent many who actually manufacture the various hair goods, cosmetics and toilet preparations sold by them and who truthfully represent themselves to be the manufacturer of said products. Likewise, many of the respondent's competitors do not manufacture the various hair goods, cosmetics, and toilet preparations distributed and sold by them and do not, in any way, represent themselves to be the manufacturers thereof.

Many of the respondent's competitors actually import from France certain articles such as wigs made from hair and truthfully represent that said wigs are imported from France. Likewise, many of the respondent's competitors do not import such articles but either manufacture them in the United States or purchase them from those who do manufacture said articles in the United States and do not, in any manner, represent that said articles are imported from France or any other foreign country.

Many of respondent's competitors who sell hair goods, cosmetics, and toilet preparations do not, through advertisements or labels or any way whatever, misrepresent the benefits that may be reasonably expected to accrue to the user of the products sold by them and said competitors truthfully advertise and label said products and truthfully represent the benefits that may be reasonably expected to be obtained after a use thereof.

PAR. 7. The use by the respondent of the word "Manufacturing" in his trade name and the use of the various representations set out in paragraph 3 in describing the products sold by him or in designating the efficacy of said products for their intended use, through advertisements, circulars, pamphlets, catalogues, and other advertising literature, in offering for sale and selling the products so advertised, was, and is, calculated to, and had, and now has, the tendency and capacity to, and did, and now does, mislead and deceive a substantial portion of the purchasing public into the erroneous belief: (1) That the respondent owns, operates, and controls a manufacturing plant for the manufacture of the various hair goods, cosmetics, and toilet preparations sold by him; (2) that when they purchase products sold by the respondent, they are dealing directly with the factory and are securing for themselves the advantages of closer prices and superior quality as well as eliminating the middleman; (3) that respondent actually imports certain of the hair goods sold by him from France; and (4) that the various products sold by him will actually accomplish the results represented or claimed by the respondent, as set out in paragraph 3 hereof, upon the use of said products by the purchasers thereof. As a direct consequence of these mistaken and erroneous beliefs, induced by the acts, practices, and representations of the respondent, as hereinabove outlined, a substantial number of the purchasing public has purchased a substantial volume of the products sold by the respondent 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 similar products; or in the business of manufacturing, distributing, and selling similar products; or in the business of importing, distributing, and selling similar products, all of which said competitors truthfully advertise and represent the quality, character, and nature of their products. As a result thereof, substantial injury has been, and is now being, done by respondent to substantial 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, Gustave Goldstein, trading as Humania Hair & Specialty Mfg. Co., 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

23 F. T. C.

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 he states that he desires to waive hearing on the charges set forth in the complaint; and not to contest the proceeding; that he 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 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, Gustave Goldstein, trading as Humania Hair & Specialty Mfg. Co., his representatives, agents, and employees in connection with the advertising, offering for sale and sale in interstate commerce, or in the District of Columbia, of hair goods, cosmetics, or toilet preparations by pamphlets, catalogues, and other advertisements, or by labels attached to respondent's said merchandise, do forthwith cease and desist from representing:

- (1) That respondent is a manufacturer of hair and specialty goods;
- (2) That respondent is an importer of hair goods;
- (3) That continued use of respondent's "Requas Ear Oil" will bring relief for deafness;
- (4) That respondent's "Magic Shaving Powder" does not effect the growth of hair and does not injure the skin;
- (5) That respondent's "LA-EM-STRAIT" and "Madam Walker's Hair Grower" prevent dandruff, falling hair and promote hair growth;
- (6) That respondent's "High Brown Hair Grower" is a combination hair grower and straightener;
- (7) That respondent's "Black and White Hair Grower" makes harsh, stubborn, nappy hair soft and silky;
- (8) That respondent's "High Brown Temple Oil" promotes the growth of hair on the temple;
- (9) That respondent's "Herolin" makes kinky, nappy or coarse hair soft, glossy, lustrous, long and straight;
- (10) That respondent's "Kongolene" positively straightens the hair;

701

Order

(11) That respondent's "Madam Walker's Temple Grower" will cause the hair to grow on bald spots;

(12) That respondent's "Apex Pomade" has never failed to grow hair and is positively guaranteed to restore hair;

(13) That respondent's "Moorish Straight Black" will instantly restore white and gray hair to a lustrous jet black and straighten it at the same time;

(14) That respondent's "RO-ZOL FACE BLEACH" is an effective remedy for skin diseases;

(15) That respondent's "High Brown Beauty Ointment", "Golden Brown Beauty Ointment" and "Dr. Ford Palmer's Skin Whitener Ointment" rid the face of blemishes, tetter rash, pimples, liver spots, freckles and blackheads;

(16) That respondent's "Black and White Ointment" is a sure way to get rid of eczema;

(17) That respondent's "Genuine Black and White Bleaching Cream" and "Golden Brown Beauty Ointment" whiten and lighten dark, blotchy skin almost overnight and permit any desired shade to be retained, without injury to the skin;

(18) And from making any other similar representations of like import or effect unless and until said representations are true in fact.

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.

IN THE MATTER OF
FRANCES BROWN, DOING BUSINESS AS AMERICAN
BANK MACHINERY COMPANY

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

Docket 2846. Complaint, June 19, 1936—Decision, Nov. 2, 1936

Where an individual engaged in the city of Philadelphia in repairing and rebuilding perforating and check endorsing machines, and in selling and supplying new parts therefor in connection therewith, in competition, among others, with three of the larger manufacturers of such machines, located in Philadelphia and Chicago, and the products of which had been widely sold and were in use by banks and others in various States, and which companies, in addition to manufacture and sale of their said products, also engaged in repairing and rebuilding all makes of such machines, and in connection therewith in installing and supplying new parts therefor—

- (a) Falsely represented, through salesmen or solicitors employed to solicit such work and the sale and supplying of new parts in connection therewith, and acting within the scope of their employment, that said individual represented one or the other of the two Chicago manufacturers and did all the repair work for one or the other, as the case might be, or that said two Chicago companies were out of business, and that one of said companies and said individual business were one and the same; facts being said individual was not in any manner directly or indirectly affiliated, or otherwise connected with, company in question, and said statements or representations were also otherwise false; and
- (b) Represented, as aforesaid, that it made and repaired the machines that were sold by said Philadelphia manufacturer, and that said individual was a member of the National Association of Manufacturers of the United States of America, and through letterheads had places of business in Chicago, Atlanta, and Philadelphia, and thereby imported and implied to the owners of such machines and to the general public that said individual owned, operated, maintained, and controlled a business of such proportion that it was necessary to have places of business as there set out; facts being said individual did not make machines sold by said Philadelphia company, and had only mailing addresses at Chicago and Atlanta locations, from which mail was sent and forwarded to said individual's sole and only place of business in Philadelphia;

With capacity and tendency to mislead and deceive owners of old machines in need of repair or new parts, and induce such owners to deliver the machines to said individual for such purposes, in the erroneous belief that said various statements, etc. were true, and particularly on account of their natural preference for dealing only with either the manufacturer or with any other large concern duly authorized by the manufacturer to do such repairing and rebuilding work; and with result that trade was unfairly diverted thereby to said individual from competitors, including said manufacturers who in nowise make such false and misleading statements and representations, but truthfully represent their status as manu-