

IN THE MATTER OF
GOLDEN PEACOCK, INC.

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

Docket 3156. Complaint, June 18, 1937—Decision, Feb. 16, 1938

Where a corporation engaged in sale and distribution of its "Golden Peacock Bleach Cream" and "Miracream" facial preparations for bleaching and removing, as asserted, blemishes and disorders of the skin, to purchasers in other States and in District of Columbia, in substantial competition with those engaged in offering and selling in commerce, as aforesaid, compounds or preparations for use in treatment of some ailments, disorders, and conditions of the skin for which it recommended its aforesaid preparations, and including many who sell and distribute in commerce similar preparations without misrepresenting the properties or therapeutic efficacy thereof—

- (a) Represented, in radio broadcasts and advertisements in newspapers and periodicals of interstate circulation, that its said "Peacock" cream constituted an amazing new discovery, in the perfection of which 10 years was spent and in the development of which 30 eminent doctors and skin specialists worked, and that it contained costly refined ingredients from Spain and France which acted in a peculiar way on the outside layer of the skin and completely revitalized it and changed it in color and texture, and that no ordinary cream or lotion could bleach skin white and keep it white; and
- (b) Represented, as aforesaid, that said creams, as the case might be, were new and different, and would remove freckles, blotches, tan, and blackheads, and every slight blotch, and result in the coming, in place thereof, of alluring alabaster clearness and a skin like ivory, flawless and soft, and bring out the clear look of youth;

Facts being said products did not contain refined ingredients which would revitalize the skin and change its color and texture as above set forth, were not new discoveries or developed as aforesaid, would not produce an ivory or soft and flawless skin or remove, under all conditions and in all cases, blotches, freckles, tan, deep-seated discolorations, etc., over night, or in any period of time, irrespective of the cause of the imperfections or conditions, and would not nourish, revitalize or rejuvenate the skin, and had not been indorsed by leading medical authorities;

With capacity and tendency to confuse, mislead, and deceive members of the public into the mistaken and erroneous belief that its aforesaid preparations were different from other creams or ointments offered in commerce, and were perfected by eminent doctors and skin specialists during a period of years, and that they had been indorsed by leading medical authorities and beauty specialists, and had the property to nourish and rejuvenate the skin and were active, effective treatments for all discolorations, blotches, and disorders and skin blemishes, no matter from what cause, and to induce members of the purchasing public to buy and use said preparations because of the erroneous and mistaken beliefs engendered as aforesaid, and unfairly to divert trade to it from its competitors, to their substantial injury:

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Carrel F. Rhodes and *Mr. DeWitt T. Puckett* for the Commission.

Mr. Richard H. Rhodes, of Paris, Tenn., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that Golden Peacock, Inc., a corporation, hereinafter referred to as respondent, has been, and now is, 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 thereto would be to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Golden Peacock, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with its factory and principal place of business located at Paris, in said State. Said respondent corporation is now, and for more than 1 year last past has been, engaged in advertising, selling, and distributing toilet preparations including several designated as "Golden Peacock Bleach Cream" and "Miracream." It now causes, and for more than 1 year last past has caused, said preparations, when sold, to be shipped from its place of business in Paris, Tenn., to the purchasers thereof, some located in the State of Tennessee, and others located in various other States of the United States and in the District of Columbia.

Respondent is now, and for more than 1 year last past has been, in substantial competition with other corporations and with persons, firms, and partnerships engaged in the sale of facial creams and other preparations similar to those sold by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, in soliciting the sale, and selling, its preparations designated as "Golden Peacock Bleach Cream" and "Miracream," respondent now represents, and for more than 1 year last past has represented, in radio broadcasts having an interstate circulation, in letters, pamphlets, newspapers, magazines, circulars, wrappers, and other forms of advertising media, as follows:

An amazing new discovery. It is called "Golden Peacock Bleach Cream" and marks one of the most important skin discoveries in years. Ten years were

Complaint

26 F. T. C.

spent in perfecting it. Some thirty eminent doctors and skin specialists worked in its development.

It contains costly refined ingredients from Spain and France which act in a peculiar way on the outer layer of the skin—completely revitalizing it and changing it in color and texture to a child-like whiteness and texture.

But no ordinary cream or lotion * * * can bleach skin white and keep it white. You must use for this purpose a genuine bleach cream—Golden Peacock.

Smooth it on your skin tonight. Next morning notice how muddy sallowness has given way to unblemished whiteness * * * all imperfections that rob your true loveliness vanish too.

Give us 1 night to prove its effect; see freckles fade, blotches, tan, blackheads go.

Here's a chance to see this miracle of an ivory skin *almost over night* worked on your own face.

Do you want to see every freckle disappear from your face; every slight blotch leave; and in their place see alluring alabaster clearness come? A skin like ivory; flawless and soft.

Bring out * * * clear look of youth.

It's new! It's different! Just spread a little Miracream over your face and neck. It disappears into your skin like "magic", where it does its work fast and sure instead of staying on top like old-time sticky night bleaches that look messy and untidy * * * at night; after washing your face, your skin will be at least one shade lighter. Within 5 days you'll be tickled with the lovely white beauty Miracream gives you.

PAR. 3. In truth and in fact, the toilet preparations "Golden Peacock Bleach Cream" and "Miracream" do not contain costly refined ingredients imported from France and Spain which revitalize the skin and change its color and texture to a childlike whiteness and texture. Said preparations are not new discoveries developed after years of experimentation by eminent doctors and skin specialists. The use of said preparations will not produce or cause an ivory skin and will not make skin soft and flawless. The use of said preparations will not remove blotches, freckles, tan, pimples, liver spots, sallowness, deep-seated discolorations, imperfections, and blemishes overnight or in any other period of time and said preparations are not competent and effective treatments for the above-named conditions of the skin. Said preparations have not been endorsed by leading medical authorities and beauty specialists. Said products will not bleach skin white in all cases and will not keep skin white in all cases. Neither of said products nourishes, revitalizes, or rejuvenates the skin.

PAR. 4. The representations of respondent, as aforesaid, are false and grossly exaggerated, and have had, and do have, the capacity and tendency to confuse, mislead, and deceive members of the public into the mistaken and erroneous beliefs that respondent's products designated "Golden Peacock Bleach Cream" and "Miracream" are

different from other creams or ointments in existence and were perfected by eminent doctors and skin specialists during a period of years; that the preparations have been endorsed by leading medical authorities and beauty specialists; that said preparations have the property to nourish and rejuvenate the skin; and are effective treatments for all discolorations, blotches, skin disorders, skin defects, sallowness, liver spots, and skin blemishes, no matter from what caused. The said representations of respondent have had, and do have, the tendency and capacity to induce members of the public to buy and use said preparations because of the erroneous beliefs engendered as above set forth, and to divert trade unfairly to respondent from competitors engaged in the sale of face creams and cosmetics similar to the preparations sold by respondent in commerce among and between the various States of the United States.

There are among the competitors of respondent, many who sell and distribute in commerce similar face creams and preparations who do not misrepresent the properties or qualities or therapeutic virtues, functions, uses, or effects of their said competing products.

PAR. 5. The above alleged acts and practices of the respondent are all to the prejudice and injury of the public and the 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."

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 18th day of June 1937, issued, and on the 21st day of June 1937, served its complaint in this proceeding upon the respondent, Golden Peacock, Inc., charging it with the use of unfair competition in commerce in violation of said act. After the issuance of said complaint, and filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by DeWitt T. Puckett, attorney for the Commission, before Robert S. Hall an examiner of the Commission theretofore duly designated by it, no testimony or other evidence being introduced by Richard H. Rhodes attorney for the respondent; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came

on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence in support of the allegations of the complaint, brief of counsel for the Commission, no brief having been filed by the respondent or oral argument having been heard; 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 this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Golden Peacock, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee with its factory and principal place of business located at Paris in said State. Respondent is now, and since 1928 has been, engaged in selling and distributing in commerce toilet preparations including facial creams designated as "Golden Peacock Bleach Cream" and "Miracream" designed and represented by respondent for the alleged purpose of bleaching and removing blemishes and disorders of the human skin.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, respondent causes the said products, when sold, to be transported from its place of business in Paris, Tenn., to the purchasers thereof located at various points in the several States of the United States other than the State of Tennessee and in the District of Columbia.

Respondent is now, and has been since 1928, engaged in substantial competition with other corporations and with firms, partnerships, and individuals, engaged in offering for sale and selling in commerce between and among the several States of the United States and in the District of Columbia compounds or preparations for use in the treatment of ailments, disorders, and conditions of the skin for which the respondent recommends and sells its preparations.

Respondent sells its said products, "Golden Peacock Bleach Cream" and "Miracream" direct to the ultimate consumers and to the general public and to druggists who sell to the trade.

PAR. 3. In the course and conduct of its said business as described in paragraphs 1 and 2 hereof, in soliciting trade and selling its preparations designated as "Golden Peacock Bleach Cream" and "Miracream," respondent represented in radio broadcasts and in advertisements in newspapers and magazines having an interstate circulation as follows:

An amazing new discovery. It is called "Golden Peacock Bleach Cream" and marks one of the most important skin discoveries in years. Ten years

were spent in perfecting it. Some thirty eminent doctors and skin specialists worked in its development.

It contains costly refined ingredients from Spain and France which act in a peculiar way on the outer layer of the skin—completely revitalizing it and changing it in color and texture.

But no ordinary cream or lotion * * * can bleach skin white and keep it white. You must use for this purpose a genuine bleach cream—Golden Peacock.

Smooth it on your skin tonight. Next morning notice how muddy sallowness has given way to unblemished whiteness * * * all imperfections that rob your true loveliness vanish too.

Give us 1 night to prove its effect; see freckles fade, blotches, tan, black-heads go.

Here's a chance to see this miracle of an Ivory skin *almost over night* worked on your own face.

Do you want to see every freckle disappear from your face; every slight blotch leave; and in their place see alluring alabaster clearness come? A skin like Ivory; flawless and soft.

Bring out * * * clear look of youth.

It's new! It's different! Just spread a little Miracream over your face and neck. It disappears into your skin like "Magic", where it does its work fast and sure instead of staying on top like old time sticky night bleaches that look messy and untidy * * * at night; after washing your face, your skin will be at least one shade lighter. Within 5 days you'll be tickled with the lovely white beauty Miracream gives you.

PAR. 4. In truth and in fact the said toilet preparations, "Golden Peacock Bleach Cream" and "Miracream" set out and described in paragraphs 2 and 3 hereof, do not contain refined ingredients which revitalize the skin and change its color and texture to a child-like whiteness and texture. Said preparations are not new discoveries developed after years of experimentation by eminent doctors and skin specialists. The use of said preparations will not produce or cause an ivory skin and will not make skin soft and flawless. The use of said preparations will not remove under all conditions and in all cases blotches, freckles, tan, pimples, liver spots, sallowness, deep-seated discolorations, imperfections, and blemishes over night or in any period of time irrespective of the cause of said imperfections or conditions. Said preparations are not competent and effective treatments for the above-named conditions of the skin in all cases or under all circumstances or under all conditions. Said preparations have not been endorsed by leading medical authorities. Said preparations will not bleach the skin white in all cases and will not keep it white in all cases. Said preparations will not nourish, revitalize, or rejuvenate the skin.

PAR. 5. The representations of respondent set out and described in paragraph 3 hereof are false and grossly exaggerated and have had and do have the capacity and tendency to confuse, mislead and

deceive members of the public into the mistaken and erroneous beliefs that respondent's preparations designated "Golden Peacock Bleach Cream" and "Miracream" are different from other creams or ointments offered for sale in commerce and were perfected by eminent doctors and skin specialists during a period of years; that the preparations have been endorsed by leading medical authorities and beauty specialists; that said preparations have the property to nourish and rejuvenate the skin and are active, effective treatments for all discolorations, blotches, disorders, skin defects, sallowness, liver spots, and skin blemishes no matter from what cause.

PAR. 6. There are among the competitors of respondent many corporations, partnerships, and persons who sell and distribute in commerce face creams and preparations similar to "Golden Peacock Bleach Cream" and "Miracream" and other preparations sold by respondent, who do not misrepresent the properties or therapeutic efficacy of their products.

PAR. 7. The above described acts and practices of the respondent have had and do have the tendency and capacity to induce members of the purchasing public to buy and use said preparations because of the erroneous and mistaken beliefs engendered as above set out; and the tendency and capacity unfairly to divert trade to the respondent from its competitors in said commerce. Thereby, substantial injury has been, and is, being done by the respondent to competitors in commerce between and among the several States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, Golden Peacock, Inc., are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony, other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said 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, Golden Peacock, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of its toilet preparations "Golden Peacock Bleach Cream" and "Miracream," or any other preparations composed of substantially the same ingredients as said preparations, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing:

1. That the use of said preparations or any of them:

- (a) Will nourish, revitalize, and rejuvenate the skin;
- (b) Will produce or cause a soft, flawless, ivory skin;
- (c) Will bleach the skin white and keep it white;
- (d) Will remove blotches, freckles, tan, pimples, liver spots, sallowness, deepseated discolorations, and imperfections from the skin.

2. That said preparations or any of them:

- (a) Contain refined ingredients which revitalize the skin and change its color and texture to a child-like whiteness and texture;
- (b) Are new discoveries, or that they, or any of them, were or are preparations developed after years of experimentation by eminent doctors and skin specialists;
- (c) Have been endorsed by leading medical authorities.

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
ABRAHAM SOHN AND BENJAMIN SOHN, DOING BUSI-
NESS AS SOHN BROS.

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

Docket 3199. Complaint, Aug. 10, 1937—Decision Feb. 16, 1938

Where two individuals engaged in the manufacture of mattresses made by them with new covers or "sheeting" or "drilling," and from cotton filling from old mattresses secured from dealers in such products, and in the sale of such mattresses, with their new covers and with appearance of new products made from materials which had never been used, to retailers at prices much lower than those of the necessarily much more costly new products with all new material, and, as thus engaged, in substantial competition with others engaged in manufacture and sale of mattresses—

Sold, as aforesaid, their new-appearing products with no labels, markings, or designations thereon, or in connection therewith, to indicate that they were in fact made from old, used, discarded, and second-hand mattresses, to retailers for resale to public without disclosure by latter of aforesaid facts;

With tendency and capacity to mislead and deceive many retailers and substantial portion of purchasing public into erroneous belief that said mattresses, made as aforesaid, were new products made from new materials, and with result, as direct consequence of such mistaken and erroneous belief, that number of the consuming public purchased considerable volume of their said products and trade was unfairly diverted to them from competitors engaged in manufacture and sale of new mattresses in commerce throughout the various States; 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.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. George Foulkes for the Commission.

Mr. Charles Cohn and *Mr. Harold N. Blitstein*, of Chicago, Ill., 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 Abraham Sohn, an individual, and Benjamin Sohn, an individual, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows: