

IN THE MATTER OF
TEOLINDA MAHLER, TRADING AS D. J. MAHLER
COMPANY

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

Docket 3390. Complaint, Apr. 26, 1938—Decision, June 28, 1938

Where an individual engaged in the sale and distribution of electrolysis machines for use in removal of superfluous hair and other facial and body blemishes, such as freckles, warts, moles, and birthmarks, and in sale and distribution of a certain dental cream—

- (a) Represented and implied that said electrolysis apparatus could be used with safety in the home by any inexperienced purchaser for the permanent removal of superfluous hair, dark freckles, and other blemishes of the skin, through such statements as “* * * you can remove and destroy permanently coarse and deep-seated hair * * * also dark freckles, by following simple instructions,” “Remove the hair permanently, safely, privately, at home, following simple instructions,” “No experience is required,” “* * * I am satisfied that I have succeeded in perfecting an electrical appliance that will be safe in the hands of inexperienced people, for permanently destroying superfluous hair”; facts being use of said apparatus by an inexperienced operator in the removal of such hair, dark freckles, and other blemishes was dangerous and might result in permanent injury to or disfigurement of the user;
- (b) Represented that by use of aforesaid dental cream purchaser could prevent or cure pyorrhea and receding gums and prevent loss of teeth, through describing it as “a new type toothpaste created and based on modern research that has taken years to perfect,” and that “By using Phyllis Maybelle Dental Cream and seeing your dentist every six months, you will never be troubled with Pyorrhea, receding gums or losing your teeth”; facts being use thereof would not prevent nor cure pyorrhea, receding gums, or prevent loss of teeth through decay arising from systemic causes;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that said representations were true and that said apparatus could be used with safety in the home by any inexperienced operator in the removal of superfluous hair, etc., and that use of said cream would prevent or cure pyorrhea, etc., and of causing many members of the purchasing public, because of such erroneous belief, to buy its said products, and of diverting unfairly thereby substantial trade to it from its competitors, to their injury and that of the public:

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

Mr. Wm. T. Chantland for the Commission.

Complaint

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission having reason to believe that Teolinda Mahler, an individual trading as D. J. Mahler Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to 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. Respondent, Teolinda Mahler, is an individual trading under the name D. J. Mahler Co., with her office and principal place of business at 3124 Pawtuckett Avenue, East Providence, R. I. Respondent is now and for some time past has been engaged in the business of selling and distributing electrolysis machines for use in the removal of superfluous hair and other facial and body blemishes, such as freckles, warts, moles, and birthmarks. These said machines are sometimes referred to as the Mahler Apparatus. Respondent is also engaged in the sale and distribution of a dental cream known as "Phyllis Maybelle Dental Cream." Respondent causes said products, when sold, to be transported from her place of business in the State of Rhode Island to the purchasers thereof located at various points in the several States of the United States, other than Rhode Island and in the District of Columbia. Respondent has, during all the times herein mentioned, maintained a constant current of trade in commerce between and among the several States of the United States and in the District of Columbia in said products.

PAR. 2. In the course and conduct of her business, respondent is now and has been for some time past, engaged in substantial competition with various other persons and with corporations, firms, and partnerships engaged in offering for sale and selling electrolysis apparatus for use in the removal of superfluous hair and other facial and body blemishes such as freckles, warts, moles, and birthmarks, and in offering for sale and selling dental creams in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of respondent's business in said commerce as aforesaid, and to induce the purchase of said products, respondent has for some time last past and is now advertising said products in periodicals and magazines and through the distribution of pamphlets, leaflets, and other printed matter. Among

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others, the following statements concerning the use and efficacy of said products appear in said advertisements:

With the Mahler apparatus, you can remove and destroy permanently coarse and deep-seated hair that has been pulled or shaved for years, stiff hair growing out of moles, etc., also dark freckles, by following simple instructions.

Remove the hair permanently, safely, privately, at home, following simple instructions.

Remove superfluous hair—easily, safely—PERMANENTLY—in the privacy of your own home, following simple directions.

No Experience is Required.

No appliance for home use had ever been on the market previous to the perfection of the Mahler Apparatus by Daniel J. Mahler. As he quoted, "After several years of experimenting, I am satisfied that I have succeeded in perfecting an electrical appliance that will be safe in the hands of inexperienced people for permanently destroying superfluous hair."

Destroy hair permanently with ease and safety in your own home. Simply follow instructions.

The Mahler Apparatus contains its own electricity and does not need any house current. It is now possible for you to remove your blemish in the privacy of your own home for one-tenth to one-twentieth of the price you would have to pay a dermatologist. It has been constructed as simply as possible, yet it will destroy the thickest and coarsest growth of hair, as well as a fine growth. Anyone can use the apparatus with ease and safety by following simple instructions. It is the recognized standard method of electrolysis, simplified for home use.

Pioneers as hair removing specialists, the D. J. Mahler Co. is now known throughout the world as offering the safe and proven method of enabling women and men to remove superfluous hair *permanently* in the privacy of their own homes by following the simple directions.

To Destroy Freckles

Insert needle perpendicularly into the center of each freckle beneath the skin, place your hand on the spongio for about twenty seconds, allow decomposition of tissue, thus forcing coloring matter out. Apply an antiseptic after each operation.

Phyllis Maybelle Dental Cream is a new type Toothpaste created and based on modern research that has taken years to perfect. By using Phyllis Maybelle Dental Cream and seeing your Dentist every six months, you will never be troubled with Pyorrhea, receding gums and losing your teeth.

By the means and in the manner aforesaid, the respondent represents and implies that said electrolysis apparatus sold and distributed by her can be used with safety in the home by any inexperienced purchaser for the permanent removal of superfluous hair, dark freckles and other blemishes of the skin, and that through the use of the dental cream sold and distributed by the respondent the purchaser can prevent or cure pyorrhea and receding gums and prevent the loss of teeth. Respondent's representations and implications as to the safety with which her said electrolysis apparatus may be used by inexperienced persons in the removal of superfluous hair, dark

freckles, and other blemishes of the skin are grossly exaggerated and false, for in truth and in fact the use of said electrolysis apparatus by an inexperienced operator in the removal of superfluous hair, dark freckles, and other blemishes of the skin is dangerous and may result in permanent injury to, or disfiguration of, the user. The use of respondent's said dental cream will not prevent or cure pyorrhea, receding gums or prevent the loss of teeth through decay arising from systemic causes.

PAR. 4. Among the competitors of the respondent, described in paragraph 2 hereof, are many who do not misrepresent their products.

PAR. 5. The acts and practices of the respondent in the course and conduct of her business in said commerce as aforesaid have a tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations are true and that said electrolysis apparatus can be used with safety in the home by any inexperienced operator in the removal of superfluous hair, dark freckles, and other blemishes of the skin, and that the use of said dental cream will prevent or cure pyorrhea and receding gums and prevent the loss of teeth through decay; and cause many members of the purchasing public because of said erroneous beliefs to purchase respondent's said products. As a result thereof substantial trade in said commerce has been unfairly diverted to the respondent from respondent's competitors in said commerce who do not misrepresent their products, to the injury of said competitors and to the injury of the public.

PAR. 6. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice of the public and the respondent's competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 26th day of April 1938, issued, and on the 28th day of April 1938, served, its complaint in this proceeding upon Teolinda Mahler, an individual trading as D. J. Mahler Co., charging her with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance and service of said complaint, respondent filed an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which answer was duly filed in the office of the Commission.

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Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer (briefs were not filed or oral argument 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, Teolinda Mahler, is an individual trading under the name D. J. Mahler Co., with her office and principal place of business at 3124 Pawtucket Avenue, East Providence, R. I. Respondent is now and for some time past has been engaged in the business of selling and distributing electrolysis machines for use in the removal of superfluous hair and other facial and body blemishes such as freckles, warts, moles, and birthmarks. These machines are sometimes referred to as the Mahler Apparatus. Respondent is also engaged in the sale and distribution of a dental cream known as "Phyllis Maybelle Dental Cream." Respondent causes said products, when sold, to be transported from her place of business in the State of Rhode Island to the purchasers thereof located at various points in the several States of the United States, other than Rhode Island and in the District of Columbia.

PAR. 2. In the course and conduct of her business, respondent is, and has been for some time past, engaged in substantial competition with various other persons and with corporations, firms, and partnerships engaged in offering for sale and selling electrolysis apparatus for use in the removal of superfluous hair and other facial and body blemishes such a freckles, warts, moles, and birthmarks, and in offering for sale and selling dental creams in commerce between and among the various States of the United States and in the District of Columbia. Among these competitors in said commerce are many who do not misrepresent their products.

PAR. 3. In the course and conduct of respondent's business in said commerce as aforesaid, and to induce the purchase of said products, respondent has for some time last past and is now advertising said products in periodicals and magazines and through the distribution of pamphlets, leaflets, and other printed matter. Among others, the following statements concerning the use and efficacy of said products appear in said advertisements:

With the Mahler apparatus, you can remove and destroy permanently coarse and deep-seated hair that has been pulled or shaved for years, stiff hair growing out of moles, etc., also dark freckles, by following simple instructions.

Remove the hair permanently, safely, privately, at home, following simple instructions.

Remove superfluous hair—easily, safely—Permanently—in the privacy of your own home, following simple directions.

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Pioneers as hair removing specialists, the D. J. Mahler Co. is now known throughout the world as offering the safe and proven method of enabling women and men to remove superfluous hair *permanently* in the privacy of their own homes by following the simple directions.

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Phyllis Maybelle Dental Cream is a new type Toothpaste created and based on modern research that has taken years to perfect. By using Phyllis Maybelle Dental Cream and seeing your Dentist every six months, you will never be troubled with Pyorrhea, receding gums and losing your teeth.

PAR. 4. By the means and in the manner aforesaid, the respondent represents and implies that said electrolysis apparatus sold and distributed by her can be used with safety in the home by any inexperienced purchaser for the permanent removal of superfluous hair, dark freckles, and other blemishes of the skin, and that through the use of the dental cream sold and distributed by the respondent the purchaser can prevent or cure pyorrhea and receding gums and prevent the loss of teeth. Respondent's representations and implications as to the safety with which her said electrolysis apparatus may be used by inexperienced persons in the removal of superfluous hair, dark freckles, and other blemishes of the skin are grossly exaggerated and false, for in truth and in fact the use of said electrolysis apparatus by an inexperienced operator in the removal of superfluous hair, dark freckles, and other blemishes of the skin is dangerous and may result in permanent injury to, or disfiguration of, the user. The use

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of respondent's said dental cream will not prevent or cure pyorrhea, receding gums, or prevent the loss of teeth through decay arising from systemic causes.

PAR. 5. The acts and practices of respondent in the course and conduct of her business in said commerce, as above set out, have a tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations are true and that said electrolysis apparatus can be used with safety in the home by any inexperienced operator in the removal of superfluous hair, dark freckles, and other blemishes of the skin, and that the use of said dental cream will prevent or cure pyorrhea and receding gums and prevent the loss of teeth; and cause many members of the purchasing public, because of said erroneous beliefs, to purchase respondent's said products. As a result thereof substantial trade in said commerce has been diverted unfairly to the respondent from respondent's competitors in said commerce to the injury of said competitors and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of the respondent are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that she waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon her findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Teolinda Mahler, an individual, whether trading as D. J. Mahler Co. or under some other trade name, her representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of electrolysis machines for use in the removal of superfluous hair and other facial and body blemishes, sometimes referred to as the "Mahler Apparatus," whether

sold under the name "Mahler Apparatus" or any other name, and in connection with the offering for sale, sale, and distribution of the dental cream now known and described as "Phyllis Maybelle Dental Cream," or any other dental cream composed of substantially the same ingredients or possessing similar properties, under whatever name sold, in interstate commerce and in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

1. That said electrolysis machines can be used with safety by inexperienced operators for the removal of superfluous hair, dark freckles, or other blemishes of the skin;

2. That the use of said dental cream will prevent or cure pyorrhea or receding gums;

3. That the use of said dental cream will prevent the loss of teeth, unless said representation is limited to those cases not arising from or associated with systemic causes.

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

IN THE MATTER OF
GOLDEN PEACOCK, INC.

MODIFYING CEASE AND DESIST ORDER

Docket 3156. Order, June 29, 1938

Order modifying cease and desist order entered against aforesaid respondent in Docket 3156, on February 12, 1938, 26 F. T. C. 752, prohibiting certain misrepresentations by said respondent, its officers, etc., in connection with offer, sale, and distribution of its toilet preparations, "Golden Peacock Bleach Cream" and "Miracream," or other similar preparations, as hereinbelow set forth.

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

Mr. Carrel F. Rhodes for the Commission.

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

ORDER

This proceeding having been heard by the Federal Trade Commission upon the request of respondent to modify the order to cease and desist issued herein on February 16, 1938, and the Commission having duly considered said request and the record herein, and being now fully advised in the premises;

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, or 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 liver spots, sallowness, deep-seated discolorations;

(e) Will remove blotches, freckles, tan, pimples, and imperfections from the skin unless such representations are specifically restricted to such conditions when external in character and located in the outer layer of the skin and when not associated with any systemic disorder or cause.