

IN THE MATTER OF
DEARBORN SUPPLY COMPANY

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

Docket 3593. Complaint, Sept. 17, 1938—Decision, Aug. 15, 1939

Where a corporation engaged in manufacture, sale, and distribution of line of cosmetics under various names, and including its "Mercolized Wax," "Parker-Belmont Beauty Cream," "Powdered Saxolite," "Powdered Tarkroot," and "Phelactine," to purchasers in other States and in the District of Columbia, in active and substantial competition with others likewise engaged in sale and distribution of cosmetics in commerce as aforesaid; in advertising its said products through circulars and folders distributed to prospective purchasers thereof in various States and through magazines of general circulation—

- (a) Represented, directly and by inference, that its said "Mercolized Wax" absorbed surface skin and surface discolorations, blemishes, and impurities, and removed all coarseness, blackheads, tan, etc., therefrom, and cleansed, softened, bleached, lubricated, and protected the skin, nourishing it and helping it renew itself, and constituted natural way to make it beautiful, and all-in-one cleansing, softening, and beautifying cream and all-purpose beauty aid, facts being said "Mercolized Wax" did not absorb surface skin or surface discolorations, etc., remove coarseness, blackheads, etc., or cleanse and otherwise affect the skin and accomplish the results above set out and claimed, and did not constitute an all-in-one cream or all-purpose beauty aid as above described, but, by virtue of amount of ammoniated mercury contained therein, possessed bleaching qualities and constituted skin bleach which, as below set forth, might be injurious;
- (b) Failed to reveal, in advertisements which it thus disseminated, and which were intended and calculated to induce purchase of its said products, that said "Mercolized Wax" contained ammoniated mercury as aforesaid, and that said preparation could not be used safely by all persons and might be injurious when used by some, due to said content, and might cause injurious effects when applied to cut, bruised, irritated, or damaged skin or to large area of the body;
- (c) Represented that its said "Parker-Belmont Beauty Cream" was a skillful scientific blend of creams for pore-deep cleansing, clearing, softening, lubricating, and all-around beautifying of the skin, and an oxygen cream which bleached skin, making it lighter by two or three shades, and a blend of all creams required by skin, and which normalized either dry or oily skin, facts being it was not a skillful or scientific blend of creams or efficacious for pore-deep cleansing or for other results above set forth, and was not an oxygen cream or blend as above claimed, and would not accomplish other results above represented;
- (d) Represented that its said "Saxolite Astringent" was a skin tonic which smoothed out wrinkles and age lines, refined coarse pores, eliminated oils and gave skin fresh, clean, lively appearance, facts being it would not accomplish results aforesaid and was not skin tonic;

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- (e) Represented that its said "Powdered Tarkroot," used as a "beauty mask," would revive and refresh fatigued and drooping face more quickly or completely than other products for similar usage, and that it smoothed out wrinkles and lines, pulled relaxed and sagging contours into proper position, and purged pores of all impurities, so as to nourish drooping tissues, and beautified the skin by tightening, purifying, and stimulating it, and renewed complexion, facts being it would not function as above set forth or accomplish such results; and
- (f) Represented that its said "Phelactine" depilatory was different from and quicker and simpler to use than other hair removers, and removed superfluous hair gently and that use thereof caused skin to be smooth, soft, and hair free, facts being its said preparation was no different from any number of hair removers on the market, and no quicker or simpler to use, did not remove superfluous hair gently nor leave skin smooth, etc., as above claimed;

With effect of causing members of purchasing public to have erroneous and mistaken belief that said statements and representations were true, and to purchase substantial quantity of its said products because of such belief, and of thereby diverting trade in commerce unfairly to it from many competitors who distribute and sell cosmetics in commerce and do not in any manner misrepresent the quality or character of their respective products or effectiveness thereof:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. C. S. Cox for the Commission.

Mr. John Walsh, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that the Dearborn Supply Co., a corporation, hereinafter referred to as respondent, has violated the provisions of the 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, Dearborn Supply Co., is a corporation, created and existing under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 2350 Clybourn Avenue, Chicago, Ill.

PAR. 2. Respondent is now and for more than 12 years last past has been engaged in the business of compounding, distributing, and selling a line of cosmetics under various names, some of which are: "Merco-

lized Wax," "Parker-Belmont Beauty Cream," "Powdered Saxolite," "Powdered Tarkroot," and "Phelactine." Respondent causes said products, when sold, to be transported from its place of business in the State of Illinois to its customers located in other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said cosmetics 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 its business respondent is in active and substantial competition with other corporations and with partnerships and individuals engaged in the sale and distribution of cosmetics in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of said business, and for the purpose of inducing the purchase of said cosmetics, respondent, by means of advertising circulars and folders, and by means of advertisements inserted in magazines and newspapers, circulated generally throughout the United States, has made many statements and representations concerning the character and nature of said cosmetics and concerning the results obtained from their use. By the means and in the manner aforesaid, the respondent makes, among others, statements concerning its products as hereinafter set forth:

(a) Among, and typical of, the representations made by respondent concerning its product "Mercolized Wax" are the following:

Pure Mercolized Wax.

Pure Mercolized Wax Beautifies the Skin. Bleaches—Cleanses—Nourishes, Softens and Protects.

You will find only Mercolized Wax * * * actually absorbs the discolored outer scales in tiny flake-like particles clearing away the grimy, dirt-laden surface skin.

Free your skin of blemishes and all discolorations that mar its natural loveliness with our Mercolized Wax.

Mercolized Wax brings to you a simple, natural way of beautifying the skin and keeping it young. * * * contains active ingredients that actually absorb the surface skin with all its discolorations and blemishes. * * * Gradually you will notice the new clearness and smoothness of your skin. Soon the entire discolored outer layer of skin will have disappeared and fresh underskin which forms your new complexion appears soft, white and youthfully beautiful. Mercolized Wax brings out the hidden beauty in your skin.

There is only one way to completely beautify a discolored blemished complexion and that one way is to take off the worn-out surface skin by absorbing it with pure Mercolized Wax.

Coarseness, roughness and other blemishes that rob the skin of youthful beauty are dissolved with the surface skin.

Mercolized Wax will convert a faded, worn-out, or discolored complexion into one of captivating loveliness.

It * * * lubricates * * *.

It clears away freckles, tan, oiliness, sunburn or any other blemishes.

Invisible particles of aged skin are freed and all defects such as blackheads, tan, freckles and large pores disappear.

Make yours a beautiful skin with Mercolized Wax Cream.

Is your skin clear, smooth and young looking? It Should be and it Can be.

* * * Eagerly and deftly Mercolized Wax Cream goes about its task of flaking off, superficially discolored outer layer of skin, revealing the young, fresh looking underskin. It really helps the skin to renew itself. Your skin emerges from a series of Mercolized Wax Cream applications looking more like its radiant, natural, beautiful self than it has looked in many a day. * * *

Complete renovation of the complexion in from one to three weeks should result from following the above instructions closely.

Mercolized Wax Cream keeps your skin young looking. * * * This simple all-in-one cleansing, softening and beautifying cream has been a favorite for over a quarter of a century with lovely women the world over.

This simple all-purpose beauty aid is the only cream necessary for the proper care of your skin.

(b) Among, and typical of, the representations made by respondent concerning its product "Parker-Belmont Beauty Cream" are the following:

Wonderful oxygen cream bleaches skin.

Parker-Belmont Beauty Cream beautifies any skin.

A skillful scientific blending of creams for bleaching, pore-deep cleansing, clearing, softening, lubricating and all-around beautifying.

Parker-Belmont Beauty Cream whitens skin quickly.

Dark skin is lightened and whitened two or three shades.

This single cream is a blend of all the creams your skin requires.

Parker-Belmont Beauty Cream normalizes a dry to too oily skin. It is soothing to sensitive tissues.

(c) Among, and typical of, the representations made by respondent concerning its products "Powdered Saxolite" are the following:

Saxolite Astringent is a refreshing skin tonic. Smoothes out wrinkles and age lines. Refines coarse pores. Eliminates oiliness.

Gives your skin a fresh, clean, lively appearance.

(d) Among, and typical of, the representations made by respondent concerning its product "Powdered Tarkroot" are the following:

A Tarkroot Beauty Mask revives and refreshes a fatigued, drooping face more quickly and completely than anything else can.

It is beneficial for almost every condition such as age lines, wrinkles, enlarged pores, blackheads and other surface blemishes.

Wrinkles and age lines are smoothed out. Relaxed, sagging contours are pulled up into proper position. The circulation is aroused to nourish the drooping tissues. Pores are purged of all impurities.

Tarkroot Beauty Mask wakes up dull skin!

Tarkroot Face Restor relieves facial fatigue.

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The quickest way to renew your complexion is to give yourself a facial pack treatment with Tarkroot Beauty Mask.

Beautify your skin with Tarkroot Face Mask.

Tarkroot performs a four-purpose plan of beautifying by tightening, refining, purifying and stimulating.

(e) Among, and typical of, the representations made by respondent concerning its product "Phelactine" are the following:

Try Phelactine Depilatory, removes superfluous hair gently. Leaves skin smooth, soft and hair-free. Simple to use.

Try Phelactine—the "different" hair remover.

Excellent for removing superfluous hair from your face. Quicker to use.

All of said statements, together with other statements of similar import and meaning, appearing in respondent's advertising literature, disseminated as aforesaid, purport to be descriptive of respondent's products and of their effectiveness in use. In all of its advertising literature, respondent, directly and by inference, through the statements and representations herein set out and through other statements and representations of similar import and effect, represents that the product "Mercolized Wax" is a "wax"; that said preparation absorbs the surface skin and surface discolorations, blemishes, and impurities; that it removes all coarseness, roughness, blackheads, tan, freckles, sunburn, and large pores from the skin, and cleanses, softens, bleaches, lubricates, and protects the skin; that it is a natural way to make the skin beautiful; that it nourishes the skin, helps the skin renew itself, and is an all-in-one cleansing, softening and beautifying cream and an all-purpose beauty aid.

In the manner aforesaid, respondent represents that the product "Parker-Belmont Beauty Cream" is a skillful, scientific blend of creams for pore-deep cleansing, clearing, softening, lubricating, and all-around beautifying of the skin; that it is an oxygen cream that bleaches the skin, making the skin lighter by two or three shades; and that it is a blend of all the creams a skin requires and that it normalizes either a dry or an oily skin.

In the manner aforesaid, respondent represents that its product "Saxolite Astringent" is a skin tonic which smoothes out wrinkles and age lines, refines coarse pores, eliminates oiliness, giving the skin a fresh, clean, lively appearance.

In the manner aforesaid, the respondent represents that its product "Powdered Tarkroot," when used as a "beauty mask," will revive and refresh a "fatigued" and "drooping" face more quickly and completely than other products, smoothing out wrinkles and age lines, pulling "relaxed" and sagging contours into proper position, purging the pores of all impurities, and arousing the circulation so as to nourish the "drooping" tissues; that said product beautifies the skin

by tightening, purifying, refining, and stimulating, and is the quickest way to "renew" the complexion.

In the manner aforesaid, the respondent represents that its product "Phelactine" is "different" from other hair removers; that it is quicker and simpler to use, removing superfluous hair gently, leaving the skin smooth, soft, and hair free.

PAR. 5. Respondent's representations and implications as to the value and usefulness of said products are false or grossly exaggerated and greatly exceed those which might truthfully be made for said products. In truth and in fact the product "Mercolized Wax" is not a wax and said product does not absorb the surface skin and surface discolorations, blemishes, and impurities; it does not remove all coarseness, roughness, blackheads, tan, freckles, sunburn, and large pores from the skin; it does not cleanse, soften, bleach, lubricate, and protect the skin; it is not a natural way to make the skin beautiful; and it does not nourish the skin, help the skin to renew itself, and it is not an all-in-one cleansing, softening, and beautifying cream or an all-purpose beauty aid. In truth and in fact the product "Parker-Belmont Beauty Cream" is not a skillful or scientific blend of creams, nor is it efficacious for pore-deep cleansing, clearing, softening, lubricating, and for all-around beautifying of the skin; it is not an oxygen cream and it will not bleach the skin, making it two or three shades lighter and it is not a "blend of all the creams" the skin requires, nor does it normalize either a dry or an oily skin. In truth and in fact the product "Saxolite Astringent" is not a skin tonic nor will it smooth out wrinkles or age lines, refine coarse pores, eliminate oiliness or give the skin a fresh, clean, lively appearance. In truth and in fact the product "Tarkroot Beauty Mask" when used as a "beauty mask" will not revive and refresh a "fatigued" and "drooping" face more quickly and completely than will other products; nor will it smooth out wrinkles and age lines or pull "relaxed" and sagging contours into the proper position or purge the pores of all impurities, and it will not arouse the circulation so as to nourish the "drooping" tissues or beautify the skin by tightening, purifying, refining, and stimulating and it is not the quickest way to, nor does it, "renew" the complexion. In truth and in fact the product "Phelactine Depilatory" is not different from any number of hair removers on the market and is no quicker or simpler to use and it does not remove superfluous hair gently, leaving the skin smooth, soft, and hair free.

In truth and in fact the product "Mercolized Wax" has a tendency to cause removal of the surface skin but leaves the skin with deeper

hues and blemishes than those present originally and constant and continuous use of this product not only accentuates the blemishes present in the surface skin but may, under certain conditions, be harmful to the user thereof because of the ingredients from which said product is composed.

PAR. 6. The use of the aforesaid false advertisements, disseminated in the manner above described, induces or is likely to induce, directly or indirectly, the purchase of a cosmetic.

PAR. 7. There are among the competitors of the respondent many who distribute and sell cosmetics in said commerce who do not in any manner misrepresent the quality or character of their respective products or their effectiveness when used.

PAR. 8. The use of each and all of the false and misleading representations and implications made and used by the respondent in designating and describing its said products and their effectiveness when used, and said false advertisements as hereinabove alleged, has had and now has a tendency and capacity to and does mislead and deceive a substantial number of the purchasing public into the erroneous and mistaken belief that all of said representations and implications are true. As a result of such erroneous and mistaken belief a number of the consuming public have purchased a substantial volume of respondent's said products with the result that trade in said commerce has been diverted unfairly to the respondent from its competitors who truthfully advertise their respective products and the effectiveness thereof when used, and thereby injury has been done and is now being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 9. The aforesaid acts and practices of respondent are all to the prejudice and injury of the public and of 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 ¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 17th day of September 1938,

¹ Findings and order published as modified by Commission order dated October 16, 1939, which, among other things, in response to petition and supplemental petition of respondent struck out portion of par. 11 of the findings and portion of par. 1 of the order relating to the safety of respondent's mercolized wax by virtue of ammoniated mercury therein contained and reopened case solely for purpose of taking additional testimony in support of allegations of complaint and in opposition thereto with respect to injurious effects which might result from use of said mercolized wax.

issued and served its complaint in this proceeding upon said respondent, Dearborn Supply Co., a corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. On October 26, 1938, the respondent filed its answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent and W. T. Kelly, chief counsel for the Federal Trade Commission, subject to the approval of the 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, 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, accepted, and filed, 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. The respondent, Dearborn Supply Co., is a corporation created and existing under and by virtue of the laws of the State of Illinois, and having its office and principal place of business at 2350 Clybourn Avenue in the city of Chicago, within the State of Illinois. Its officers are Patrick J. Kelly, president and treasurer; Miss M. W. Healy, vice president and assistant treasurer; and Mrs. Alice K. Moser, secretary.

PAR. 2. The respondent is now, and for more than 12 years last past has been, engaged in the manufacture, sale, and distribution of a line of cosmetics designated by various names. Among such cosmetics are: "Mercolized Wax," "Parker-Belmont Beauty Cream," "Powdered Saxolite," "Powdered Tarkroot," and "Phelactine." The respondent causes all of the said products, when sold, to be transported from its place of business in the State of Illinois to the respective purchasers thereof located in States other than the State of Illinois and in the District of Columbia. The respondent maintains, and for more than 12 years last past has maintained, a course of trade in said cosmetics herein mentioned in commerce between

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and among the various States of the United States and in the District of Columbia. In the course and conduct of its said business, the respondent is, and has been for more than 12 years last past, in active and substantial competition with various other corporations, partnerships, and individuals likewise engaged in the sale and distribution of cosmetics 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 its aforesaid business and for the purpose of inducing the purchase of said cosmetics, the respondent has, by means of advertising circulars and folders distributed to prospective purchasers of said cosmetics, situated in various States of the United States and also by means of advertisements inserted in magazines having a general circulation throughout the United States, made many statements and representations concerning the character and nature of its said cosmetics hereinabove mentioned and concerning the results obtained from the use of said cosmetics. The respondent has in its said advertisements, circular, and folders caused to be made, among others, the following statements concerning its said cosmetics herein mentioned.

Pure Mercolized Wax.

Pure Mercolized Wax beautifies the Skin. Bleaches—Cleanses—Nourishes, Softens and Protects.

You will find only Mercolized Wax * * * actually absorbs the discolored outer scales in tiny flake-like particles clearing away the grimy, dirt-laden surface skin.

Free your skin of blemishes and all discolorations that mar its natural loveliness with our Mercolized Wax.

Mercolized Wax brings to you a simple, natural way of beautifying the skin and keeping it young. * * * contains active ingredients that actually absorb the surface skin with all its discolorations and blemishes * * * Gradually you will notice the new clearness and smoothness of your skin. Soon the entire discolored outer layer of skin will have disappeared and fresh underskin which forms your new complexion appears, soft, white and youthfully beautiful. Mercolized Wax brings out the hidden beauty in your skin.

There is only one way to completely beautify a discolored blemished complexion and that one way is to take off the worn out surface skin by absorbing it with pure Mercolized Wax.

Coarseness, roughness and other blemishes that rob the skin of youthful beauty are dissolved with the surface skin.

Mercolized Wax will convert a faded, wornout, or discolored complexion into one of captivating loveliness.

It * * * lubricates * * *.

It clears away freckles, tan, oiliness, sunburn or any other blemishes.

Invisible particles of aged skin are freed and all defects such as blackheads, tan, freckles and large pores disappear.

Make yours a beautiful skin with Mercolized Wax Cream.

Is your skin clear, smooth and young looking? It **SHOULD** be and it **CAN** be. * * * Eagerly and deftly Mercolized Wax Cream goes about its task of flaking off, superficially discolored outer layer of skin, revealing the young, fresh looking underskin. It really helps the skin to renew itself. Your skin emerges from a series of Mercolized Wax Cream applications looking more like its radiant, natural beautiful self than it has looked in many a day. * * *.

Complete renovation of the complexion in from one to three weeks should result from following the above instructions closely.

Mercolized Wax Cream keeps your skin young looking. * * * This simple all-in-one cleansing, softening and beautifying cream has been a favorite for over a quarter of a century with lovely women the world over.

This simple all-purpose beauty aid is the only cream necessary for the proper care of your skin.

Wonderful oxygen cream bleaches skin.

Parker-Belmont Beauty Cream beautifies any skin.

A skillful scientific blending of creams for bleaching, pore-deep cleansing, clearing, softening, lubricating and all-around beautifying.

Parker-Belmont Beauty Cream whitens skin quickly.

Dark skin is lightened and whitened two or three shades.

This single cream is a blend of all the creams your skin requires.

Parker-Belmont Beauty Cream normalizes a dry to too oily skin. It is soothing to sensitive tissues.

Saxolite Astringent is a refreshing skin tonic. Smooths out wrinkles and age lines. Refines coarse pores. Eliminates oiliness.

Gives your skin a fresh, clean, lively appearance.

A Tarkroot Beauty Mask revives and refreshes a fatigued, drooping face more quickly and completely than anything else can.

It is beneficial for almost every condition such as age lines, wrinkles, enlarged pores, blackheads and other surface blemishes.

Wrinkles and age lines are smoothed out. Relaxed, sagging contours are pulled up into proper position. The circulation is aroused to nourish the drooping tissues. Pores are purged of all impurities.

Tarkroot Beauty Mask wakes up dull skin!

Tarkroot Face Rester relieves facial fatigue.

The quickest way to renew your complexion is to give yourself a facial pack treatment with Tarkroot Beauty Mask.

Beautify your skin with Tarkroot Face Mask.

Tarkroot performs a four-purpose plan of beautifying by tightening, refining, purifying and stimulating.

Try Phelactine Depilatory, removes superfluous hair gently. Leaves skin smooth, soft and hair-free. Simple to use.

Try Phelactine—the "different" hair remover.

Excellent for removing superfluous hair from your face. Quicker to use.

PAR. 4. All of said statements and representations set-out in paragraph 3 hereof, together with numerous other statements of like or similar import and meaning which also appear in the respondent's advertising literature, purport to be descriptive of the respondent's various cosmetics hereinabove mentioned and of the results to be obtained by their use.

PAR. 5. The respondent has in its advertising literature, directly and by inference, through the statements and representations which are set out herein in paragraph 3, and through other statements and representations of similar or like import and effect, represented and does now represent that the product "Mercolized Wax"

(a) is, in fact, a "wax."

(b) that "Mercolized Wax" absorbs the surface skin and surface discolorations, blemishes and impurities.

(c) that "Mercolized Wax" removes all coarseness, roughness, blackheads, tan, freckles, sunburn and large pores from the skin, and cleanses, softens, bleaches, lubricates and protects the skin.

(d) that "Mercolized Wax" is a natural way to make the skin beautiful.

(e) that "Mercolized Wax" nourishes the skin, helps the skin renew itself, and is an all-in-one cleansing, softening and beautifying cream and an all-purpose beauty aid.

PAR. 6. The respondent has in its advertising literature, directly and by inference, through the statements and representations which are set out herein in paragraph 3, and through other statements and representations of similar or like import and effect, represented and does now represent that the product "Parker-Belmont Beauty Cream"—

(a) is a skillful, scientific blend of creams for pore-deep cleansing, clearing, softening, lubricating, and all-around beautifying of the skin.

(b) that "Parker-Belmont Beauty Cream" is an oxygen cream that bleaches the skin, making the skin lighter by two or three shades.

(c) that "Parker-Belmont Beauty Cream" is a blend of all the creams a skin requires and that it normalizes either a dry or an oily skin.

PAR. 7. The respondent has in its advertising literature, directly and by inference, through the statements and representations which are set out herein in paragraph 3, and through other statements and representations of similar or like import and effect, represented and does now represent that the product "Saxolite Astringent"

(a) is a skin tonic which smooths out wrinkles and age lines, refines coarse pores, eliminates oiliness, giving the skin a fresh, clean, lively appearance.

PAR. 8. The respondent has in its advertising literature, directly and by inference, through the statements and representations which are set out herein in paragraph 3, and through other statements and

representations of similar or like import and effect, represented and does now represent that the product "Powdered Tarkroot,"

- (a) when used as a "beauty mask", will revive and refresh a "fatigued" and "drooping" face more quickly and completely than other products, smoothing out wrinkles and age lines, pulling "relaxed" and sagging contours into proper position, purging the pores of all impurities, and arousing the circulation so as to nourish the "drooping" tissues.
- (b) that "Powdered Tarkroot" beautifies the skin by tightening, purifying, refining and stimulating, and is the quickest way to "renew" the complexion.

PAR. 9. The respondent has in its advertising literature, directly and by inference, through the statements and representations which are set out herein in paragraph 3, and through other statements and representations of similar or like import and effect, represented and does now represent that the product "Phelactine"—

- (a) is different from other hair removers.
- (b) that "Phelactine" is quicker and simpler to use, removing superfluous hair gently, leaving the skin smooth, soft and hair-free.

PAR. 10. The formula for the preparation manufactured and sold by said respondent under the name "Mercolized Wax" is as follows:

Ozokerite Wax
India Wax
Carnauba Wax
Mineral Oil
Water
Borax
Zinc Oxide
White Precipitate
Perfume
Bees Wax
Paraffine Wax

PAR. 11. The term "Mercolized Wax" denotes and describes a product containing a substantial amount of wax admixed with mercury and while the product designated "Mercolized Wax" does not depend upon its waxy constituency for its therapeutic effect, it contains a substantial amount of various waxes amounting to a total of approximately 16 percent. Said preparation has contained as much as 7½ percent ammoniated mercury and is now said to presently contain 3 percent ammoniated mercury. The preparation designated as "Mercolized Wax" does not absorb the surface skin or surface discolorations, blemishes, or impurities. The use of such product does not remove coarseness, roughness, blackheads, tan, freckles, sun-

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burn, or large pores from the skin. Such preparation does not cleanse, soften, lubricate, or protect the skin. The use of such preparation is not a natural way to make the skin beautiful. "Mercolized Wax" does not nourish the skin or help the skin to renew itself. Such preparation is not an all-in-one cleansing, softening, or beautifying cream or an all-purpose beauty aid.

PAR. 12. The formula for the preparation manufactured and sold by the respondent under the name "Parker-Belmont Beauty Cream" is as follows:

Ozokerite Wax
India Wax
Carnauba Wax
Bees Wax
Paraffine Wax
Stanolene
Mineral Oil
Zinc Oxide
Zinc Perborate

PAR. 13. The preparation manufactured and sold by the respondent under the name "Parker-Belmont Beauty Cream" is not a skillful or scientific blend of creams; it is not efficacious for pore-deep cleansing, clearing, softening, lubricating, or for all-around beautifying of the skin; it is not an oxygen cream and it will not bleach the skin, making it two or three shades lighter and it is not a blend of all the creams the skin requires. Such preparation does not normalize either a dry or an oily skin.

PAR. 14. The formula for the preparation manufactured and sold by the respondent under the name "Saxolite Astringent" is as follows:

Alum
Epsom Salts
Eucalyptus Oil

PAR. 15. The preparation manufactured and sold by the respondent under the name "Saxolite Astringent" will not smooth out wrinkles or age lines, refine coarse pores, or eliminate oiliness, it is not a skin tonic and it does not give the skin a fresh, clean, lovely appearance.

PAR. 16. The formula for the preparation manufactured and sold by the respondent under the name "Tarkroot Beauty Mask" is as follows:

Boric Acid
Acacia Powder
Egg Albumen
Dissolve in lemon juice or
milk to make mask.

PAR. 17. The preparation manufactured and sold by the respondent under the designation "Tarkroot Beauty Mask" when used as a "beauty mask" will not in fact revive or refresh a "fatigued" or "drooping" face more quickly and completely than will other products; nor will it smooth out wrinkles and age lines or pull "relaxed" and sagging contours into the proper position or purge the pores of all impurities. Such preparation will not arouse the circulation so as to nourish the "drooping" tissues or beautify the skin by tightening, purifying, refining, and stimulating, and it is not the quickest way to nor does it "renew" the complexion.

PAR. 18. The formula for the preparation manufactured and sold by the respondent under the name "Phelactine Depilatory" is as follows:

Resin
Bees Wax

PAR. 19. The preparation manufactured and sold in commerce by the respondent under the name "Phelactine Depilatory" is not different from any number of hair removers on the market and is no quicker or simpler to use, and it does not remove superfluous hair gently; nor does the use of said preparation leave the skin smooth, soft, and hair free.

PAR. 20. There are among the competitors of the respondent, as described in paragraph 2 hereof, many who distribute and sell cosmetics in said commerce who do not in any manner misrepresent the quality or character of their respective products or their effectiveness in use.

PAR. 21. The use by the respondent of the said statements and representations disseminated as aforesaid has the capacity and tendency to and does cause members of the purchasing public to have the erroneous and mistaken belief that said statements and representations are true and to purchase a substantial quantity of respondent's said products because of said erroneous and mistaken belief. As a direct result thereof, trade in commerce among and between the various States of the United States and in the District of Columbia has been diverted unfairly to the respondent from its said competitors.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, 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, Dearborn Supply Co., its officers, representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of cosmetic preparations containing drugs now designated by the names of "Mercolized Wax," "Parker-Belmont Beauty Cream," "Powdered Saxolite," "Powdered Tarkroot," and "Phelactine," or any other cosmetic preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same names or under any other name or names, or disseminating or causing to be disseminated, any advertisements by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said cosmetic preparations, which said advertisements represent, directly or through implication:

1. That said cosmetic preparation "Mercolized Wax" absorbs the surface skin, surface discolorations, blemishes, or impurities, or removes coarseness, roughness, blackheads, tan, freckles, sunburn, or large pores from the skin or cleanses, softens, lubricates, nourishes, or protects the skin; or aids the skin in renewing itself; or that the use of said preparation is a natural way to make the skin beautiful; or that said preparation is an all-in-one cleansing, softening or beautifying cream or an all-purpose beauty aid.

2. That said preparation "Parker-Belmont Beauty Cream" is a skillful or scientific blend of creams or is efficacious for pore-deep cleansing, clearing, softening, lubricating, or all-around beautifying

of the skin, or that said preparation is an oxygen cream or will bleach the skin or make the skin lighter by two or more shades or is a blend of all the creams the skin requires; or that said preparation normalizes either a dry or an oily skin.

3. That said preparation "Saxolite Astringent" is a skin tonic or smooths out wrinkles or age lines, refines coarse pores, eliminates oiliness or gives the skin a fresh, clean, lively appearance.

4. That said preparation "Powdered Tarkroot," when used as a beauty mask, will revive or refresh a fatigued or drooping face more quickly or completely than other products designed and intended for similar usage; or that said preparation will smooth out wrinkles or age lines or pull relaxed and sagging contours into proper position or purge the pores of all impurities or arouse the circulation so as to nourish the drooping tissues; or that said preparation beautifies the skin by tightening, purifying, refining, or stimulating the skin or will renew the complexion.

5. That said preparation "Phelactine" is different from or quicker and simpler to use than other hair removers or that said preparation removes superfluous hair gently or that the use thereof causes the skin to be smooth, soft, and hair free.

It is further ordered, That the respondent shall, within 60 days after the 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
PURITAN UNDERGARMENT CORPORATION

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

Docket 3810. Complaint, June 7, 1939—Decision, Aug. 23, 1939

Where a corporation engaged in manufacture, sale, and distribution of women's undergarments to and through wholesalers, retailers, and other purchasers; in furtherance of a practice of representing falsely the constituent fiber or material of which the various products sold and distributed by it were made and, in so doing, of causing false statements and representations purporting to be descriptive of its said products and their respective constituent fiber or material, as aforesaid, to be inserted in catalogs and price lists and placed on tags, labels, and markers attached to such products—

- (a) Represented, as typical of acts and practices above described, in catalogs and price lists and through tags, labels, and markers, that certain undergarments made and sold by it contained 15 percent wool and 30 percent wool, respectively, notwithstanding fact former garment was composed of 87 percent cotton, 10 percent rayon, and 3 percent wool, and other of 10.5 percent wool with remainder made up of cotton and rayon, and said undergarments did not contain percentages represented of wool, understood by purchasing and consuming public from said word, unqualified, as definitely and specifically meaning virgin or unused, as distinguished from reclaimed, wool, and decidedly preferred by prospective purchasers of such garments by reason of established reputation of fabrics made thereof for cold resistance and wearing qualities over those composed of cotton, rayon, or other fibers; and
- (b) Sold and distributed, as typical act and practice, undergarments which appeared to be partly made of silk, without disclosing that fiber or material in question was in fact rayon and not silk, long definitely and specifically understood by purchasing public as meaning product of cocoon of silkworm, and decidedly preferred by reason of reputation for superior cold resistance and other preeminent qualities, as included in fabrics made of wool and silk over those made of wool and rayon, in case of such garments over garments made of fabrics of wool and rayon, with result that purchasing public, observing and feeling its said products, in fact containing, as aforesaid, no silk, but, as aforesaid, rayon only (with appearance and feel of silk so as to be practically indistinguishable therefrom by said public), was led mistakenly to believe that garment contained in substantial quantity, silk;

With effect of misleading and deceiving substantial portion of said public into mistaken and erroneous belief that its aforesaid products contained much larger wool content than was actually the fact, and included silk content, and of causing said public to purchase said products as result of such erroneous belief thus engendered:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. W. L. Pack for the Commission.