

Syllabus

IN THE MATTER OF
AFFILIATED PRODUCTS, INC.

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

Docket 3734. Complaint, Mar. 9, 1939—Decision, Feb. 14, 1940

Where corporation engaged as business successor in selling and distributing under various names, including names "Edna Wallace Hopper's Special Restorative Cream" and "Edna Wallace Hopper's White Youth Pack (Clay)," cosmetics to customers in other States, in active and substantial competition with others engaged in sale and distribution of cosmetics in such commerce and including many who do not misrepresent the character or effectiveness of their said products; in (1) advertisements which it disseminated through newspapers and periodicals of general circulation in and through the various States and through broadcasts from radio stations of extra-state audience, and which, prepared, placed and contracted for by its business predecessor and running or in press on date of its acquisition of business it continued and employed for a time, and in (2) advertisements which it thereafter disseminated through radio continuities, street and sub-way car cards and retail store window displays—

- (a) Made use of word "restorative" in designating and referring to its said Edna Wallace Hopper's Special Restorative Cream and represented, as case might be, directly or by implication that its said product was a discovery of a great French scientist or famous beauty expert which would rejuvenate the skin and restore the oils of youth and a youthful appearance to skin discolored by the natural consequences of age and would make user's face appear ten years younger than it was and keep skin young and prevent and erase wrinkles and age lines, facts being said cream was not such a discovery but was made from a formula developed by a cosmetician and graduate chemist, and would not rejuvenate skin or accomplish other results claimed therefor as above set forth; and
- (b) Represented and implied that its said Edna Wallace Hopper's White Youth Pack (Clay) was of French origin and a preparation which would cause the blood to nourish and revive the skin, and would remove blackheads and eliminate enlarged pores, facts being said White Youth Pack was not of French origin and would not cause blood to nourish and revive skin, and, while it might loosen and aid in removal of blackheads, would not itself thus remove such defects nor eliminate enlarged pores;

With effect of misleading and deceiving substantial portions of purchasing public into erroneous and mistaken belief that such false statements, representations and advertisements were true, and with result as consequence thereof that number of consuming public purchased substantial volume of its product and trade in commerce was diverted unfairly to it from those competitors who truthfully advertise their respective products and effectiveness thereof; to the injury of competition in commerce:

Complaint

30 F. T. C.

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

Mr. J. W. Brookfield, Jr., for the Commission.

Mr. Simon Michelet, 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 Affiliated Products, Inc., a corporation, hereinafter referred to as the 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, Affiliated Products, Inc., 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 257 Cornelison Avenue, Jersey City, N. J.

PAR. 2. Respondent, on January 8, 1936, purchased the business formerly conducted by Edna Wallace Hopper Inc., including its physical assets, good will and trade marks and since January 8, 1936, has been engaged in the sale and distribution of a line of cosmetics under various names, among which are "Edna Wallace Hopper's Special Restorative Cream" and "Edna Wallace Hopper's White Youth Pack (Clay)." The respondent causes said products when sold to be transported from its place of business in the State of New Jersey 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 its aforesaid business the respondent has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said products by the United States mails, by insertion

in newspapers and periodicals having a general circulation and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by continuities broadcast from radio stations which have sufficient power to and do convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originate and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce directly or indirectly the purchase of its said products; and has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said products by various means for the purpose of inducing and which are likely to induce directly or indirectly the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of false statements and representations contained in said advertisements concerning Edna Wallace Hopper's Special Restorative Cream, disseminated and caused to be disseminated as aforesaid, are the following:

HERE'S WAY TO LOOK HALF YOUR AGE

* * * * *

I am past sixty, says Edna Wallace Hopper, yet boys scarcely above college age often try to flirt with me. I've been booked from one theatre to the other as "The one woman in the world who never grew old." People can't believe I'm over thirty. At a grandmother's age, I still enjoy all the thrills of youth.

Now let me tell you how I do it. Follow it and I promise if you're 50, you'll look 40. If you're 40, you'll look 30. And if you're 30, you'll gain back the skin of eighteen. Women I've given it to, call it a miracle—say it takes 10 years from the face in 10 minutes.

It is the discovery of a Famous French Scientist, who startled the cosmetic world by discovering that the Oils of Youth could be *artificially re-supplied* to the skin of fading women. He found that after 25, most women were deficient in certain youth oils. Oils that kept the skin free of age lines and wrinkles. And then, by a notable scientific discovery, he found a way to re-supply the skin daily with these oils.

This method puts those oils back in your skin every day. Without them you are old. With them you are young—alluring, charming.

* * * * *

Your skin will absorb every bit of it—*literally drink in the youth oils it contains*. It's one of the most amazing demonstrations in scientific youth restoration known. Lines and hollow places soon go. You look years younger after the first treatment. Youth and allure come back. At over 60—I am *living proof*.

* * * * *

It was developed by one of the most celebrated beauty scientists, Dr. Bonaventura Pacini, whose cosmetic creations have contributed so much to the

Complaint

30 F. T. C.

beauty of women the world over. This particular method of skin lubrication Dr. Pacini calls Edna Wallace Hopper's Special Restorative Cream. * * *

Among and typical of the false statements and representations contained in said advertisements concerning Edna Wallace Hopper's White Youth Pack (Clay) disseminated and caused to be disseminated as aforesaid, are the following:

HERE'S WAY TO REDUCE
ENLARGED PORES QUICKLY

Relieve Blackheads, Too

A method that's amazingly effective, and will leave your skin clear, glowing . . . even in a close-up.

Countless young women are asking how to relieve blackheads and reduce large pores.

The answer is, "Purge the pores." Use a laxative on your skin just as you would a laxative on your system. Maybe most of you didn't know you could do this. You're surprised such a thing can be done. But it can. And very simply and quickly.

You use Edna Wallace Hopper's White Youth Pack (Clay). The very same kind of a pack that women in Paris throng the beauty salons to get because of the way it transforms their skin.

Hopper's White Youth Pack quickens the circulation, brings the blood surging to the skin to nourish and revive it. Old dead skin is removed, giving you a new velvety complexion . . . vitally alive and healthy.

You'll be thrilled at the new smoothness and lovely texture of your skin. Dirt and impurities which clog the pores are drawn out of all the hidden places where blemishes usually start. Blackheads are loosened and after a few treatments even the most stubborn ones are easily removed. Enlarged pores are reduced to normal.

* * * * *

It's a special White Youth Pack called Edna Wallace Hopper's White Youth Pack. And, it does what famous beauty scientists agree must be done to loosen blackheads and help reduce enlarged pores. For it cleanses the pores. Taking OUT of the skin the things that should not be there . . . the very accumulations that clog the pores and that cause so many imperfections and unattractive complexions.

* * * * *

And after even one treatment you'll be amazed to see how it loosens blackheads so they are easily removed and how wonderfully it treats enlarged pores.

PAR. 5. Through the use of the word "Restorative" as part of the name of its preparation and the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of respondent's preparations and their effectiveness in use, respondent has represented and does now represent, directly and indirectly, that

its preparation "Edna Wallace Hopper's Special Restorative Cream" is a discovery of a great French scientist or a famous beauty expert which will rejuvenate the skin and restore the oils of youth and youthful appearance to skins disfigured by the natural consequences of age; that it will take 10 years off the user's face and that it will keep the skin young and will prevent or erase wrinkles and age lines. By the same means respondent represents that its preparation "Edna Wallace Hopper's White Youth Pack (Clay)" is a preparation of French origin which will cause the blood to nourish and revive the skin, and that it will remove blackheads and enlarged pores.

PAR. 6. The aforesaid representations and claims used and designated by the respondent, as hereinabove described, are grossly exaggerated, misleading, and untrue. In truth and in fact, respondent's preparation "Edna Wallace Hopper's Special Restorative Cream" is not a discovery of a great French scientist or a famous beauty expert, and will not rejuvenate the skin, restore the oils of youth or youthful appearance to skins disfigured by the natural consequences of age. Its use will not take 10 years, or any number of years, off the user's face. Said preparation will not keep the skin young and will not prevent or erase wrinkles and age lines.

Respondent's preparation "Edna Wallace Hopper's White Youth Pack (Clay)" is not of French origin and will not cause the blood to nourish and revive the skin. This preparation will not remove blackheads and enlarged pores.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations and advertisements in designating and describing its said products and their effectiveness when used, as hereinbefore 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 such false statements, representations and advertisements 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. 8. The aforesaid acts and practices of respondent are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and de-

Findings

30 F. T. C.

ceptive 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 March 9, 1939, issued its complaint in this proceeding and thereafter served the same upon the respondent, Affiliated Products, Inc., a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 17, 1939, 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 by its counsel, Simon Michelet, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, might 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 might 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 conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Affiliated Products, Inc., 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 257 Cornelison Avenue, Jersey City, N. J.

Respondent, since April 13, 1936, has been engaged in the sale and distribution of cosmetics under various names, among which are "Edna Wallace Hopper's Special Restorative Cream" and "Edna Wallace Hopper's White Youth Pack (Clay)." The respondent causes said products when sold to be transported from its place of business in the State of New Jersey 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 main-

tained 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.

On or about the 13th day of April, 1936, respondent acquired said business, including the assets, trade-marks and good will appurtenant thereto, from its predecessors through an outright purchase and for a substantial consideration. Respondent has and had no connection, directly or indirectly, before, on or after the date of said acquisition with respondent's said predecessors.

In the course and conduct of its business respondent is in actual 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, many of whom do not misrepresent the character or effectiveness in use of their respective products.

PAR. 2. In the course and conduct of its aforesaid business it has been and is the practice of the respondent to solicit purchasers for its cosmetics including "Edna Wallace Hopper's Restorative Cream" and "Edna Wallace Hopper's White Youth Pack (Clay)," and to offer said products for sale and sell them by means of advertisements in newspapers and magazines of general circulation in and through the various States of the United States, and by means of radio continuities broadcast from radio stations which have sufficient power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originate. Prior to the date of acquisition of said business by respondent, respondent's predecessors solicited purchasers of said cosmetics by similar methods. At the time of the acquisition of said business by respondent, respondent's predecessors had prepared, contracted for and placed certain advertising copy for said cosmetics which was running or in press on said date. Among and typical of statements and representations contained in said advertisements concerning "Edna Wallace Hopper's Restorative Cream" disseminated and caused to be disseminated by respondent's predecessors, are the following:

HERE'S WAY TO LOOK HALF YOUR AGE

I am past sixty, says Edna Wallace Hopper, yet boys scarcely above college age often try to flirt with me. I've been booked from one theatre to the other as "The one woman in the world who never grew old." People can't believe I'm over thirty. At a grandmother's age, I still enjoy all the thrills of youth.

Findings

30 F. T. C.

Now let me tell you how I do it. Follow it and I promise if you're 50, you'll look 40, if you're 40, you'll look 30. And if you're 30, you'll gain back the skin of eighteen. Women I've given it to, call it a miracle—say it takes 10 years from the face in 10 minutes.

It is the discovery of a Famous French Scientist, who startled the cosmetic world by discovering that the Oils of Youth could be *artificially re-supplied* to the skin of fading women. He found that after 25, most women were deficient in certain youth oils. Oils that keep the skin free of age lines and wrinkles. And then, by a notable scientific discovery, he found a way to re-supply the skin daily with these oils.

This method puts those oils back in your skin every day. Without them you are old. With them you are young—alluring, charming.

Your skin will absorb every bit of it—*literally drink in the youth oils it contains*. It's one of the most amazing demonstrations in scientific youth restoration known. Lines and hollow places soon go. You look years younger after the first treatment. Youth and allure come back. At over 60—I am *living proof*.

It was developed by one of the most celebrated beauty scientists, Dr. Bonaventura Pacini, whose cosmetic creations have contributed so much to the beauty of women the world over. This particular method of skin lubrication Dr. Pacini calls Edna Wallace Hopper's Special Restorative Cream. . .

Advertisements containing the above and similar statements and representations continued to appear for a few months during the remainder of 1936, and were employed and sponsored by respondent, subsequent to the acquisition of said business by respondent, said advertising having been placed and contracted for prior to the date of said acquisition. No advertising containing said statements has been used by respondent since December 1936, and since February 1937, the only advertising disseminated by respondent has been in the form of radio continuities, street and subway car cards and retail store window displays. Among and typical of statements and representations contained in said advertisements concerning "Edna Wallace Hopper's Special Restorative Cream", disseminated and caused to be disseminated by respondent since its acquisition of said business as aforesaid are the following:

Not only Helen Trent but women the world over are making their life from thirty-five on, glamorous and romantic. And if you are over thirty-five and have that sinking feeling which comes to every woman when she sees that her skin is losing freshness, looks tired and drawn, here's the message this program brings: If you want to keep yourself lovely-looking . . . you must have a beautiful skin—a skin of romance!

And there is a way for every woman to have a more beautiful skin. So, if your skin is drawn, fagged or tired looking, you'll be delighted to know about it.

It is one of the most important of all the marvelous contributions to creating beauty science that the well-known beauty scientist, Dr. Bonaventura Pacini, has made. It is called Edna Wallace Hopper's Special Restorative Cream. And, is based on a most effective method of skin lubrication.

You use it daily to oil, lubricate and freshen your skin. Apply it just as you would cold cream but don't remove it immediately. Let it remain on your skin

for at least ten minutes. Feel the pleasant sensation the delicate lubricating oils have on the skin. And, when you remove it, you'll be delighted with the way your skin looks, glowing, fresh and radiant. And it will feel firmer * * * softer * * *.

The years from thirty-five onwards are often a new romantic age, for women who have the irresistible appeal of the "skin of romance." You can get Edna Wallace Hopper's Special Restorative Cream at all cosmetic counters and at a price every woman can afford.

If that dreaded "faded" look is beginning to rob you of charm and appeal * * * that look that comes when your skin is drawn or tired * * * begin today to use Edna Wallace Hopper's Special Restorative Cream. It is an amazing method of skin lubrication and you use it daily to oil, lubricate and freshen your skin. Your skin will have a glow, a radiance that gives to any woman or girl a loveliness beyond words. That brings compliments and may perhaps bring the things you long for most * * * romance, happiness * * * success.

Among and typical of the statements and representations contained in said advertisements concerning "Edna Wallace Hopper's White Youth Pack (Clay)" disseminated and caused to be disseminated by respondent as aforesaid are the following:

HERE'S WAY TO REDUCE ENLARGED PORES QUICKLY Relieve Blackheads, too.

A method that's amazingly effective, and will leave your skin clear, glowing * * * even in a close-up.

Countless young women are asking how to relieve blackheads and reduce large pores.

The answer is, "Purge the pores." Use a laxative on your skin just as you would a laxative on your system. Maybe most of you didn't know you could do this. You're surprised such a thing can be done. But it can. And very simply and quickly.

You use Edna Wallace Hopper's White Youth Pack (Clay). The very same kind of a pack that women in Paris throng the beauty salons to get because of the way it transforms their skin.

Hopper's White Youth Pack quickens the circulation, brings the blood surging to the skin to nourish and revive it. Old dead skin is removed, giving you a new velvety complexion * * * vitally alive and healthy.

You'll be thrilled at the new smoothness and lovely texture of your skin. Dirt and impurities which clog the pores are drawn out of all the hidden places where blemishes usually start. Blackheads are loosened and after a few treatments even the most stubborn ones are easily removed. Enlarged pores are reduced to normal.

It's a special White Youth Pack called Edna Wallace Hopper's White Youth Pack. And, it does what famous beauty scientists agree must be done to loosen blackheads and help reduce enlarged pores. For it cleanses the pores. Taking OUT of the skin the things that should not be there . . . the very accumulations that clog the pores and that cause so many imperfections and unattractive complexions.

And after even one treatment you'll be amazed to see how it loosens blackheads so they are easily removed and how wonderfully it treats enlarged pores.

PAR. 3. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out

Findings

30 F. T. C.

herein, used in connection with respondent's product, Edna Wallace Hopper's Special Restorative Cream, and the use of the word "Restorative" in said trade name, all of which purport to be descriptive of respondent's said preparation, Edna Wallace Hopper's Special Restorative Cream, and its effectiveness in use, respondent has represented and is now representing, directly and by inference, that its said preparation, Edna Wallace Hopper's Special Restorative Cream, is a discovery of a great French scientists or a famous beauty expert which will rejuvenate the skin and restore the oils of youth and a youthful appearance to skin disfigured by the natural consequences of age; that it will make the user's face appear ten years younger than it is; and that it will keep the skin young and will prevent and erase wrinkles and age lines.

Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, used in connection with respondent's preparation, Edna Wallace Hopper's White Youth Pack (Clay), all of which purport to be descriptive of said preparation and its effectiveness in use, respondent represents and implies that said preparation is of French origin; that it will cause the blood to nourish and revive the skin; and that said preparation will remove blackheads and eliminate enlarged pores.

PAR. 4. In truth and in fact, respondent's preparation now designated Edna Wallace Hopper's Special Restorative Cream is not the discovery of a great French scientist but is made from a formula developed by Dr. A. B. Pacini, a cosmetician and graduate chemist. Said product will not rejuvenate the skin nor will it restore the oils of youth or restore a youthful appearance to skin disfigured by the natural consequences of age. It will not make the user's face appear ten or any other number of years younger, nor will it keep the skin young or erase wrinkles or age lines.

Respondent's preparation designated Edna Wallace Hopper's White Youth Pack (Clay) is not of French origin, and it will not cause the blood to nourish and revive the skin, and, while this preparation may loosen and aid in the removal of blackheads, it will not itself remove blackheads, nor will it eliminate enlarged pores.

PAR. 5. The acts and practices of the respondent as above set out in using the word "Restorative" in the trade name of said preparation, now designated Edna Wallace Hopper's Special Restorative Cream, and in using the false, deceptive and misleading statements, representations and advertisements in describing both of its said preparations and their effectiveness when used, as hereinabove set forth, 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 such false statements, representations and advertisements are true. As a result of such erroneous and mistaken belief a number of the consuming public has 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.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice 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, Affiliated Products, Inc., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of cosmetics in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating or causing to be disseminated any advertisements 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 cosmetics now designated by the names Edna Wallace Hopper's Special Restorative Cream and Edna Wallace Hop-

Order

30 F. T. C.

per's White Youth Pack (Clay) or any other cosmetics composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or any other name or names or disseminating or causing to be disseminated any advertisement 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 cosmetics, (1) which advertisements represent, directly or through implication, that respondent's cosmetic now designated Edna Wallace Hopper's Special Restorative Cream is the discovery of a great French scientist; that its use will rejuvenate the skin or restore the oils of youth or restore youthful appearance to aged skin; that its use will make one's face appear ten or any number of years younger; that it will keep the skin young and prevent or erase wrinkles or age lines; or that it is a restorative cream; (2) which advertisements represent, directly or through implication, that respondent's product now designated Edna Wallace Hopper's White Youth Pack (Clay) is of French origin; that it will nourish or revive the skin; that said preparation will remove blackheads or eliminate enlarged pores or have any beneficial effect thereon other than that the use of this preparation may loosen blackheads and thereby aid in the removal thereof, or (3) which advertisements use the word "Restorative," or any word or words of similar import or meaning, in the trade name designating, or otherwise in describing, the preparation now designated Edna Wallace Hopper's Special Restorative Cream.

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.

Syllabus

IN THE MATTER OF
THE STEEL OFFICE FURNITURE INSTITUTE ET AL.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3319. Complaint, Mar. 9, 1938¹—Decision, Feb. 20, 1940*

Where twelve corporations engaged in manufacture and sale of more than 50 percent of all the steel office furniture made in the United States, and consisting of filing cabinets, sections, book, index and transfer cases, and desks and tables, and storage cabinets and wardrobes, and certain other units or products, and in price competition with one another in sale in interstate commerce of their said products, and members of their unincorporated institute which, during period involved, (1) collected, compiled and made available to members and public monthly statistical compilations and tabulations of total wholesale value of industry's shipments for month preceding and existing future delivery contracts, (2) conducted industry tests to encourage standardization and interchangeability, (3) disseminated such information as Federal and State legislation and Governmental rulings of interest, (4) collected from members and others published price lists and distributed among members requesting same such lists, and (5) encouraged members and industry to comply with Commission's Trade Practice Conference Rules, and with and through which "institute" below-described agreements were entered into and carried out—

- (a) Agreed among themselves to and, in some instances, did fix and maintain identical delivered prices, uniform discounts, terms and conditions in sale of products in question;
- (b) Agreed to and, in some instances, did induce or cause dealers and customers purchasing such products for resale to maintain resale prices fixed by said manufacturing companies, and to join and form local dealer associations having such objectives; and
- (c) Agreed to and many times did abide by and not deviate from identical delivered prices and uniform discounts and terms and conditions of sale filed by them with institute aforesaid;

With result that price competition theretofore existing among them was substantially suppressed by such activities, and with effect of hindering and preventing such competition in sale of said products in commerce throughout the United States, and with dangerous tendency so to do;

Held, That such acts and practices of said manufacturing companies in entering into and carrying out such agreements, and in doing acts and things done thereunder, pursuant thereto and in furtherance thereof, were all to the prejudice of the public, and constituted unfair methods of competition.

Mr. Edward L. Smith for the Commission.

Donovan, Leisure, Newton & Lombard, of Washington, D. C., for The Steel Office Furniture Institute, Corry-Jamestown Manufacturing Corporation, Metal Office Furniture Co., The Shaw-Walker Co., Emerson's, Inc. and George Andrew Carnegie, and also, in conjunc-

¹ Amended.