

Complaint

IN THE MATTER OF
CECIL DWIGHT KITCHEN, TRADING AS THE REVA
COMPANY

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

Docket 4158. Complaint, June 7, 1940—Decision, July 9, 1940

Where an individual engaged in manufacture of his "Reva" cosmetic preparation for hair and scalp and in sale and distribution thereof to purchasers in various other States and in the District of Columbia; in advertisements of his said product, which he disseminated and caused to be disseminated through the mails and various other means in commerce, and otherwise, and including advertisements in newspapers and periodicals and circulars, leaflets, pamphlets, and other advertising literature, and which various advertisements were intended and likely to induce purchase of the said preparation—

- (a) Represented that his said Reva product was not a hair dye but a preparation which substituted or replaced the pigment in hair and restored natural, youthlike color thereto, facts being, product in question was a lead and sulphur dye which, among other things, contained sulphur, lead acetate, and ammonia, forming, in combination, lead sulphide, and, applied to hair, dyed exterior of hair shaft, color thus produced was artificial, and it would not supply, substitute, or replace natural pigment in the hair nor restore natural or youthlike color thereto; and
- (b) Represented that said product stimulated growth of hair and that it constituted a cure or remedy for dandruff, scalp eczema, or falling hair and a competent and effective treatment for such conditions and was safe and harmless for use in treatment of hair and scalp disorders, facts being, it would not stimulate growth of hair, was not a cure or remedy for said various conditions, and had no therapeutic value in treatment thereof in excess of affording temporary relief of itching in some instances, and was not safe or harmless, because use thereof might cause injury, in that application to skin or scalp where abrasions were present might cause absorption of lead into the system;

With capacity and tendency to and effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations in advertisements were true, and to induce portion of such public, because of such erroneous and mistaken belief, to purchase his cosmetic product aforesaid:

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. Robert Mathis, Jr., for the Commission.

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 Cecil Dwight

Complaint

31 F. T. C.

Kitchen, an individual trading as The Reva Co., 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. The respondent, Cecil Dwight Kitchen, is an individual trading as The Reva Co., and has his office and principal place of business at 4234 Lincoln Avenue in the city of Chicago, State of Illinois.

PAR. 2. The respondent is now and has been for several years last past, engaged in the business of manufacturing, selling, and distributing a cosmetic preparation for the hair and scalp designated "Reva." Respondent causes said preparation, when sold, to be transported from his aforesaid place of business in the State of Illinois to purchasers thereof located in various 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 preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products by the United States mails and by various 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 said products; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products by various means for the purpose of inducing and which are likely to induce directly or indirectly the purchase of his said products in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails, by advertisements in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature are the following:

Here is a truly amazing preparation which brings a beautiful, lustreful, youth-like color to gray hair. Isn't sticky or greasy.

Even though you washed your face with REVA, and it is perfectly harmless to skin or tissue * * *

HOW REVA IMPARTS COLOR TO GRAY HAIR

Gray hair is caused by the decrease or total failure of the pigment supply
* * * When there is no pigment there is no color. Gray hair is merely colorless

hair. It is easy to see then that in order to give color to the hair, it is only necessary to substitute for the missing pigment supply. THIS IS THE WORK THAT REVA DOES, AND IT WILL ALSO KEEP YOUR HAIR SOFT AND YOUTHFUL LOOKING.

Reva is a marvelous aid in checking dandruff, which is the result of a parasitic germ growth and helps to make your scalp clean, healthy and vigorous * * *

It helps banish dandruff and the unclean and untidy appearance due to the development of this white spore or scruff, aids in stopping itching scalp and helps you secure a healthy growth of hair.

* * * * *

It must contain BESIDES COLORING PROPERTIES a tonic solution capable of promoting a healthy hair and scalp condition and to aid in checking dandruff, scalp eczema, and falling hair.

Remember, REVA is not a stain or color. The same liquid is used for all colors of hair.

End Gray Hair * * * Here is a marvelous new preparation that changes gray hair to a beautiful, youthful color.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import and meaning not specifically set out herein, the respondent represents that his preparation "Reva" is not a hair dye, but instead that it substitutes or replaces the pigment in hair necessary to give it color, stimulates the growth of hair, and will restore natural youthlike color to the hair; and that the use of said preparation will produce no harmful or injurious effects. In the same manner, respondent represents that his preparation "Reva" is a cure or remedy for dandruff, scalp eczema, and falling hair, and that it constitutes a competent and effective treatment for such conditions.

PAR. 5. The aforesaid statements and representations used by the respondent, as hereinabove described, are grossly misleading, exaggerated, and untrue. In truth and in fact, respondent's preparation "Reva" is a lead sulphur dye, which contains, among other ingredients, sulphur, lead acetate, and ammonia, which in combination form lead sulphide. When applied to the hair, this preparation dyes the exterior of the hair shaft, and the color produced by its use is that of an artificial dye. This preparation will not supply, substitute, or replace natural pigment to the hair, and will not restore natural or youthlike color to the hair or stimulate the growth of the hair. Respondent's preparation is not a cure or remedy for dandruff, scalp eczema, or falling hair, and has no therapeutic value in the treatment of such conditions in excess of affording temporary relief from itching in some instances. Respondent's preparation is not safe or harmless because its use may cause injury in that the application of this preparation to the skin or scalp where abrasions are present might cause absorption of lead into the system.

PAR. 6. The use by respondent of the foregoing false and deceptive statements and representations with respect to his cosmetic prepara-

Findings

31 F. T. C.

tion disseminated as aforesaid has had, and now has, the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations and advertisements are true, and to induce a portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's cosmetic products.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute 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 7th day of June 1940, issued and subsequently served its complaint in this proceeding upon respondent, Cecil Dwight Kitchen, an individual trading as The Reva Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Thereafter, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to said facts. The proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter, 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. The respondent, Cecil Dwight Kitchen, is an individual trading as The Reva Co., and has his office and principal place of business at 4234 Lincoln Avenue in the city of Chicago, State of Illinois.

PAR. 2. The respondent is now, and has been for several years last past, engaged in the business of manufacturing, selling, and distributing a cosmetic preparation for the hair and scalp designated "Reva." Respondent causes said preparation, when sold, to be transported from his aforesaid place of business in the State of Illinois to purchasers thereof located in various 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 preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by the United States mails and by various 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 said product; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing, and which are likely to induce directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails, by advertisements in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature are the following:

Here is a truly amazing preparation which brings a beautiful, lustreful, youth-like color to gray hair. Isn't sticky or greasy.

Even though you washed your face with Reva, and it is perfectly harmless to skin or tissue * * *

HOW REVA IMPARTS COLOR TO GRAY HAIR

Gray hair is caused by the decrease or total failure of the pigment supply * * * When there is no pigment there is no color. Gray hair is merely colorless hair. It is easy to see then that in order to give color to the hair, it is only necessary to substitute for the missing pigment supply. THIS IS THE WORK THAT REVA DOES, AND IT WILL ALSO KEEP YOUR HAIR SOFT AND YOUTHFUL LOOKING.

Reva is a marvelous aid in checking dandruff, which is the result of a parasitic germ growth and helps to make your scalp clean, healthy and vigorous * * *

It helps banish dandruff and the unclean and untidy appearance due to the development of this white spore or scruff, aids in stopping itching scalp and helps you secure a healthy growth of hair.

* * * * *

It must contain BESIDES COLORING PROPERTIES a tonic solution capable of promoting a healthy hair and scalp condition and to aid in checking dandruff, scalp eczema and falling hair.

Remember, REVA is not a stain or color. The same liquid is used for all colors of hair.

End Gray Hair * * * Here is a marvelous new preparation that changes gray hair to a beautiful, youthlike color.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import and meaning not specifically set out herein, the respondent represents that his preparation "Reva" is not a hair dye; that said preparation substitutes or replaces the pigment

Order

31 F. T. C.

in hair and restores natural youthlike color to hair; that said preparation stimulates the growth of hair; and that said preparation is safe and harmless for use in the treatment of hair and scalp disorders. In the same manner, respondent represents that the preparation "Reva" is a cure or remedy for dandruff, scalp eczema, and falling hair, and that such preparation constitutes a competent and effective treatment for such conditions.

PAR. 5. The aforesaid statements and representations used by the respondent, as hereinabove described, are grossly misleading, exaggerated, and untrue. In truth and in fact, respondent's preparation "Reva" is a lead and sulphur dye, which contains, among other ingredients, sulphur, lead acetate, and ammonia, which in combination form lead sulphide. When applied to the hair, this preparation dyes the exterior of the hair shaft, and the color produced by its use is artificial. This preparation will not supply, substitute, or replace natural pigment in the hair, and will not restore natural or youthlike color to the hair or stimulate the growth of the hair. Respondent's preparation is not a cure or remedy for dandruff, scalp eczema, or falling hair, and has no therapeutic value in the treatment of such conditions in excess of affording temporary relief from itching in some instances. Respondent's preparation is not safe or harmless because its use may cause injury in that the application of this preparation to the skin or scalp where abrasions are present might cause absorption of lead into the system.

PAR. 6. The use by respondent of the foregoing false and deceptive statements and representations with respect to his cosmetic preparation disseminated as aforesaid has had, and now has, the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations and advertisements are true, and to induce a portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's cosmetic product.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and constitute 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 and the answer of respondent, in which answer respondent admits all of the material

allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, 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, Cecil Dwight Kitchen, individually and trading as The Reva Co., or trading under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of his cosmetic preparation designated as "Reva" or any other cosmetic preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating, or causing to be disseminated, any advertisement by means of the United States mails, or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisements represent directly or through inference:

(a) That respondent's preparation is not a dye or is anything other than a dye.

(b) That respondent's preparation will supply a substitute for or replace natural pigment or color in the hair.

(c) That respondent's preparation will restore natural or youthlike color to the hair.

(d) That respondent's preparation will have any effect in stimulating the growth of hair.

(e) That respondent's preparation is a cure or remedy for dandruff, scalp eczema, or falling hair, or that it has any therapeutic value in the treatment thereof in excess of affording temporary relief from the symptoms of itching in some instances.

(f) That respondent's preparation is a safe or harmless preparation for use in the treatment of hair or scalp disorders.

2. 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 of said cosmetic preparation in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisements contain any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

JEFFERSON R. BREWSTER, TRADING AS BREWSTER
LABORATORIES AND DR. REECE BREWSTER

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

Docket 3566. Complaint, Aug. 30, 1938—Decision, July 11, 1940

Where an individual engaged in manufacture of various medicinal preparations which he designated as his "Brewster's G-D" and, similarly, as his "T-Z," "Tonic," "Throat Wash," "Thoax-Eaz," "Sinine," "Pain Kill," "Ready Relief," and "Pile Ointment," and of a combination of four preparations referred to above as "G-D," "T-Z," "Tonic," and "Throat Wash," and also of other preparations, and in sale and distribution of his said various products from his Tennessee place of business to purchasers in Kentucky, North and South Carolina, Arkansas, Texas, and other States, in substantial competition with others engaged in sale and distribution among the various States of medicinal preparations for treatment of same ailments as those for which his said products were recommended; in advertising same in circulars distributed among prospective purchasers in several States—

- (a) Represented, directly and by inference, that his said "G-D" was a remedy for constipation and for running sores, a means of relieving pain in any part of the body, and, in combination with the "Tonic" hereinafter mentioned, a preventive of tuberculosis, and that his "T-Z" would prevent and alleviate coughing spells, would cure hemorrhages, keep the nerves quiet, and women's menstruation regular;
- (b) Represented that his said "Tonic" and "Throat Wash," respectively, would make the blood circulate properly if there was any disease or other condition of the circulatory system existing, would remedy stomach conditions and keep stomach in good condition, and would produce a good appetite, and constituted a means of preventing colds and would relieve tonsillitis and other throat troubles;
- (c) Represented that his "Thoax-Eaz" and "Sinine," respectively, constituted a means of relieving and curing croup, diphtheria, whooping cough, common cough, and scarlet fever and of preventing whooping cough or diphtheria in small and delicate children, and treatment and remedy for sinus, mastoid, antrum and nose and ear troubles;
- (d) Represented that his "Pain Kill" and "Ready Relief" constituted, respectively, a competent and effective germicide and treatment for rheumatism, neuritis, and neuralgia, and a cure for pneumonia, slow fever, and typhoid fever, and that his "Pile Ointment" was a cure for hemorrhoids; and
- (e) Represented that a combination of the four preparations "G-D," "T-Z," "Tonic," and "Throat Wash" constituted a cure for tuberculosis of the lungs or bone and for asthma, and that he had other preparations which constituted cures for kidney trouble, cancer, female trouble, measles, stomach trouble, gallstones, goiter, sciatica, head troubles, fistula troubles, piles, and nerve disorders;