

Order

IN THE MATTER OF

MARY ELOISE GAUSS, TRADING AS SPRAGUE-KITCHEN
& COMPANY

MODIFIED CEASE AND DESIST ORDER

Docket 3821. Order, Aug. 16, 1940

Order of August 23, 1939, 29 F. T. C. 671, requiring respondent, her agents, etc., to cease and desist disseminating, as in said order set forth in detail, advertisements representing that her said "Graolene", or other similar cosmetic preparation, is not a dye or will restore original color to gray hair, or supply deficient materials thereto, etc., as modified August 16, 1940, as below set forth, so as to eliminate from said order prohibition respecting failure to disclose possible injurious effects when applied to skin where continuity of the integument is broken.

Mr. Robert Mathis, Jr., for the Commission.

MODIFIED ORDER TO CEASE AND DESIST¹

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that she 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, Mary Eloise Gauss, individually and trading as Sprague-Kitchen & Co., or trading under any other name or names, her agents, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

¹ Original order of Aug. 23, 1939, was modified to read as above set forth, by following order of Aug. 16, 1940:

ORDER STRIKING PORTION OF ORDER TO CEASE AND DESIST

This matter coming on to be heard by the Commission upon the request of respondent that the order to cease and desist entered herein on Aug. 23, 1939, be modified by striking a certain portion thereof, and it appearing that the modification of said order in the respects requested is in the public interest, and the Commission having duly considered said request and the record herein, and being now fully advised in the premises;

It is ordered that the order to cease and desist entered herein on Aug. 23, 1939, be modified by striking therefrom the following language appearing in the last four lines thereof:

"or which advertisements fail to reveal that the use of said preparation may produce a harmful or injurious effect particularly in the event that such preparation is applied to skin on which there are lesions which have broken the continuity of the integument."

It is further ordered that except as herein modified said order to cease and desist remain in full force and effect.

Order

31 F. T. C.

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 a cosmetic preparation now designated "Graolene," or any other cosmetic preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under that name 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 preparation, which advertisements represent, directly or by implication, that said preparation is not a dye or is other than a dye, or will cause gray hair to change color without dyeing the hair; or that the use of said preparation will restore the original or natural color to gray hair, or will supply to the hair shaft the materials in which gray hair is deficient, or will cause the scalp, the hair or the roots of the hair to be normal or healthy; or that said preparation is an effective remedy or cure for dandruff or itching scalp, or will stimulate the growth of hair; or that said preparation is harmless or that the use thereof will produce no injurious effect.

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

Complaint

IN THE MATTER OF
AIR CONDITIONING TEXTILES, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3974. Complaint, Dec. 16, 1939—Decision, Aug. 19, 1940*

Where a corporation engaged in sale and distribution of its so-called "Air Conditioning the Human Body" soap to purchasers in various other States, in competition with others also engaged in sale and distribution of soaps designed and used for cleansing the skin, and including many who do not misrepresent properties or efficacy of their respective products—

Represented, through use of term aforesaid, that its said product possessed air-conditioning properties or qualities and reduced body temperature and humidity, and eliminated perspiration objections, and that body breathed through pores of skin, facts being, while menthol synthetic content of product served to impart to skin a slight cooling and soothing sensation, it had no effect on actual temperature of body, which does not breathe through pores as above alleged, and product in question did not air condition the body nor reduce its temperature, nor accomplish the other effects above claimed;

With capacity and tendency to mislead and deceive a portion of the purchasing public, aware of principle of air conditioning as new scientific development advancing and contributing to bodily comfort, but, in case of many, entirely unfamiliar with manner of operation thereof and principle's limitations, into erroneous and mistaken belief that said false representations were true, and that its soap possessed properties claimed and represented, and would accomplish results indicated, and into purchase thereof because of such belief, thus induced, and with result of thereby diverting trade unfairly to it from its competitors in commerce:

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. John W. Addison*, trial examiner.

Mr. Randolph W. Branch and *Mr. B. G. Wilson* for the Commission.

Mr. Harry B. Kurzrok, of New York City, 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 Air Conditioning Textiles, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the