

IN THE MATTER OF
R. F. BEMPORAD & COMPANY, INC.

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

Docket 4238. Complaint, Aug. 15, 1940—Decision, Nov. 2, 1940

Where a corporation engaged in importing, distributing, and selling rugs to various wholesale and retail dealer-purchasers in various other States and in the District of Columbia, in substantial competition with others likewise engaged in sale and distribution of rugs in commerce as aforesaid, and including many who do not misrepresent the nature of their product or the place or method of manufacture thereof, and do not furnish their dealer-customers with means and instrumentalities for deceiving the public—

- (a) Made use of names of Chinese cities "Hong Kong" and "Canton," and of words connoting China, or "Kina," to describe, designate and refer to certain of its rugs in invoices and circulars addressed to dealers and in connection with sale of such rugs thereto, and in labels attached to said products and plainly discernible to members of purchasing public upon said rugs' display for resale by retailers thereof;

Notwithstanding fact said "Hong Kong" and "Canton" rugs were not made in China, but in Italy and Belgium, respectively, and of cotton and on power looms, and they did not have the structure or all the characteristics of the true Chinese Oriental rugs, and individual threads were not knotted in distinctive manner of such rugs, and they were made from different materials and were not true Chinese Oriental rugs, as long understood by substantial portion of purchasing public as meaning rugs made in China by hand in the same manner and possessing the same qualities and characteristics as the Oriental rugs, and, as such, long held in great public esteem because of their texture, beauty, durability, and other qualities;

With effect of inducing misleading and erroneous belief that said rugs, thus designated, which so closely resembled Chinese Oriental rugs in appearance that a large portion of the purchasing public was unable to distinguish such "Hong Kong" and "Canton" rugs from true Chinese Orientals, were made in China by hand and were in all respects, including materials, true Chinese Oriental rugs, and with result that said products were readily accepted as being genuine Chinese Oriental rugs, for which there is decided preference on part of many of purchasing public;

- (b) Made use of words "Mahah" and "Kirma," and of word "Orienta," which, respectively, simulated Oriental rug names "Mahal" and "Kirman" and word "Oriental," and of name of Oriental city "Bagdad," to describe, designate, and refer to certain of its rugs in invoices and circulars addressed to dealers, and, in connection with sale of said products thereto, and in labels attached to said rugs and plainly discernible to members of purchasing public upon said rugs' display and resale by retailers thereof;

Notwithstanding fact said "Kirma" and "Mahah" rugs were not in fact true Oriental "Kirman" and "Mahal" rugs, and said "Orienta" and "Bagdad" rugs were not made in the Orient by hand and in all respects, including materials, true Oriental rugs, but said "Mahah" and "Bagdad" products

were made in Italy, and said "Kirma" and "Orienta" rugs in Belgium, of cotton and on power looms, and aforesaid various products were not true Oriental rugs, as long understood by substantial portion of purchasing public as meaning rugs made in the Orient or, more particularly, in certain parts of southwestern Asia, and usually designated by names indicative of Oriental origin and manufacture, and made by hand, of pleasing texture and original and beautiful design, and having a pile of wool or silk and wool, the threads of which are individually knotted in a special manner, and said rugs did not have the structure or all of the characteristics of the true Orientals and were not made of the same materials;

With effect of inducing misleading and erroneous belief that said various rugs, which so closely resembled in appearance true Orientals that a large portion of purchasing public was unable to distinguish same therefrom, were in fact, in case of said "Kirma" and "Mahah" products, true Oriental "Kirman" and "Mahal" rugs, and that said "Orienta" and "Bagdad" products were made in the Orient by hand and were in all respects, including materials, true Oriental rugs, and with result, as aforesaid, that said rugs were readily accepted as being genuine Oriental rugs, for which there is a decided preference on the part of many of the purchasing public;

(c) Represented and implied, in circulars which it furnished to dealers and prospective dealers, that certain of its rugs were reproductions and copies of true Oriental and Chinese Oriental rugs, through such typical statements as "Faithful reproductions of exquisite Orientals," and "An Oriental reproduction that reproduces everything but the price";

Notwithstanding fact products in question were not exact copies or reproductions of true Orientals in structure, material, or method of manufacture, but merely simulated same in appearance;

(d) Represented, directly and by implication, as aforesaid, that certain of its said rugs were reproductions and copies, except as to material, of true Oriental rugs, through such typical statements as "Amazing cotton reproductions" and "All virgin cotton Oriental reproductions";

Notwithstanding fact products in question did not have the structure or characteristics of the true Oriental rugs, even disregarding differences in materials; and

(e) Described and designated certain of its hooked rugs by names "Boston" and "Old Cabin," and made use of such names to refer thereto in invoices and circulars and in labels bearing one or the other of said names and securely attached to rugs in question so as to be plainly discernible to members of the purchasing public upon said rugs' display for resale by retailers thereof;

Notwithstanding fact products in question were not hooked rugs such as made in this country since early in its colonial history, constituting one of the earliest forms of artistic expression of the early settlers, and always and still generally regarded as a distinctive American product and as definitely connoted by aforesaid names, were not made in the United States, but in Europe;

With effect, through use of such designations and representations in connection with offer and sale of its said rugs, of misleading purchasers and prospective purchasers thereof into erroneous and mistaken belief that such representations and designations were true and correct, and of inducing them to purchase said rugs by reason thereof, and with further effect of placing in hands of

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retail dealers, who purchase said rugs and resell same to purchasing public, means and instrumentalities of misleading and deceiving public in aforesaid particulars, and with result that trade was unfairly diverted to it from its competitors engaged in sale in commerce, as aforesaid, of rugs of various kinds, including genuine Oriental, Chinese Oriental, and domestic rugs, and who truthfully represent their products as above set forth; to the injury of competition 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.

Mr. Randolph W. Branch, for the Commission.

Mr. David Easton, 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 R. F. Bemporad & Co., Inc., a corporation, 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, R. F. Bemporad & Co., Inc., is a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business at 102 Madison Avenue, city and State of New York.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of importing, distributing, and selling rugs. In the course and conduct of its business respondent sells said rugs to various wholesale and retail dealers, and causes them, when sold, to be transported from its aforesaid place of business in the State of New York 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 rugs in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now, and has been at all times mentioned herein, in substantial competition with other corporations and with firms, partnerships, and individuals likewise engaged in the sale and distribution of rugs in commerce among and between the various States of the United States and in the District of Columbia. Among such competitors are many who do not misrepresent the nature of their product or the

place or method of manufacture thereof, and who do not furnish their dealer-customers with means or instrumentalities for deceiving the public.

PAR. 4. A substantial portion of the purchasing and consuming public understand, and for many years has understood, Oriental rugs, to be rugs made in the Orient, or more particularly in certain parts of southwestern Asia, by hand, of pleasing texture and original and beautiful design and having a pile of wool or silk and wool, the threads of which are individually knotted in a special manner. Such rugs are usually designated by names which are indicative of the Orient and Oriental origin and manufacture. A substantial portion of the purchasing and consuming public understands, and for many years has understood, Chinese Oriental rugs to be rugs made in China, by hand, in the same manner and possessing the same qualities and characteristics as the Oriental rug. Both Oriental and Chinese Oriental rugs have been for many years, and still are, held in great public esteem because of their texture, beauty, durability, and other qualities, and by reason thereof, there is a decided preference on the part of many of the purchasing public for such rugs.

PAR. 5. In the course and conduct of its business, and for the purpose of inducing the purchase of its said rugs, respondent has engaged in the practice of describing and designating certain of its rugs, which closely resemble Chinese Oriental rugs in appearance, by the names of "Hong Kong" and "Canton," which are cities in China, and by the name of "Kina" which connotes China. The use of said names has the tendency and capacity to, and does, induce the mistaken and erroneous belief that the rugs so designated are made in China, by hand, and are in all respects, including materials, true Chinese Oriental rugs.

In like manner said respondent has engaged in the practice of describing and designating certain of its rugs which closely resemble Oriental rugs in appearance by the names of "Mahah," "Kirma," "Orienta," and "Bagdad." There are true Oriental rugs known as "Mahal," and "Kirman." Bagdad is a city in the Orient, and the words "Orienta," "Mahah," and "Kirma" simulate, respectively, the words "Oriental," "Mahal," and "Kirman."

The use by respondent of the said designations has the tendency and capacity to, and does, induce the mistaken and erroneous belief that respondent's "Kirma" and "Mahah" rugs are in fact true Oriental "Kirman" and "Mahal" rugs, and that respondents "Orienta" and "Bagdad" rugs are made in the Orient, by hand, and are in all respects, including materials, true Oriental rugs.

Respondent has used said names to designate said rugs in invoices and circulars addressed to dealers, and in otherwise referring to the same in the sale thereof to dealers. To certain of said rugs are firmly attached labels upon which one or another of said names appears, which are plainly discernible to members of the purchasing public when such rugs are displayed for sale by retail dealers.

PAR. 6. In truth and in fact respondent's said "Hong Kong," "Mahah," and "Bagdad" rugs are made in Italy, and the "Canton," "Kirma" and "Oriental" rugs in Belgium, of cotton, and on power looms. The "Hong Kong" and "Canton" rugs do not have the structure or all the characteristics of the true Chinese Oriental rug, the individual threads are not knotted in the distinctive manner of the true Chinese rug, and they are made from different materials. Respondent's "Mahah" and "Kirma" rugs are not true Oriental "Mahal" or "Kirman" rugs and neither they nor respondent's "Bagdad" and "Oriental" rugs have the structure or all of the characteristics of the true Oriental rugs nor are they made from the same materials. A large portion of the purchasing public is unable, so close is the resemblance in appearance, to distinguish respondent's "Hong Kong" and "Canton" rugs from true Chinese Orientals or respondent's "Mahah," "Kirma," "Bagdad" and "Oriental" rugs from true Orientals, and in consequence respondent's said rugs are readily accepted as being genuine Chinese Oriental or Oriental rugs.

PAR. 7. In the course and conduct of its business, and for the purpose of inducing the purchase of said rugs, respondent has engaged in the practice of furnishing to dealers and prospective dealers in its said rugs, circulars containing many misleading statements which represent and imply that certain of the said rugs are reproductions and copies of true Oriental and Chinese Oriental rugs. Among and typical of such statements are the following:

Faithful reproductions of exquisite Orientals.

An Oriental reproduction that reproduces everything but the price.

In truth and in fact said rugs are not exact copies or reproductions of true Orientals in structure, material, or method of manufacture, but merely simulate them in appearance.

In like manner respondent has represented, directly and by implication, that certain of the said rugs are reproductions and copies, except as to material, of true Oriental rugs. Among and typical of such statements are the following:

Amazing cotton reproductions.

All virgin cotton Oriental reproductions.

In truth and in fact the said rugs do not have the structure or characteristics of the true Oriental rug, even though differences in material are disregarded.

PAR. 8. The manufacture of hooked rugs has been carried on in this country since early in its colonial history, and was one of the earliest forms of artistic expression of the early settlers. Hooked rugs always have been, and still are, generally regarded as being a distinctly American product.

PAR. 9. In the course and conduct of its business, and for the purpose of inducing the purchase of certain of its rugs, respondent has engaged in the practice of describing and designating certain of its hooked rugs by the names "Boston" and "Old Cabin." Such names carry so definite an American connotation as to have the tendency and capacity to induce the mistaken and erroneous belief that the rugs so designated were made in the United States. Respondent used said names to designate said rugs in invoices and in circulars distributed to dealers and prospective dealers. Respondent also caused labels bearing one or the other of the said names to be securely attached to the said rugs so as to be plainly discernible to members of the purchasing public when such rugs are displayed for sale by retail dealers.

In truth and in fact the rugs designated as "Old Cabin" and "Boston" were made in Europe.

PAR. 10. The use by respondent of the designations and representations, as set forth herein, in connection with the offering for sale and sale of its said rugs, has had, and now has, the tendency and capacity to, and does, mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations and designations are true and correct, and to induce them to purchase said rugs on account thereof. Respondent's said acts and practices have the effect of placing in the hands of retail dealers, who purchase said rugs and resell the same to the purchasing public, means and instrumentalities of misleading and deceiving the public in the particulars aforesaid.

As a result of respondent's said acts and practices, trade has been unfairly diverted to respondent from its competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia, of rugs of various kinds, including genuine Oriental, Chinese Oriental, and domestic rugs, who truthfully represent their products as set forth in paragraph 3 hereof. In consequence thereof, injury has been and is now being done by respondent to competition in commerce among and between various States of the United States and in the District of Columbia.

PAR. 11. The aforesaid acts and practices of respondent as herein alleged 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 15, 1940, issued and served its complaint in this proceeding upon the respondent, R. F. Bemporad & Co., Inc., a corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 5, 1940, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived hearing on the allegations of fact set forth in the complaint. Thereafter 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 fact and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, R. F. Bemporad & Co., Inc., is a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business at 102 Madison Avenue, city and State of New York.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of importing, distributing, and selling rugs. In the course and conduct of its business respondent sells said rugs to various wholesale and retail dealers, and causes them, when sold, to be transported from its aforesaid place of business in the State of New York 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 rugs in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now, and has been at all times mentioned herein, in substantial competition with other corporations and with firms, partnerships, and individuals likewise engaged in the sale and distribution of rugs in

commerce among and between the various States of the United States and in the District of Columbia. Among such competitors are many who do not misrepresent the nature of their product or the place or method of manufacture thereof, and who do not furnish their dealer-customers with means or instrumentalities for deceiving the public.

PAR. 4. A substantial portion of the purchasing and consuming public understands, and for many years has understood, Oriental rugs to be rugs made in the Orient, or more particularly in certain parts of southwestern Asia by hand, of pleasing texture and original and beautiful design, and having a pile of wool or silk and wool, the threads of which are individually knotted in a special manner. Such rugs are usually designated by names which are indicative of the Orient and Oriental origin and manufacture. A substantial portion of the purchasing and consuming public understands, and for many years has understood, Chinese Oriental rugs to be rugs made in China, by hand, in the same manner and possessing the same qualities and characteristics as the Oriental rug. Both Oriental and Chinese Oriental rugs have been for many years, and still are, held in great public esteem because of their texture, beauty, durability, and other qualities, and by reason thereof, there is a decided preference on the part of many of the purchasing public for such rugs.

PAR. 5. In the course and conduct of its business, and for the purpose of inducing the purchase of its said rugs, respondent has engaged in the practice of describing and designating certain of its rugs, which closely resemble Chinese Oriental rugs in appearance, by the names of "Hong Kong" and "Canton," which are cities in China, and by the name of "Kina" which connotes China. The use of said names has the tendency and capacity to, and does, induce the mistaken and erroneous belief that the rugs so designated are made in China, by hand, and are in all respects, including materials, true Chinese Oriental rugs.

In like manner said respondent has engaged in the practice of describing and designating certain of its rugs which closely resemble Oriental rugs in appearance by the names of "Mahah," "Kirma," "Orienta," and "Bagdad." There are true Oriental rugs known as "Mahal," and "Kirman." Bagdad is a city in the Orient, and the words "Orienta," "Mahah," and "Kirma" simulate respectively, the words "Oriental," "Mahal," and "Kirman."

The use by respondent of the said designations has the tendency and capacity to, and does, induce the mistaken and erroneous belief that respondent's "Kirma" and "Mahah" rugs are in fact true Oriental "Kirman" and "Mahal" rugs, and that respondent's "Orienta"

and "Bagdad" rugs are made in the Orient, by hand, and are in all respects, including materials, true Oriental rugs.

Respondent has used said names to designate said rugs in invoices and circulars addressed to dealers, and in otherwise referring to the same in the sale thereof to dealers. To certain of said rugs are firmly attached labels upon which one or another of said names appears, which are plainly discernible to members of the purchasing public when such rugs are displayed for sale by retail dealers.

PAR. 6. In truth and in fact respondent's said "Hong Kong," "Mahah," and "Bagdad" rugs are made in Italy, and the "Canton," "Kirma," and "Orienta" rugs in Belgium, of cotton, and on power looms. The "Hong Kong" and "Canton" rugs do not have the structure or all the characteristics of the true Chinese Oriental rug, the individual threads are not knotted in the distinctive manner of the true Chinese rug, and they are made from different materials. Respondent's "Mahah" and "Kirma" rugs are not true Oriental "Mahal" or "Kirman" rugs and neither they nor respondent's "Bagdad" and "Orienta" rugs have the structure or all of the characteristics of the true Oriental rugs nor are they made from the same materials. A large portion of the purchasing public is unable, so close is the resemblance in appearance, to distinguish respondent's "Hong Kong" and "Canton" rugs from true Chinese Orientals or respondent's "Mahah," "Kirma," "Bagdad" and "Orienta" rugs from true Orientals, and in consequence respondent's said rugs are readily accepted as being genuine Chinese Oriental or Oriental rugs.

PAR. 7. In the course and conduct of its business, and for the purpose of inducing the purchase of said rugs, respondent has engaged in the practice of furnishing to dealers and prospective dealers in its said rugs, circulars containing many misleading statements which represent and imply that certain of the said rugs are reproductions and copies of true Oriental and Chinese Oriental rugs. Among and typical of such statements are the following:

Faithful reproductions of exquisite Orientals.

An Oriental reproduction that reproduces everything but the price.

In truth and in fact said rugs are not exact copies or reproductions of true Orientals in structure, material, or method of manufacture, but merely simulate them in appearance.

In like manner respondent has represented, directly and by implication, that certain of the said rugs are reproductions and copies, except as to material, of true Oriental rugs. Among and typical of such statements are the following:

Amazing cotton reproductions.

All virgin cotton Oriental reproductions.

In truth and in fact the said rugs do not have the structure or characteristics of the true Oriental rug, even though differences in material are disregarded.

PAR. 8. The manufacture of hooked rugs has been carried on in this country since early in its colonial history, and was one of the earliest forms of artistic expression of the early settlers. Hooked rugs always have been, and still are, generally regarded as being a distinctively American product.

PAR. 9. In the course and conduct of its business, and for the purpose of inducing the purchase of certain of its rugs, respondent has engaged in the practice of describing and designating certain of its hooked rugs by the names "Boston" and "Old Cabin." Such names carry so definite an American connotation as to have the tendency and capacity to induce the mistaken and erroneous belief that the rugs so designated were made in the United States. Respondent used said names to designate said rugs in invoices and in circulars distributed to dealers and prospective dealers. Respondent also caused labels bearing one or the other of the said names to be securely attached to the said rugs so as to be plainly discernible to members of the purchasing public when such rugs are displayed for sale by retail dealers.

In truth and in fact the rugs designated as "Old Cabin" and "Boston" were made in Europe.

PAR. 10. The use by respondent of the designations and representations, as set forth herein, in connection with the offering for sale and sale of its said rugs, has had, and now has, the tendency and capacity to, and does, mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations and designations are true and correct, and to induce them to purchase said rugs on account thereof. Respondent's said acts and practices have the effect of placing in the hands of retail dealers, who purchase said rugs and resell the same to the purchasing public, means and instrumentalities of misleading and deceiving the public in the particulars aforesaid.

As a result of respondent's said acts and practices, trade has been unfairly diverted to respondent from its competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia, of rugs of various kinds, including genuine Oriental, Chinese Oriental, and domestic rugs, who truthfully represent their products as set forth in paragraph 3 hereof. In consequence thereof, injury has been, and is now being done by respondent to competition in commerce among and between various States of the United States and in the District of Columbia.

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CONCLUSION

The aforesaid acts and practices of 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 and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and waives hearing on the allegations of fact set forth in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, R. F. Bemporad & Co., Inc., a corporation, 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 rugs and other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Hong Kong," "Canton," "Kina," or other names indicative of Chinese origin as descriptive of rugs which are not in fact made in China and which do not possess all the essential characteristics and structure of Chinese Oriental rugs.

2. Using the words "Mahah," "Kirma," "Orienta," "Bagdad," or names indicative of the Orient, as descriptive of rugs which are not in fact made in the Orient and which do not possess all the essential characteristics and structure of Oriental rugs.

3. Using the word "Reproduction," or any similar word which imports that the article to which such word is applied is a replica or duplicate of an original, as descriptive of rugs which are not in fact reproductions of the type named, to wit, true counterparts or reconstructions thereof in all respects, including material.

4. Using the words "Old Cabin," "Boston," or other distinctively American names, as descriptive of rugs which are not in fact made in the United States.

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.

Order

IN THE MATTER OF

ROSE HEIFLER AND FRED JACKSON, DOING BUSINESS
AS HEIFLER & JACKSON

MODIFIED CEASE AND DESIST ORDER

. Docket 3893, Order, Nov. 5, 1940

Order modifying prior order to cease and desist, made as of April 15, 1940, 30 F. T. C. 980, and which required respondent individuals, in connection with advertisement of their said "Morgan's Pomade" for scalp and hair, to cease and desist from representing the same as not a dye, or as supplying certain deficient materials to gray hair, or as having certain qualities in connection with use on hair, so as to strike from original order language thereof relating to failure to reveal, or asserted failure to reveal, possible injurious consequences of application thereof to tender, injured or broken skin, but in other respects leave in full force and effect said order, as below set forth.¹

Mr. Clark Nichols for the Commission.

Mr. Philip Cooper, of New York City, for respondents.

MODIFIED 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 the respondents, in which answer respondents admit all the material allegations of the complaint set forth in said complaint and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Rose Heifler and Fred Jackson, or either of them, their agents, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

¹ Said modifying order reads as follows:

This matter coming on to be heard by the Commission upon the request of respondents that the order to cease and desist entered herein on April 15, 1940, 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 cease and desist order entered herein on April 15, 1940, be modified by striking therefrom the following language appearing the last four lines thereof: "or which advertisements fail to reveal that the application of 'Morgan's Pomade' to tender, injured or broken skin may result in serious injury to the health of the user."

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