

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.

Order

31 F. T. C.

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 a preparation containing drugs now designated by the name "Morgan's Pomade," or any other preparation, composed of substantially similar ingredients, or possessing substantially similar properties, whether sold under the same name or any other name, or disseminating, or causing to be disseminated, any advertisements by any means for the purpose of inducing, or which are 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 through implication, that said preparation is not a tint or dye; that its application causes the hair to change its color without dyeing; that the use of said preparation will restore the original color to gray hair; that its application supplies to the hair shaft the materials in which gray hair is deficient; that the use of said preparation prevents the hair from falling out; that said preparation when applied to the hair and scalp, penetrates into the roots of the hair and enriches the hair; that said preparation is a competent and effective cure or remedy for dandruff.

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

Syllabus

IN THE MATTER OF

MANCHESTER SILVER COMPANY, AND FRANK S. TRUMBULL, FRANZ S. TIDERMAN AND EDWARD B. PALMER, INDIVIDUALLY AND AS OFFICERS THEREOF

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

Docket 4133. Complaint, May 11, 1940—Decision, Nov. 6, 1940

Where a corporation and three individuals, who were president, vice president, and secretary thereof, and directed and controlled its advertising policies and business activities and practices, engaged in manufacture and in sale and distribution of sterling silver flatware to wholesale and retail dealers, including retail department stores, and to jobbers and other purchasers in various States and in the District of Columbia, in competition with others likewise engaged in sale and distribution of such products, and including many in such commerce who do not in any manner misrepresent their goods or matters pertaining thereto, and in long issuing, in the conduct of their business, and circulating among retailers, wholesalers, and jobbers, their "Pink List," purporting to show usual and regular retail prices or values of their said silverware, and in selling to such vendees at specified discounts from said list, in accordance with prices of which many retailers had offered and sold their said silver flatware and which had, for many years, been used by retailers and, more particularly, large department stores, in conducting special sales of their said products, and to show so-called regular prices thereof as compared with those at which their said silver flatware products were being sold, and amounting, in some instances, in the case of such "Sales Prices," to as much as 33 percent off such "Pink List" prices;

In pursuance and furtherance of a plan devised by them for use by retailers to increase and promote the sale of their said products at such special sales through use of price list which they designated as the "Blue List," and which had words "Wholesale List" printed thereon, and which set forth prices which were substantially higher for identical articles than those shown on the "Pink List," long used by them in conducting their said business, and which did not represent or reflect either the wholesale or retail prices or values of products listed therein, but were wholly fictitious and greatly in excess of prices at which such products were regularly and customarily offered for sale and sold—

(a) Issued and supplied to retailers, for use in conducting so-called special sales of their said flat silverware products, said "Blue List" as above described, and suggested and recommended that retailers make use thereof in promoting special sales of said flatware and display and give said "Blue List" to purchasing and consuming public and cause advertisements quoting said list to be inserted in newspapers in connection with so-called half-price and comparative price sales, and that such dealers represent to purchasing and consuming public that prices shown on said list were the normal prices at which said silver flatware was regularly and customarily sold; and