

Syllabus

IN THE MATTER OF

CHARLES H. PHILLIPS CHEMICAL COMPANY

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

Docket 3959. Complaint, Nov. 27, 1939—Decision, Dec. 12, 1940

Where a corporation engaged in manufacturing and compounding its "Milk of Magnesia Cleansing Cream" and its "Milk of Magnesia Texture Cream," and in interstate sale and distribution thereof; in advertisements of said products which it disseminated and caused to be disseminated through the mails and otherwise in commerce, and by other means, and by insertions in newspapers and periodicals of general circulation, and in circulars and other printed or written matter distributed in commerce, and by continuities broadcast from radio stations of extrastate audience, and which were intended and likely to induce purchase of its said products—

- (a) Represented, directly and by implication, that there is a disease or abnormal pathological condition of the skin known or properly described as "acid skin," and that skin blemishes such as blackheads, enlarged pores, oily shine and dry, scaly roughness are caused by "acid skin" or excess fatty acid accumulations, and that use of either or both of said products would cure or overcome such conditions and effects, and were effective in treating same; and
- (b) Represented that use of either or both of its said products neutralized external excess fatty acid accumulations in the same way that milk of magnesia neutralizes excess acid in the stomach, and that use of its "Texture Cream" improved texture of skin and freed same from oiliness, and that its "Cleansing Cream" penetrated pores of skin and thoroughly cleansed same;

Facts being that acid neutralization of skin is not accomplished in same way as above set forth and is not necessary to maintenance of a healthy skin condition, there is no such disease or abnormal condition, as above set forth, as "acid skin," nor will its said products, whether used singly or jointly, cure or overcome such purported condition, skin blemishes such as blackheads and others above set forth are not caused by "acid skin" or excess fatty acid accumulations thereon, and its said products, whether used singly or jointly, will not cure or overcome such blemishes or have any value in treatment thereof or affect roughness, blackheads, excess or accumulated oil, or enlarged pore openings in excess of (a) temporarily relieving roughness of skin due solely to dryness, (b) aiding in removal of blackheads, by removing accumulated dirt, foreign matter, or skin excretions lodged in exterior openings of pores or present on surface, (c) temporarily removing oily shine by removing excess or accumulated oil, and (d) aiding in reduction of enlarged pore openings when caused solely by accumulated dirt, foreign matter or skin excretions lodged in exterior openings of pores, and its said "Texture Cream" does not change or affect texture of skin in histological sense, or free it from oiliness, though of possible value in temporarily removing excess or accumulated oil, and its "Cleansing Cream" will not penetrate pores or thoroughly clean skin, except as it acts upon dirt and other foreign matter possibly present on surface and in exterior openings of pores;

Complaint

32 F. T. C.

With effect, through use of aforesaid statements, representations, and designations, of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that such designations, statements, and representations were true, and into purchase of substantial quantities of its said products by reason thereof:

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. Donovan R. Divet for the Commission.

Rogers, Hoge & Hills, 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 Charles H. Phillips Chemical Co., a corporation, hereinafter referred to as the 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 public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent Charles H. Phillips Chemical Co. is a corporation organized and existing under and by virtue of the laws of the State of Connecticut and having its office and principal place of business at 170 Varick Street, in the city of New York, State of New York, and having a factory, where the products hereinafter referred to are manufactured, at Glen Brook, in the State of Connecticut.

Respondent is now, and for several years last past has been, engaged in the business of manufacturing, compounding, selling and distributing two cosmetic preparations designated Phillips' Milk of Magnesia Cleansing Cream and Phillips' Milk of Magnesia Texture Cream. The respondent causes said cosmetic preparations, when sold, to be shipped from its said factory in the State of Connecticut, or from the State of origin of the shipment thereof, to the purchasers thereof at their respective points of location in various States of the United States other than the State of origin of the shipment thereof and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said cosmetic preparations in commerce among and between the various States, of the United States and in the District of Columbia.

PAR. 2. 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 con-

cerning its said preparations by 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 convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which such 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 preparations; and has disseminated and is now disseminating, and has caused and is now causing, the dissemination of false advertisements concerning its said preparation by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid, are the following:

If your skin seems "acid," if it has lost its fresh tone, smooth firm texture, and has developed such blemishes as enlarged pores, oily shine, blackheads, scaly roughness, then try the beauty-giving action of these Milk of Magnesia Creams on your skin!

The beneficial action of Milk of Magnesia on the skin has long been known to many skin specialists * * *. Now, after years of laboratory experiment and tests, the Phillips Company, original makers of the famous Milk of Magnesia, has perfected a way to hold this beauty-giving ingredient on the skin long enough to be truly helpful—in these new-type face creams!

Help overcome "acid skin". You know how Milk of Magnesia taken internally relieves excess acidity of the stomach. In just the same way these new-type Milk of Magnesia Creams act externally on the excess fatty acid accumulations on the skin, and help to overcome unsightly faults and aid in beautifying.

Phillips' Milk of Magnesia Texture Cream. Its difference is due to the Milk of Magnesia which acts on the excess fatty acid accumulations on the skin * * *. The Milk of Magnesia prepares the skin—smoothing away roughness and freeing it from oiliness, * * *

It gives a new kind of aid in protecting against the mixture of dirt and natural oils which furnishes a fertile soil for bacteria.

Phillips' Milk of Magnesia Cleansing Cream. The Milk of Magnesia not only loosens and absorbs the surface dirt, but penetrates the pores and neutralizes the excess fatty acid accumulations, leaving your skin soft, smooth and thoroughly clean.

In said advertisements and as a part of its representations concerning said preparations, the respondent designates its said prepa-

Complaint

32 F. T. C.

rations as Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream.

PAR. 3. Through the use of the aforesaid statements and representations and other statements and representations of similar import or meaning not herein set out, the respondent represents, directly or by implication, that there is a disease or abnormal pathological condition of the human skin known or properly described as "acid skin" and that the use of either or both of said preparations, to wit, Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream, will cure or overcome such condition; that skin blemishes such as blackheads, enlarged pores, oily shine and dry, scaly roughness are caused by "acid skin" and that the use of either or both of said preparations will cure or overcome such conditions, and that said preparations are effective in treating such conditions; that excess fatty acid accumulations on the skin cause blemishes thereon and that the use of either or both of said preparations neutralizes external excess fatty acid accumulations in the same way that milk of magnesia neutralizes excess acid in the stomach; that the use of said Milk of Magnesia Texture Cream improves the texture of the skin and frees the skin from oiliness; and that Milk of Magnesia Cleansing Cream penetrates the pores of the skin and thoroughly cleans the skin.

PAR. 4. The aforesaid statements and representations and designations by respondent relative to said cosmetic preparations, to-wit, Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream, are exaggerated, misleading, and untrue and constitute false advertisements. In truth and in fact, there is no disease or abnormal pathological condition of the human skin known or properly described as "acid skin" and consequently neither one nor both of said preparations will cure or overcome such purported condition. In fact, the healthy and normal human skin and its exudations are slightly acid. Skin blemishes such as blackheads, enlarged pores, oily shine or dry scaly roughness are not caused by "acid skin" and neither one nor both of the aforesaid preparations will cure or overcome any of such conditions or be effective in the treatment thereof. Excess fatty acid accumulations do not cause blemishes on the skin. Neither the use of one nor the use of both of the aforesaid preparations neutralizes fatty acids on the skin in the same way that milk of magnesia neutralizes excess acid in the stomach. The quantity of fatty acid on the skin of the normal person is very small, and neither of the aforesaid preparations will neutralize fatty acids so as to accomplish the results represented. The use of Milk of Magnesia Texture Cream does not improve the

texture of the skin or free the skin from oiliness. In fact, such preparation contains a substantial quantity of oil, and the use thereof would add to the oil on the skin. The aforesaid Milk of Magnesia Cleansing Cream will not penetrate the pores of the skin and will not thoroughly clean the skin.

PAR. 5. A substantial number of members of the purchasing public have the understanding and belief that milk of magnesia has therapeutic value in the treatment of various diseases and disorders of the human body, but a substantial number of such members of the purchasing public are uninformed as to the limitations of the therapeutic value of milk of magnesia.

The respondent's use of the words "Milk of Magnesia" in the names of the products designated as Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream has the capacity and tendency to, and does, cause members of the purchasing public who are uninformed as to the limitations of the therapeutic value of milk of magnesia, to have the mistaken and erroneous belief that, for the purposes for which respondent recommends the use of said preparations, milk of magnesia is the principal active ingredient in said preparations; that milk of magnesia has therapeutic value in the treatment of the conditions for which respondent recommends the use of its said preparations, to wit: "acid skin," skin blemishes, enlarged pores, oily shine, dry scaly roughness, and excess fatty acid accumulations, and that milk of magnesia will penetrate and thoroughly cleanse the pores and skin and will improve the texture of the human skin.

Milk of magnesia has no therapeutic value in the treatment of the conditions for which respondent recommends the use of its said preparations, to-wit: "acid skin," skin blemishes, enlarged pores, oily shine, dry scaly roughness, or excess fatty acid accumulations. Milk of magnesia is not an active ingredient in either of said preparations in aiding to accomplish the results for which respondent recommends the use of said preparations as aforesaid. Milk of magnesia will not penetrate or cleanse the pores of the skin and the use thereof will not improve the texture of the human skin.

PAR. 6. The use by the respondent of the aforesaid false and misleading statements, representations, and designations has the capacity and tendency to, and does, mislead and deceive a substantial number of the members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading designations, statements, and representations are true and into the purchase of substantial quantities of respondent's said products because of said erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of the 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 27th day of November 1939 issued and subsequently served its complaint in this proceeding upon said respondent, Charles H. Phillips Chemical Co., a corporation, charging it with unfair and deceptive acts and practices in commerce in violation of the provisions of the said act. On February 19, 1940, 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 through its counsel, Rogers, Hoge, and Hills, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may 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 may 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 its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Charles H. Phillips Chemical Co., is a corporation organized and existing under and by virtue of the laws of the State of Connecticut and having its office and principal place of business at 170 Varick Street, in the city of New York, State of New York, and having a factory, where the products hereinafter referred to are manufactured, at Glenbrook, in the State of Connecticut.

Respondent is now, and for several years last past has been, engaged in the business of manufacturing, compounding, selling,

and distributing two cosmetic preparations designated Phillips' Milk of Magnesia Cleansing Cream and Phillips' Milk of Magnesia Texture Cream. The respondent causes said cosmetic preparations, when sold, to be shipped from its said factory in the State of Connecticut, or from the State of origin of the shipment thereof, to the purchasers thereof at their respective points of location in various States of the United States other than the State of origin of the shipment thereof and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said cosmetic preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. 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, advertisements concerning its said preparations by 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 convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which such 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 preparations; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, advertisements concerning its said preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid are the following:

If your skin seems "acid," if it has lost its fresh tone, smooth firm texture, and has developed such blemishes as enlarged pores, oily shine, blackheads, scaly roughness, then try the beauty-giving action of these Milk of Magnesia Creams on your skin!

The beneficial action of Milk of Magnesia on the skin has long been known to many skin specialists * * *. Now, after years of laboratory experiment and tests, the Phillips Company, original makers of the famous Milk of Magnesia, has perfected a way to hold this beauty-giving ingredient on the skin long enough to be truly helpful—in these new-type face creams!

Help overcome "acid skin". You know how Milk of Magnesia taken internally relieves excess acidity of the stomach. In just the same way these

new-type Milk of Magnesia Creams act externally on the excess fatty acid accumulations on the skin, and help to overcome unsightly faults and aid in beautifying.

Phillips' Milk of Magnesia Texture Cream. Its difference is due to the Milk of Magnesia which acts on the excess fatty acid accumulations on the skin * * * The Milk of Magnesia prepares the skin—smoothing away roughness and freeing it from oiliness * * *.

It gives a new kind of aid in protecting against the mixture of dirt and natural oils which furnishes a fertile soil for bacteria.

Phillips' Milk of Magnesia Cleansing Cream. The Milk of Magnesia not only loosens and absorbs the surface dirt, but penetrates the pores and neutralizes the excess fatty acid accumulations, leaving your skin soft, smooth and thoroughly clean.

PAR. 3. Through the use of the aforesaid statements and representations, and other statements and representations of similar import or meaning not herein set out, the respondent represents, directly and by implication, that there is a disease or abnormal pathological condition of the human skin known or properly described as "acid skin," and that the use of either or both of said preparations, to wit, Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream, will cure or overcome such condition; that skin blemishes such as blackheads, enlarged pores, oily shine and dry, scaly roughness are caused by "acid skin" or excess fatty acid accumulations, and that the use of either or both of said preparations will cure or overcome such conditions, and that said preparations are effective in treating such conditions; that the use of either or both of said preparations neutralizes external excess fatty acid accumulations in the same way that milk of magnesia neutralizes excess acid in the stomach; that the use of said Phillips' Milk of Magnesia Texture Cream improves the texture of the skin and frees the skin from oiliness; and that Phillips' Milk of Magnesia Cleansing Cream penetrates the pores of the skin and thoroughly cleans the skin.

PAR. 4. The respondent's aforesaid statements and representations relative to said cosmetic preparations, Phillips' Milk of Magnesia Texture Cream and Phillips' Milk of Magnesia Cleansing Cream, and the effectiveness of said products in use, are exaggerated, misleading and untrue, and constitute false advertisements. The healthy and normal skin and its exudations are slightly acid and, although such acid may be neutralized by external applications of either or both of said preparations, such neutralization is not accomplished in the same way as milk of magnesia neutralizes excess acid in the stomach, and such neutralization is not necessary to the maintenance of a healthy skin condition. There is no disease or abnormal pathological condition of the human skin known or properly described as

"acid skin." Neither of respondent's preparations, whether used singly or jointly, will cure or overcome such purported condition. Skin blemishes such as blackheads, enlarged pores, oily shine, and dry scaly roughness are not caused by "acid skin" or by excess fatty acid accumulations on the skin. Neither of the aforesaid preparations, whether used singly or jointly, will cure or overcome such skin blemishes or have any value in the treatment thereof in excess of (a) temporarily relieving roughness of the skin due solely to dryness thereof; (b) aiding in the removal of blackheads, by removing accumulated dirt, foreign matter, or skin excretions lodged in exterior openings of the pores or present on the surface of the skin; (c) temporarily removing oily shine by removing from the surface of the skin excess or accumulated oil; (d) aiding in the reduction of enlarged pore openings when such enlarged pore openings are caused solely by accumulated dirt, foreign matter or skin excretions lodged in the exterior openings of the pores. The use of either or both of said preparations will not affect roughness of the skin, blackheads, excess or accumulated oil on the skin, oily shine, or enlarged pore openings, except as indicated in subdivisions (a), (b), (c), and (d) of paragraph 4 of these findings.

The use of Phillips' Milk of Magnesia Texture Cream does not change or affect the texture of the skin in the histological sense, or free the skin from oiliness, though such preparation may have value in temporarily removing excess or accumulated oil.

Phillips' Milk of Magnesia Cleansing Cream will not penetrate the pores of the skin and will not thoroughly clean the skin except as it acts upon the dirt and other foreign matter which may be present on the surface of the skin and in the exterior openings of the pores.

PAR. 5. The use by the respondent of the aforesaid statements, representations and designations has the capacity and tendency to, and does, mislead and deceive a substantial number of the members of the purchasing public into the erroneous and mistaken belief that the aforesaid designations, statements and representations are true, and into the purchase of substantial quantities of respondent's said products because of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of the 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, 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, Charles H. Phillips Chemical Co., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its cosmetic preparations designated Phillips' Milk of Magnesia Cleansing Cream and Phillips' Milk of Magnesia Texture Cream, or either of them, or any preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from directly or indirectly:

A. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference:

1. That there is a disease or abnormal pathological condition of the human skin known or properly described as "acid skin;"

2. That the use of either or both of said preparations will cure or overcome said purported condition described as "acid skin."

3. That skin blemishes, blackheads, enlarged pores, oily shine or dry, scaly roughness, are caused by "acid skin" or by any other fictitious or non-existent disease or pathological condition, or by excess fatty acid accumulations on the skin.

4. That the use of either or both of said preparations will cure or overcome skin blemishes, or will be effective in the treatment of skin blemishes except as provided in paragraphs 5, 6, 7, and 8 hereof.

5. That the use of either or both of said preparations has any value in the treatment of roughness of the skin in excess of temporarily relieving such roughness when due solely to dryness of the skin.

6. That the use of either or both of said preparations will remove blackheads or has any value in the removal thereof in excess of aiding in such removal by removing accumulated dirt, foreign matter, or

skin excretions lodged in the exterior openings of the pores or present on the surface of the skin.

7. That the use of either or both of said preparations reduces enlarged pore openings or is of any value in the treatment thereof in excess of aiding in the reduction of enlarged pore openings when said enlargement is caused solely by accumulated dirt, foreign matter or skin excretions lodged in the exterior openings of the pores.

8. That the use of either or both of said preparations overcomes oily shine or oiliness of the face or is of any value in the treatment of oily shine or oiliness of the face in excess of temporarily removing excess or accumulated oil from the surface of the skin.

9. That the use of either or both of said preparations neutralizes excess fatty acid or other acid accumulations on the skin in the same way that milk of magnesia neutralizes acid in the stomach, or that the neutralization of a normal fatty acid or other acid accumulation on the skin is necessary to the maintenance of a healthy skin condition.

10. That said preparations or either of them change or affect the texture of the skin.

11. That the use of said Phillips' Milk of Magnesia Cleansing Cream or any other product of substantially similar ingredients penetrates the pores of the skin; or thoroughly cleans the skin except as it acts upon dirt or other matter which may be present on the surface of the skin or in the exterior openings of the pores of the skin.

B. 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 preparations, or either of them, which advertisement contains any of the representations prohibited in Subdivision A hereof.

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.

IN THE MATTER OF
SAMUEL H. KOOLISH TRADING AS ARLINGTON SALES
COMPANY

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

Docket 4180. Complaint, July 11, 1940—Decision, Dec. 12, 1940

Where an individual engaged in interstate sale and distribution of radios, flash-lights, clocks, cameras, pen and pencil sets, and other articles of merchandise in competition with others engaged in sale and distribution of like or similar articles in commerce as aforesaid; in soliciting sale of and distributing his merchandise—

Furnished various devices and plans of merchandising which involved operation of games of chance, gift enterprises, or lottery schemes when merchandise was sold and distributed to ultimate consumer thereof, and involved distribution to operators and purchasing public of certain literature and instructions including push cards, order blanks, illustrations of his said merchandise, and circulars explaining his plan of selling same and of allotting it as premiums or prizes to operators of such push cards and to purchasing and consuming public under various push-card schemes including (a) scheme through which, and in accordance with explanatory legend set forth on card, purchaser or customer succeeding in selecting by chance that 1 of 15 feminine names displayed thereon corresponding with name concealed under card's master seal secured candid camera and roll of film, or article of merchandise being thus disposed of, and customer securing certain specified number received pen and pencil combination, and amount paid for chance was determined by number secured by chance under disk pushed on card in accordance with name selected, and (b) other push-card schemes which involved sale and distribution of his said products by means of game of chance, gift enterprise, or lottery scheme similar to that hereinabove described and varying therefrom in detail only; and

Supplied thereby to and placed in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with such sales plan by persons to whom he furnished said push cards and who used same in purchasing, selling, and distributing his said products in accordance with such plan, under which fact as to whether purchaser received an article of merchandise or nothing, and amount of money and how much he was to pay, and which of said articles if any he was to receive, were determined wholly by lot or chance, and involving game of chance or sale of a chance to procure one of said articles at price much less than normal retail price thereof, contrary to an established public policy of the United States Government and in violation of the criminal laws, and in competition with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win something by chance or any other method contrary to public policy and refrain therefrom;

With result that many persons were attracted by sales plan or method employed by him in sale and distribution of his said merchandise, and by element of