

IN THE MATTER OF

ALLEN B. WRISLEY COMPANY ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 3021. Order, Feb. 10, 1941

Modified order, pursuant to provisions of section 5 (1) of Federal Trade Commission Act, and in accordance with decree below set forth, in proceeding in question, in which original order issued on April 6, 1939, 28 F. T. C. 1368, 1375, and in which Circuit Court of Appeals for Seventh Circuit on June 12, 1940, in *Allen B. Wisley Co. et al v. Federal Trade Commission*, 113 F. (2d) 437, 31 F. T. C. 1815, rendered its decision setting aside Commission's order, with permission to Commission to present order consistent with such decision, and on July 18, 1940, issued its decree modifying said Commission order and directed Commission to modify its said order to cease and desist in accordance therewith—

Requiring respondents, their officers, etc., in connection with offer, etc., in interstate commerce or District of Columbia, of soap, to forthwith cease and desist from representing, in any manner, that any soap which does not contain olive oil to exclusion of all other oils is an olive oil soap, and from using brand names or labels "Olivilo," "Royal Olive Oil Pure," and other brand names or labels as below set forth, or others of similar import or meaning, or word "Olive" or letters "oliv," equivalent term to describe, etc., soap, oil content of which is not wholly olive oil, and subject to explanatory qualification, in case of soap composed in part thereof, as below set forth, and excepting from prohibition of order trade names or labels "Palm and Olive Oil Soap," "Palm and Olive Soap," and "Oliv-Palm Complexion Soap."

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 6, 1939, the Commission made its findings as to the facts herein and concluded therefrom that the respondents had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on June 12, 1940, the United States Circuit Court of Appeals for the Seventh Circuit rendered its decision setting aside the Commission's order to cease and desist with permission to the Commission to present an order consistent with such decision, and that on July 18, 1940, the aforesaid Circuit Court of Appeals issued its decree modifying the aforesaid order of the Commission and directed the Commission to modify its aforesaid order to cease and desist in accordance with said decree.

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said court decree:

It is ordered, That the respondents, Allen B. Wrisley Co. and Allen B. Wrisley Distributing Co., also trading under the name Regal Soap Company, their officers, representatives, agents, and employees, directly or through any corporate or other device, and Karl Mayer, George A. Wrisley, and Wrisley B. Oleson, copartners trading as Karl Mayer & Co., or trading under any other name, their agents, representatives, and employees, in connection with the offering for sale, sale, and distribution of soap in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing in any manner that a soap which does not contain olive oil to the exclusion of all other oils is an olive-oil soap.

2. Using the brand names or labels "Olivilo," "Royal Olive Oil Pure," "Purito Olive Oil Castile," "Olive-Skin Pure Toilet Soap," or "Del Gloria Castile Made With Pure Olive Oil," or other brand names or labels of similar import or meaning containing the word "Olive" or the letters "oliv" or any equivalent term, to describe, designate, or in any way refer to soap the oil content of which is not wholly olive oil. Nothing contained herein shall prevent the respondents from using brand names containing the word "olive," or any derivative thereof or other word or words of similar import or meaning, to describe or designate a soap containing olive oil combined with other oil or oils, if respondent shall clearly, conspicuously, and truthfully designate that such soap is not made wholly of olive oil, and if olive oil is present in said soap in an amount sufficient substantially to effect its detergent or other qualities. The prohibition of this order shall not apply to the trade names or labels "Palm and Olive Oil Soap," "Palm and Olive Soap," and "Oliv-Palm Complexion Soap."

It is further ordered, That the respondents shall within 30 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.

IN THE MATTER OF

CARL D. BATES, TRADING AS SIMMON'S CUT RATE
DRUG STORECOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 4366. Complaint, Oct. 29, 1940—Decision, Feb. 10, 1941*

Where an individual engaged in sale and distribution of various medicinal preparations, including drug preparation known as "Mrs. Bee Femo Caps" and also as "Femo Caps" and "Bee Caps," to purchasers in various other States and in the District of Columbia; in advertisements of said preparation which he disseminated and caused to be disseminated through the mails and by various other means in commerce—

- (a) Represented, directly and by implication, that his said preparation constituted a competent and effective treatment for delayed, unnatural, and suppressed menstruation and that it was safe and harmless, facts being said preparation was not a competent or effective treatment for such conditions and was not safe or harmless, in that it contained drugs ergot, oil of savin, aloin, and oil of tansy in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in said advertisements or under such conditions as are customary or usual, and such use of said preparation might cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in case of pregnancy might cause uterine infection and blood poisoning, and such use of said preparation might also produce severe circulatory conditions, often with poisonous effect upon human system and tending to cause abortion in some instances, and might result in severe toxic conditions, in some instances producing gangrenous condition of lower limbs, resulting either in possible loss of limbs or in other serious and irreparable injury to health; and
- (b) Failed to reveal, in said advertisements, facts material in the light of representations contained therein, and that use of said preparation under conditions prescribed in such advertisements or under such conditions as are customary or usual, might cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs and, in case of pregnancy, might cause uterine infection and blood poisoning;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that his preparation possessed properties which it did not in fact possess, and that it was safe and harmless when such was not the fact, and with result, as consequence of such erroneous and mistaken belief, of inducing such public to purchase substantial quantities of his said preparation:

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. William L. Taggart for the Commission.

Mr. Samuel R. Levy, of Canandaigua, N. Y., for respondent.