

Syllabus

IN THE MATTER OF
DAVID H. GOLDMAN, TRADING AS ZEEN 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 3995. Complaint, Jan. 22, 1940—Decision, Mar. 26, 1941

Where an individual engaged in compounding, and in interstate sale and distribution of, his "Zeen Dry Cleaner" for cleaning clothing, upholstered furniture, carpets, rugs, blankets, draperies, and woolen and other materials, and for protection of such articles also from ravages of moths—

- (a) Represented, in labels affixed to containers thereof, and in printed matter distributed among the trade and public, that his said cleaner would "moth-proof or de-moth woolen materials in upholstery or rugs with one operation";

Facts being said product did not reach deep-seated infestations of moths, unless used according to complete and specific instructions for such purpose, cleans and removes dirt * * * spots and stains from all fabrics and, while it possessed moth-repellent properties, such properties, due to evaporation, were gradually diminished and lost unless repeated applications were made at proper intervals; and

- (b) Represented to trade and public that said preparation "* * * dry cleans and removes dirt * * * spots and stains from all fabrics * * * cleans and removes all foreign matter," "Is nonexplosive, as rubbing cannot ignite it," and "Is used exclusively by leading furniture and department stores everywhere";

Facts being it would not remove certain types of spots and stains from fabrics, and was made of petroleum distillates which vaporize to form gas capable of causing explosion if exposed to fire or flame, and the claim of exclusive use thereof by "leading furniture and department stores everywhere" was misleading, since said product was sold in not more than five or six States;

With capacity and tendency to deceive and mislead manufacturers of fabrics, dealers therein, and members of the public into the erroneous and mistaken belief that his said representations were truthful and thereby to induce purchase of his said product:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and competitors, and constituted unfair and deceptive acts and practices in commerce.

Mr. Joseph C. Fehr for the Commission.

Mr. H. K. Bell, of Spieth, Taggart, Spring & Annat, of Cleveland, Ohio, for respondent.

Complaint

32 F. T. C.

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 David H. Goldman, an individual trading as Zeen Chemical Co., hereinafter referred to as respondent, 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. David H. Goldman, hereinafter referred to as respondent, is an individual, trading as Zeen Chemical Co., having his principal office and place of business located at 1311 West Eleventh Street in the city of Cleveland, State of Ohio. Respondent is now, and for several years last past has been, engaged in the business of compounding chemical specialties, including a liquid solution designated as "Zeen Dry Cleaner" for spraying on clothing, upholstered furniture, carpets, rugs, blankets, draperies, and woolen and other materials. Said preparation, besides being intended to be used for the dry cleaning of various fabrics as aforesaid, is also designed to protect such articles from the ravages of flying and other moths and to prevent damage occasioned thereby.

PAR. 2. During all the times above mentioned and referred to, the respondent has sold his said liquid product "Zeen Dry Cleaner" to purchasers located in various States of the United States other than the State of Ohio. The respondent has caused said "Zeen Dry Cleaner," when so sold by him, to be transported from his plant or place of business in Ohio to purchasers located in said other States, and has maintained a course of trade in said product in commerce among and between the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of his business as above set forth, the respondent, during all the times above mentioned and referred to, has caused and now causes advertisements pertaining to his product, "Zeen Dry Cleaner," to be published on labels affixed to the can containers of said product and in folders and other forms of printed matter, circulated and distributed among the trade and the public in the several States of the United States.

In such advertisements, respondent represents that his aforesaid product, "Zeen Dry Cleaner," "will moth-proof or de-moth woolen materials in upholstery or rugs with one operation."

1061

Findings

Respondent's product, "Zeem Dry Cleaner," does not, when used as directed, reach deep-seated infestations of moths. It will not moth-proof fabrics, but after a short period due to evaporation it loses any moth-repellant properties it may have.

PAR. 4. The respondent makes and has made to the trade and to the public other unfair, misleading, and deceptive statements and representations with reference to the value and merits of his aforesaid product, typical of which are as follows:

Zeem dry cleans and removes dirt * * * spots and stains from all fabrics * * * cleans and removes all foreign matter.

Zeem is non-explosive, as rubbing cannot ignite it.

Zeem Dry Cleaner is used exclusively by leading furniture and department stores everywhere.

The aforesaid statements and representations of the respondent are false and misleading. In truth and in fact, "Zeem Dry Cleaner" will not remove certain types of spots and stains from fabrics treated by it. Said product is made of petroleum distillates, which vaporize and mix with the air to form an explosive gas, potentially capable of causing an explosion. Further, the claim of exclusive use of said product by "leading furniture and department stores everywhere" is false and misleading, as the respondent sells said product in not exceeding five or six States.

PAR. 5. The statements and representations made by the respondent in his advertisements as above set forth have had, and now have, the capacity and tendency to deceive and mislead manufacturers of fabrics, dealers therein, and members of the public into the erroneous and mistaken belief that said statements and representations so made and caused to be made by the respondent were and are true, and to induce the purchase of respondent's "Zeem Dry Cleaner," in reliance upon such belief.

PAR. 6. 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 22d day of January 1940, issued and served its complaint in this proceeding upon respondent, David H. Goldman, an individual, trading as Zeem Chemical Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On Febru-

Findings

32 F. T. C.

ary 12, 1940, the respondent filed his answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed for the respondent by its counsel, H. K. Bell, Esq., and by W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as to 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; such 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 this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. David H. Goldman, hereinafter referred to as respondent, is an individual, trading as Zeen Chemical Co., having his principal office and place of business located at 1311 West Eleventh Street, in the city of Cleveland, State of Ohio. Respondent is now, and for several years last past has been, engaged in the business of compounding chemical specialties, including a liquid solution designated as "Zeen Dry Cleaner" for cleaning clothing, upholstered furniture, carpets, rugs, blankets, draperies, and woolen and other materials. Said preparation, besides being intended to be used for the dry cleaning of various fabrics as aforesaid, is also designed to protect such articles from the ravages of flying and other moths and to prevent damage occasioned thereby.

PAR. 2. During all the times above mentioned and referred to, the respondent has sold his said liquid product, "Zeen Dry Cleaner," to purchasers located in various States of the United States other than the State of Ohio. The respondent has caused said "Zeen Dry Cleaner," when so sold by him, to be transported from his plant or place of business in Ohio to purchasers located in said other States, and has maintained a course of trade in said product in commerce among and between the various States of the United States and the District of Columbia.

PAR. 3. Prior to the issuance of the complaint herein, in the course and conduct of his business as above set forth, the respondent has caused advertisements pertaining to his product, "Zeem Dry Cleaner," to be published on labels affixed to the can containers of said product and in folders and other forms of printed matter, circulated and distributed among the trade and the public in the several States of the United States.

In such advertisements, respondent represented that his aforesaid product, "Zeem Dry Cleaner," "Will moth-proof or de-moth woolen materials in upholstery or rugs with one operation."

Respondent's product, "Zeem Dry Cleaner," does not reach deep-seated infestations of moths, unless used according to complete and specific directions for such purpose, which directions were not provided. Such preparation will not mothproof fabrics. While it possesses moth-repellant properties, these properties, due to evaporation, are gradually diminished and then lost unless repeated applications are made. One application of the product will do no more than temporarily repel moths. Such repellent properties as it possesses are retained in fabrics treated therewith only when repeated applications are made at proper intervals.

PAR. 4. Prior to the issuance of the complaint herein the respondent also made to the trade and to the public the following statements and representations with reference to the value and merits of his aforesaid product:

Zeem dry cleans and removes dirt * * * spots and stains from all fabrics
* * * cleans and removes all foreign matter.

Zeem is non-explosive, as rubbing cannot ignite it.

Zeem Dry Cleaner is used exclusively by leading furniture and department stores everywhere.

In truth and in fact, "Zeem Dry Cleaner" will not remove certain types of spots and stains from fabrics treated with it. Said product is made of petroleum distillates which vaporize and mix to form a gas capable of causing an explosion if exposed to fire or flame. Further, the claim of exclusive use of said product by "leading furniture and department stores everywhere" is misleading, as the respondent sells said product in not exceeding five or six States.

PAR. 5. The statements and representations made by the respondent in his advertisements as above set forth have had the capacity and tendency to deceive and mislead manufacturers of fabrics, dealers therein, and members of the public into the erroneous and mistaken belief that said statements and representations so made by the respondent were and are truthful and to induce the purchase of respondent's "Zeem Dry Cleaner" in reliance upon such belief.

Order

32 F. T. C.

CONCLUSION

The aforesaid acts and practices of respondent, David H. Goldman, an individual, trading as Zeen Chemical Co., as herein found, are all to the prejudice of the public and of respondent's competitors and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the provisions 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 by 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, David H. Goldman, an individual trading as Zeen Chemical Co., his representatives, servants, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his product, "Zeen Dry Cleaner," under that or any other name or designation, in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, through circulars, catalogs, labels or in any other form of printed matter, or in any other way:

1. That Zeen Dry Cleaner will reach deep-seated infestations of moths, unless directions accompany such representation which will enable the user to bring the preparation in contact with the moths.
2. That Zeen Dry Cleaner will mothproof fabrics or materials.
3. That Zeen Dry Cleaner will demoth materials in upholstery or rugs, unless such representations be accompanied by the explanation that such result is of temporary duration only and must be repeated at proper intervals.
4. That Zeen Dry Cleaner cleans and removes all types of spots, stains, and all foreign matter.

1061

Order

5. That Zeen Dry Cleaner is nonexplosive, except that respondent is not hereby prohibited from representing that Zeen Dry Cleaner is nonexplosive if kept away from fire or flame.

6. That Zeen Dry Cleaner is used exclusively by leading furniture and department stores everywhere.

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

IN THE MATTER OF

AIR CONDITIONING TRAINING CORPORATION, AND BEN-
JAMIN M. KLEKNER, MORRIS A. GLUCK AND LEON J.
KNIGHTCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4182. Complaint, July 12, 1940—Decision, Mar. 27, 1941*

Where a corporation and three individuals, who were general officers thereof and formed, controlled, and directed its policies, acts, and practices, engaged in interstate sale and distribution of courses of study and instruction in air conditioning and refrigeration, together with books and material connected therewith, and one of the most extensive radio advertisers in the United States, in correspondence school field;

In advertising and soliciting the sale of and selling its said courses through radio continuities broadcast over more than 75 stations having interstate reception, under plan or practice by which it referred to a force of some 150 salesmen, operating out of 4 or 5 district offices, names of prospects who responded to its broadcasts, for solicitation in endeavor to sell their said course, with aid of much descriptive advertising literature; in its said broadcasts, advertising literature and particularly through its salesmen—

- (a) Represented that students who completed its courses were assured of employment in the industry involved, that jobs were guaranteed and promised, that they would secure students such employment, that there were vacancies in the industry in large numbers which were available to its said students, and that there was a great and unusual demand for men to fill the same;

Facts being, with very rare exceptions, students who completed their training were unable to find employment in the industry, members of which prefer graduates of universities with engineering degrees for installation of commercial equipment, while in field of service work supply of available men was generally much greater than demand, with men trained in the plumbing, electric and pipe-fitting trades generally available and preferred to correspondence school graduates, additional difficulties to whose employment were interposed in many of the larger centers by union regulations, and, contrary to above representations, it neither had nor succeeded in securing jobs for graduates, and opportunities in service field were being restricted rather than expanded by mechanical progress and prevailing practice;

- (b) Represented that the industry had designated school in question to train men for employment therein, that it was sponsoring such training and cooperating, and that members had arrangements with it for employing students who finished such training; and
- (c) Represented that courses were formed and framed by representatives of the industry who actively participated in the conduct of the school, and that their salesmen were "vocational directors" or experts in vocational guidance, engaged in selecting men of special qualifications for training;