

Complaint

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IN THE MATTER OF
ATLAS WALL PAPER MILLS, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914

Docket 4288. Complaint, Aug. 29, 1940—Decision, Aug. 6, 1941

Where a corporation engaged in the manufacture and interstate sale and distribution of wall paper; through price lists and sample books and oral statements by its salesmen—

Represented and implied to jobber and retailer purchasers that the wall paper in question might be washed or cleaned with water without suffering damage or loss of appearance and was capable of resisting the usual effects of water, that the colors printed thereon would not fade, and that it was unaffected by exposure to sunlight, through such statements, in referring to said products, as "washable," "water-resisting," "colorfast," and "printed with the best non-fading colors obtainable";

Facts being such wall paper was not washable or water-resisting, as such terms are commonly understood, since application of water thereto caused it to deteriorate substantially and the colors to smear, and the colors were not fast, but faded appreciably when subjected to sunlight for short periods of time;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, with result that it purchased a substantial quantity of said products:

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. Maurice C. Pearce for the Commission.

Palmer & Serles, 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 the Atlas Wall Paper Mills, Inc., a corporation, hereinafter referred to as 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. Respondent Atlas Wall Paper Mills, Inc., is a corporation duly chartered, organized, and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business located in Coal City, State of Illinois.

• PAR. 2. Respondent is now, and for many years last past has been, engaged in the manufacture, sale, and distribution of wall paper. Respondent causes and has caused its said product, when sold, to be transported from its place of business in the State of Illinois, to purchasers thereof located in the various States of the United States other than the State of Illinois, and in the District of Columbia.

Respondent now maintains, and at all times herein mentioned has maintained, a course of trade in its said wall paper in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, for the purpose of inducing the purchase of its product, the respondent has made false and misleading representations and statements with respect to the character and qualities of certain items of its said product, such representations being disseminated among prospective purchasers, both jobbers and retailers, by appearing in its price lists and sample books, the latter of which are often exhibited to the ultimate purchaser, and by means of oral statements made by respondent's agents and salesmen.

Among and typical of the words and statements used by the respondent, as aforesaid, are the words "washable," "water resisting," and "colorfast," and the legend "printed with the best non-fading colors obtainable."

Through the use of the foregoing representations, statements, and others of similar import not specifically set out herein, the respondent represents that such items of its said wall paper may be washed or cleaned with the use of water without suffering damage or loss of appearance, and that said paper is capable of resisting the usual and customary effects of water; that the colors printed on said paper will not fade; and that said paper is unaffected by exposure to sunlight.

PAR. 4. The foregoing representations and statements are grossly exaggerated, false, and misleading. In truth and in fact, certain items of said wall paper concerning which such representations are made are not washable or water resisting, as such terms are usually and customarily understood by the purchasing public. Said paper is incapable of resisting the usual and customary effects of water as the application of water to said paper causes it to deteriorate substantially and causes the colors in said paper to smear, with the result that said paper suffers a substantial change in appearance. The colors used in said paper are not fast or free from fading, nor are such colors capable of resisting the usual and ordinary effects

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of sunlight. In truth and in fact, the colors printed on respondent's said paper fade appreciably when subjected to sunlight for short periods of time.

PAR. 5. The use by the respondent of the foregoing false and misleading representations and statements, with respect to certain items of its said wall paper, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations and statements are true, and that respondent's wall paper possesses character and qualities which it does not, in fact, possess. As a result of such erroneous and mistaken belief the purchasing public has been induced to and does purchase a substantial quantity of respondent's product.

PAR. 6. The aforesaid acts and practices of respondent 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 August 29, 1940, issued, and subsequently served its complaint in this proceeding upon respondent Atlas Wall Paper Mills, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, 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 facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Atlas Wall Paper Mills, Inc., is a corporation duly chartered, organized and existing under and by virtue

of the laws of the State of Illinois, with its principal office and place of business located in Coal City, State of Illinois.

PAR. 2. Respondent is now, and for many years last past has been, engaged in the manufacture, sale and distribution of wall paper. Respondent causes and has caused its said products, when sold, to be transported from its place of business in the State of Illinois to the purchasers thereof located in the various States of the United States other than the State of Illinois and in the District of Columbia.

Respondent now maintains, and at all times herein mentioned has maintained, a course of trade in its said wall paper in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, for the purpose of inducing the purchase of its products, the respondent has made false and misleading representations and statements with respect to the character and qualities of certain of its products. Such representations were disseminated among prospective purchasers, both jobbers and retailers, through price lists and sample books, the latter of which are often exhibited by retailers to the ultimate purchaser, and through oral statements made by respondent's agents and salesmen.

Among and typical of the statements used by the respondent in referring to the qualities of certain of its products are "washable," "water-resisting," "color-fast," and "printed with the best non-fading colors obtainable."

Through the use of the foregoing statements and others of similar import not set out herein, the respondent represents and implies that the wall paper so referred to may be washed or cleaned with water without suffering damage or loss of appearance, and that said paper is capable of resisting the usual and customary effects of water; that the colors printed on said paper will not fade; and that said paper is unaffected by exposure to sunlight.

PAR. 4. The foregoing representations and statements are false and misleading. In truth and in fact, the wall paper concerning which such representations are made is not washable or water-resisting, as such terms are usually and customarily understood by the purchasing public. Said paper is incapable of resisting the usual and customary effects of water, as the application of water to said paper causes it to deteriorate substantially and causes the colors in said paper to smear, with the result that said paper suffers a substantial change in appearance. The colors used in said paper are not fast

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or free from fading, nor are such colors capable of resisting the usual and ordinary effects of sunlight. In truth and in fact, the colors printed on respondent's said paper fade appreciably when subjected to sunlight for short periods of time.

PAR. 5. The use by the respondent of the foregoing false and misleading representations and statements, with respect to said wall paper, has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and that respondent's wall paper possesses qualities which it does not, in fact, possess. As a result of such erroneous and mistaken belief, the purchasing public has been induced to, and does, purchase a substantial quantity of respondent's said products.

CONCLUSION

The aforesaid acts and practices of 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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives 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 respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Atlas Wall Paper Mills, Inc., 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 its wall paper in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that wall paper is washable, water-resisting, color-fast or nonfading, when such paper is affected in appearance, or otherwise, when washed or cleaned with water or when exposed to sunlight;

2. Using the terms "washable," "water-resisting," "color-fast," or "printed with the best nonfading colors obtainable," or any other

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term or terms of similar import and meaning, to designate, describe, or refer to wall paper which is affected in appearance, or otherwise, when washed or cleaned with water or when exposed to sunlight.

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
GATES MEDICINE 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 4301. Complaint, Sept. 5, 1940—Decision Aug. 6, 1941

Where a corporation and an individual who was its treasurer, general manager, and practically sole stockholder, engaged in the manufacture, from 1934 to 1940, of their "White Ribbon Remedy" for alcoholism, and, since 1940, of their "Improved White Ribbon Remedy," and in the interstate sale and distribution thereof; by means of advertisements disseminated, through the mails, in newspapers, periodicals, letters, circulars, and other advertising literature, directly or by implication—

- (a) Represented, prior to January 1940, that their said "White Ribbon Remedy" constituted a competent and effective treatment for the liquor habit and was safe and harmless, through such statements as "George no longer drinks whiskey. White Ribbon treatment made him hate liquor. White Ribbon Remedy can be given in coffee, tea, or milk and has done much to stop drinking. One woman cured a drunkard of 20 years with one box," and " * * * White Ribbon Remedy, the safe and reliable medicine for the liquor habit * * *";

The facts being tartar emetic, the active drug in the original formula of said product is a poison, administered medically only once or twice as an emetic dose and never prescribed over a period of 8 days as was the product in question; the depressant effect of alcohol, added to that of tartar emetic, is dangerous to a person sufficiently susceptible to chronic antimony poisoning and addicted to the use of liquor, and, in the case of such a person, the prescribed doses taken three times daily would cause depression of the cardiovascular system, chronic irritation of the stomach and intestinal tract, nausea, and failure to eat and get the proper amount of food minerals and vitamins necessary for health; the effect of tartar emetic on the liquor habit is very slight, if, any, and the prescribed three powders a day of aforesaid remedy over a period of 8 days would have no therapeutic effect upon an individual's alcoholic addiction; and

- (b) Failed to reveal in their said advertisements facts material in the light of the representations therein contained, and that use of their said "White Ribbon Remedy," under prescribed or usual conditions, might produce the dangerous conditions noted above; and
- (c) Represented, subsequent to January 1940, that their "Improved White Ribbon Remedy" constituted an effective and competent treatment for the liquor habit and an effective remedy or cure for nervousness, fatigue, illness, or other conditions caused by excessive drinking of alcoholic beverages, through such statements as "NERVOUS AFTER DRINKING Vitamin B in Improved White Ribbon Remedy Helps Give Needed Relief. Nervousness and Fatigue after excessive drinking is usually increased by a vitamin B deficiency. Improved White Ribbon Remedy, rich in vitamin B, not only gives relief by nourishing ragged nerves and restoring energy, but often helps counteract many of the more serious ills attributable to over-imbibing. * * *," and "RELIEF FOR LIQUOR HABIT Improved White Ribbon