

Syllabus

IN THE MATTER OF

W. HILLYER RAGSDALE, ANNIE M. RAGSDALE, MARSHALL D. RAGSDALE, AND IDA J. RAGSDALE, DOING BUSINESS AS W. HILLYER RAGSDALE, W. HILLYER RAGSDALE, INC., AND RAGSDALE CANDIES

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

Docket 4472. Complaint, Mar. 19, 1941—Decision, Sept. 5, 1941

Where four individuals engaged in interstate sale and distribution of outfits, courses of instruction, supplies, and material represented to give men and women an opportunity to establish themselves in the business of making and selling home-made candy; in letters and circulars, and in advertisements in periodicals—

- (a) Represented and implied that their outfits and instruction afforded an opportunity to all, regardless of prior training and experience or amount of their capital, to enter the business of making and selling home-made candies, and that, upon the purchase of such outfits and instruction, all such men and women, would thereby and by reason of their help, be enabled to set themselves up in a profitable business, which could be operated from or in the home;
- (b) Represented and implied that through the use of such method and instruction and the assistance which they gave by mail, and the equipment and supplies which they furnished, all such men and women were assured by them of success in the candy business and of a steady income and profits from the start, whether they took up such occupation as a part-time or full-time business;
- (c) Represented and implied that the equipment and supplies which they furnished were the same as, and included, all the professional confectioners' tools, equipment, supplies, and materials, used in the most modern home-made candy kitchens, and required in making home-made candy and preparing it for sale, except certain inexpensive materials; and
- (d) Represented and implied that a purchaser of their outfits and instruction would have nothing else to buy at the start, except "sugar, flavoring, etc."—represented by them to be only inexpensive minor items—inasmuch as they furnished sufficient tools, supplies and raw materials, except such "inexpensive items," to make over \$40 worth of candy, which they represented to be enough to give the purchaser a good start;

Facts being the instruction and equipment which they furnished were not sufficient to assure the acquisition of the necessary skill in the manufacturing and merchandising of candy, or to permit a person having such skill to put into operation and operate an establishment in which enough candy could be made to meet the requirements of such business, or to supply candy that could be sold for enough money to assure a successful business or the earning of a steady income; the tools and equipment furnished by them did not include all those necessary to make home-made candy and prepare it for sale, but much additional expensive equipment would be necessary; the

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raw materials not furnished by them were not inexpensive but relatively expensive, and those furnished were not sufficient to enable the purchaser to make, even after the addition of materials not furnished, enough candy to start a business from which \$40 or any other definite amount could be earned in any given length of time, since such candy, like all fresh home-made candy, would be subject to deterioration from fermentation and drying out, if not properly made or promptly sold; other factors, not indicated in their representations, enter into the difficulty of selling such candy; and their representations as to the opportunity afforded and certainty of success as above set forth had no basis in fact; and

- (e) Falsely represented and implied that a large number of men and women had, by following their method, achieved success in the candy business and made a good steady income and profits, both as a part-time and as a full-time business; which statement, considering the number who had purchased their course, was without basis in fact;

Capacity, tendency and effect of which acts and practices were to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations and implications were true, and to cause many members of said public, because of such belief, to purchase their outfits, courses of instruction, supplies and materials:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. D. E. Hoopingarner for the Commission.

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 W. Hillyer Ragsdale, Annie M. Ragsdale, Marshall D. Ragsdale, and Ida J. Ragsdale, individually and doing business under the names and styles of W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, hereinafter referred to as respondents, have 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. Respondents, W. Hillyer Ragsdale, Annie M. Ragsdale, Marshall D. Ragsdale and Ida J. Ragsdale, are individuals trading and doing business under the names and styles of W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, with their office and principal place of business at 307 North Walnut Street in the city of East Orange, State of New Jersey.

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For more than 2 years last past respondents have been, and are now, engaged in the sale and distribution of outfits, courses of instruction, supplies, and materials which are represented by respondents to give men and women an opportunity to establish, for themselves and in their homes the business of manufacturing and merchandising home-made candy. In the course and conduct of said business respondents have been and are now causing their said outfits, courses of instruction, supplies and materials, when sold, to be transported from their said place of business in the State of New Jersey to purchasers thereof located in various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said outfits, courses of instruction, supplies and materials 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 their said business and for the purpose of inducing the purchase of their said outfits, courses of instruction, supplies and materials, respondents, by means of letters and circulars and by means of advertisements appearing in magazines and periodicals, all of which were circulated between and among the various States of the United States and in the District of Columbia, have made various representations with respect to their said outfits, courses of instruction, supplies and materials. Among said representations are the following:

(a) We help start you in business, furnishing outfits and instruction, operating "Specialty Candy Factory" home. Men—women opportunity to earn good steady income. All or spare time.

(b) Profits in "Specialty Candies" in a business for both men and women.

(c) A Ragsdale "New System Specialty Candy Factory" will help set you up in a business of your own almost immediately.

(d) By the Ragsdale Original Method, your home kitchen, spare room or basement can be fitted up as a complete candy work-shop or candy studio.

(e) By using the methods as outlined in our instruction, you should be assured of a cash income daily.

(f) With our personal assistance by mail, it will be next to impossible for you to fail to make money.

(g) Only a few pounds sold daily will net you a good income.

(h) By the Ragsdale method you should begin making and selling the delicious Specialty Candies within a few days after starting.

(i) A Ragsdale "New System Specialty Candy Factory" makes it possible to turn your spare time into cash profits.

(j) You should begin to make money almost from the first day you start.

(k) Complete course in professional and home-made candy manufacturing—professional confectioners' big outfit of tools—professional confectioners' outfit of materials and supplies.

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(l) Professional confectioners' big tool outfit. This outfit consists of the following standard full-size professional equipment, the same as used in the best candy factories and candy kitchens. It should not be confused with cheap home candy outfits.

(m) To further help you get a quick and successful start in this profitable business with the least possible outlay of money, we are going to ship sufficient supplies and raw materials with the course and outfits, free of extra cost, to help make over \$40.00 worth of candy. A list of these supplies is enclosed with this letter. There will be nothing else to buy at the start except sugar, flavorings, etc. These you may already have in your home. You should begin to make and sell candy at a large profit from the first week.

(n) The supplies and tools which we furnish free of extra cost with the course and outfits will help make up over \$40.00 worth of candy. This will give you a good start and enable you to buy future supplies in large quantities.

(o) The successful operators of our "New System Specialty Candy Factories" are divided into two classes—men and women who are making candy during their spare time at home to earn extra money, and those who have taken up the work of a permanent full-time business. Whichever plan you choose you cannot go wrong.

(p) These people are making money through the Ragsdale original method of candy making.

Through the statements, claims and representations aforesaid, and others of similar import and meaning not herein set out, respondents have represented and implied that their outfits and instruction afford an opportunity to all men and women, regardless of their prior training and experience or the amount of their capital, to enter the business of making and selling home-made candies; that all such men and women, upon the purchase of such outfits and instructions, will thereby and by reason of respondents' help be enabled to set themselves up in a profitable business; that by respondents' method of making and selling candy, such business can be operated from or in the home; and by use of such method as outlined in their instruction and by reason of their outfits and instruction, and the assistance which they give by mail, and the equipment, tools, supplies and raw materials which they furnish with their instruction, all such men and women are assured by respondents of success in the candy business and of a steady income and profits from the start, whether they take up such business as a part-time or a full-time business.

Respondents have also represented and implied that the tools, equipment, supplies and materials that they furnish are the same as, and include, all the professional confectioners' tools, equipment, supplies, and materials, except certain inexpensive materials, used in the most modern home-made candy kitchens and that are required in the making of home-made candy and the preparing of it for sale.

Respondents have also represented and implied that a purchaser of their outfits and instruction will have nothing else to buy at the

start, except "sugar, flavoring, etc.," which have been represented by respondents to be only inexpensive minor items, inasmuch as they also furnish, free of extra cost, sufficient tools, supplies and raw materials, except said inexpensive items, to make over \$40.00 worth of candy, which respondents have represented to be enough candy to give the purchaser a good start in the candy business.

Respondents have also represented and implied that a large number of the men and women who have purchased their course of instruction, have, by following their method of making and selling candy, achieved success in the candy business and, made a good steady income and profits, making and selling candy, both as a part-time and as a full-time business.

PAR. 2. There is no basis in fact for the many and various assurances that respondents give men and women that they can enter, or that there is an opportunity of entering, the candy business, by beginning in such limited way, suggested by respondents, or that such opportunity is afforded by respondents' furnishing outfits and instructions, or that they are thereby helped to start in business, or that by respondents' help they can set themselves up in a profitable business, or that by respondents' method of making and selling candy such business can be operated from or in the home, or that by following respondents' methods, or by reason of their outfits and instruction, or the assistance given by mail, or the equipment, tools, supplies and materials furnished, they can, or will, become successful in the candy business, or make a steady income, or profits, either as a part-time or as a full-time business.

The outfits and instruction, equipment, tools, supplies, and raw materials which respondents furnish are not sufficient, taken separately or as a whole, to assure the acquisition of the necessary skill in the manufacturing and merchandising of candy. They are not sufficient to permit a person having the necessary skill in the making and selling of candy to put into operation and operate an establishment in which sufficient candy can be made to meet the requirements of such business. They are not sufficient to supply enough candy that can be sold for enough money to assure the successful beginning of a candy business or the earning of a steady income.

The tools and equipment furnished by respondents are not the same, and do not include, all the tools and equipment necessary to make home-made candy and prepare such candy for sale. Much additional expensive equipment would be necessary. All the equipment, tools, supplies and materials furnished by respondents have a value of not to exceed \$2.50. The raw materials which are not furnished by respondents are not inexpensive but are relatively ex-

pensive. The supplies and raw materials that respondents furnish are not sufficient to enable the purchaser to make, even after the addition of materials not furnished, enough candy to start a business from which \$40 or any other definite amount can be earned in any given length of time. Such candy, like all fresh home-made candy, would be subject to becoming stale and hard and to deterioration from fermentation and drying out, if not properly made, or if not promptly sold. Other factors, which are not indicated in respondents' representations, enter into the difficulty of selling such candy.

There is also no basis in fact for respondents' statement that a large number of the men and women who have purchased their course of instruction, considering the number that have purchased it, have, by following their method of making and selling candy, achieved success in the candy business or made a steady income, making and selling candy, either as a part-time or as a full-time business.

The aforesaid representations and implications made and published by respondents as aforesaid are grossly exaggerated, false, misleading, and deceptive.

PAR. 4. The use by respondents of the acts and practices hereinabove mentioned in connection with the sale and distribution of their outfits, courses of instruction, supplies and materials, in commerce, 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 said representations and implications are true, and causes many members of the purchasing public, because of said mistaken and erroneous belief, to purchase respondents' outfits, courses of instruction, supplies and materials.

PAR. 5. The aforesaid acts and practices of respondents 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 19th day of March 1941, issued and served its complaint in this proceeding upon said respondents, W. Hillyer Ragsdale, Annie M. Ragsdale, Marshall D. Ragsdale, and Ida J. Ragsdale, individually and doing business under the names and styles of W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 8, 1941, the respondents filed their

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answers in this proceeding. Thereafter, a stipulation was entered into by and between counsel for the Commission and the respondents, Marshall D. Ragsdale, acting for himself, and W. Hillyer Ragsdale, acting for himself, and Annie M. Ragsdale and Ida J. Ragsdale, subject to the approval of the Commission, whereby it was stipulated and agreed that a statement of facts thereupon read into and made a part of the record in this proceeding, 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 or of a report upon the evidence by the trial examiner. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answers and stipulation, said stipulation having been approved and accepted and made a part of the record, 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. Respondents, W. Hillyer Ragsdale, Annie M. Ragsdale, Marshall D. Ragsdale and Ida J. Ragsdale, are individuals trading and doing business under the names and styles of W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, with their office and principal place of business at 307 North Walnut Street in the city of East Orange, State of New Jersey.

For more than 2 years last past respondents have been, and are now, engaged in the sale and distribution of outfits, courses of instruction, supplies and materials which are represented by respondents to give men and women an opportunity to establish for themselves and in their homes the business of manufacturing and merchandising home-made candy. In the course and conduct of said business respondents have been and are now causing their said outfits, courses of instruction, supplies and materials, when sold, to be transported from their said place of business in the State of New Jersey to purchasers thereof located in various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said outfits, courses of instruction, supplies and materials in commerce

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among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business and for the purpose of inducing the purchase of their said outfits, course of instruction, supplies, and materials, respondents, by means of letters and circulars and by means of advertisements appearing in magazines and periodicals, all of which were circulated between and among the various States of the United States and in the District of Columbia, have made various representations with respect to their said outfits, courses of instruction, supplies and materials. Among said representations are the following:

(a) We help to start you in business, furnishing outfits and instruction, operating "Specialty Candy Factory" home. Men—women opportunity to earn good steady income. All or spare time.

(b) Profits in "Specialty Candies" in a business for both men and women.

(c) A Ragsdale "New System Specialty Candy Factory" will help set you up in a business of your own almost immediately.

(d) By the Ragsdale Original Method, your home kitchen, spare room or basement can be fitted up as a complete candy work-shop or candy studio.

(e) By using the methods as outlined in our instruction, you should be assured of a cash income daily.

(f) With our personal assistance by mail, it will be next to impossible for you to fail to make money.

(g) Only a few pounds sold daily will net you a good income.

(h) By the Ragsdale method you should begin making and selling the delicious Specialty Candies within a few days after starting.

(i) A Ragsdale "New System Specialty Candy Factory" makes it possible to turn your spare time into cash profits.

(j) You should begin to make money almost from the first day you start.

(k) Complete course in professional and home-made candy manufacturing—professional confectioners' big outfit of tools—professional confectioners' outfit of materials and supplies.

(l) Professional confectioners' big tool outfit. This outfit consists of the following standard full-size professional equipment, the same as used in the best candy factories and candy kitchens. It should not be confused with cheap home candy outfits.

(m) To further help you get a quick and successful start in this profitable business with the least possible outlay of money, we are going to ship sufficient supplies and raw materials with the course and outfits, free of extra cost, to help make over \$40.00 worth of candy. A list of these supplies is enclosed with this letter. There will be nothing else to buy at the start except sugar, flavorings, etc. These you may already have in your home. You should begin to make and sell candy at a large profit from the first week.

(n) The supplies and tools which we furnish free of extra cost with the course and outfits will help make up over \$40.00 worth of candy. This will give you a good start and enable you to buy future supplies in large quantities.

(o) The successful operators of our "New System Specialty Candy Factories" are divided into two classes—men and women who are making candy during their spare time at home to earn extra money, and those who have taken up the

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work of a permanent full-time business. Whichever plan you choose you cannot go wrong.

(p) These people are making money through the Ragsdale original method of candy making.

Through the statements, claims and representations aforesaid, and others of similar import and meaning not herein set out, respondents have represented and implied that their outfits and instruction afford an opportunity to all men and women, regardless of their prior training and experience or the amount of their capital, to enter the business of making and selling home-made candies; that all such men and women, upon the purchase of such outfits and instruction, will thereby and by reason of respondents' help be enabled to set themselves up in a profitable business; that by respondents' method of making and selling candy, such business can be operated from or in the home; and by use of such method as outlined in their instruction and by reason of their outfits and instruction, and the assistance which they give by mail, and the equipment, tools, supplies, and raw materials which they furnish with their instruction, all such men and women are assured by respondents of success in the candy business and of a steady income and profits from the start, whether they take up such business as a part-time or a full-time business.

Respondents have also represented and implied that the tools, equipment, supplies and materials that they furnish are the same as, and include, all the professional confectioners' tools, equipment, supplies, and materials, except certain inexpensive materials, used in the most modern home-made candy kitchens and that are required in the making of home-made candy and the preparing of it for sale.

Respondents have also represented and implied that a purchaser of their outfits and instruction will have nothing else to buy at the start, except "sugar, flavoring, etc.," which have been represented by respondents to be only inexpensive minor items, inasmuch as they also furnish, free of extra cost, sufficient tools, supplies and raw materials, except said inexpensive items, to make over \$40.00 worth of candy, which respondents have represented to be enough candy to give the purchaser a good start in the candy business.

Respondents have also represented and implied that a large number of the men and women who have purchased their course of instruction, have, by following their method of making and selling candy, achieved success in the candy business and made a good steady income and profits, making and selling candy, both as a part-time and as a full-time business.

PAR. 3. There is no basis in fact for the many and various assurances that respondents give men and women that they can enter,

or that there is an opportunity of entering, the candy business, by beginning in such limited way, suggested by respondents, or that such opportunity is afforded by respondents' furnishing outfits and instructions, or that they are thereby helped to start in business, or that by respondents' help they can set themselves up in a profitable business, or that by respondents' method of making and selling candy such business can be operated from or in the home, or that by following respondents' method, or by reason of their outfits and instruction, or the assistance given by mail, or the equipment, tools, supplies and materials furnished, they can, or will, become successful in the candy business, or make a steady income, or profits, either as a part-time or as a full-time business.

The outfits and instruction, equipment, tools, supplies and raw materials which respondents furnish are not sufficient, taken separately or as a whole to assure the acquisition of the necessary skill in the manufacturing and merchandising of candy. They are not sufficient to permit a person having the necessary skill in the making and selling of candy to put into operation and operate an establishment in which sufficient candy can be made to meet the requirements of such business. They are not sufficient to supply enough candy that can be sold for enough money to assure the successful beginning of a candy business or the earning of a steady income.

The tools and equipment furnished by respondents do not include all the tools and equipment necessary to make home-made candy and prepare such candy for sale. Much additional expensive equipment would be necessary. The raw materials which are not furnished by respondents are not inexpensive but are relatively expensive. The supplies and raw materials that respondents furnish are not sufficient to enable the purchaser to make, even after the addition of materials not furnished, enough candy to start a business from which \$40 or any other definite amount can be earned in any given length of time. Such candy, like all fresh home-made candy, would be subject to becoming stale and hard and to deterioration from fermentation and drying out, if not properly made, or if not promptly sold. Other factors, which are not indicated in respondents' representations, enter into the difficulty of selling such candy.

There is also no basis in fact for respondents' statement that a large number of the men and women who have purchased their course of instruction, considering the number that have purchased it, have, by following their method of making and selling candy achieved success in the candy business or made a steady income, making and selling candy, either as a part-time or as a full-time business.

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The aforesaid representations and implications made and published by respondents as aforesaid are grossly exaggerated, false, misleading, and deceptive.

PAR. 4. The use by respondents of the acts and practices hereinabove mentioned in connection with the sale and distribution of their outfits, courses of instruction, supplies, and materials, in commerce, 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 said representations and implications are true, and causes many members of the purchasing public, because of said mistaken and erroneous belief, to purchase respondents' outfits, courses of instruction, supplies and materials.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice 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 answers of the respondents and a stipulation entered into by and between counsel for the Commission and the respondents, wherein it was stipulated and agreed that a statement of facts thereupon read into and made a part of the record in this proceeding 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 Commission may proceed upon such 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 or of a report upon the evidence by the trial examiner, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, W. Hillyer Ragsdale, Annie M. Ragsdale, Marshall D. Ragsdale, and Ida J. Ragsdale, individually and doing business under the names and styles of W. Hillyer Ragsdale, W. Hillyer Ragsdale, Inc., and Ragsdale Candies, or under any other trade name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of courses of instruction

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for making candy or of supplies or materials intended for use in making candy, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist:

1. Representing that men and women who purchase respondents' outfits and instructions are afforded thereby an opportunity to enter the business of making and selling home-made candies; or that they will be enabled thereby and by respondents' help, to set themselves up in a profitable business; or that, through respondents' method of making and selling candy, such business can be operated successfully from or in the home; or that by the use of such method, or by reason of such outfits or instructions, or by the assistance given to purchasers by mail, or by the tools or equipment or supplies or raw materials furnished by respondents with their instructions, such purchasers will or should be successful in the candy business or will or should receive therefrom a steady income and profits.

2. Representing that the tools, equipment, supplies and materials furnished by the respondents include all the confectioners' tools, equipment, supplies, and materials, except certain minor inexpensive items, that are used in modern home-made candy kitchens or that they are all that are required in the making of home-made candy and in the preparing of it for sale, except minor inexpensive items; or that respondents furnish sufficient tools, supplies and raw materials, except for minor inexpensive items, to make over \$40 worth of candy, or enough candy to give the purchaser a good start in the candy business.

3. Representing that a large number of men and women who have purchased respondents' courses of instruction, tools and equipment have, by following their method of making and selling candy, achieved success in the candy business and made a steady income and profits making and selling candy either as a part-time or as a full-time business.

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
POND'S EXTRACT COMPANYCOMPLAINT, FINDINGS, AND ORDER, IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3427. Complaint, May 18, 1938—Decision, Sept. 10, 1941*

Where a corporation engaged in manufacture, and in competitive interstate sale and distribution, of a line of cosmetics, including its liquefying cream, cold cream, vanishing cream, and "Danya Lotion," each ounce of which contained, since sometime in 1938, 3100 units of vitamin A and 165 units of vitamin D; in numerous advertisements in magazines of general circulation, and in radio programs—

- (a) Represented that its creams were deep-reaching, going right to the user's underskin, which was thereby stirred to vigorous action and kept active, and that effect of use of one of its creams was to soften and loosen impurities within the skin, lifting them from the pores and thereby liberating the underskin and leaving it free to function actively again; and
- (b) Represented that use of its said creams appeared to wipe away lines and blemishes, giving the skin a fresh, smooth appearance, and not only cleansing it but keeping away lines and blackheads;

Facts being the only effect of the use of said creams would be an emollient smoothing and cleansing action on the surface of the skin, the massaging of cold cream into the skin affecting the so-called under- or true skin to an extremely small degree only, and above statement as to the softening, loosening and lifting of dirt, etc., from within the skin, and liberating of the user's underskin, was incorrect; skin blemishes may be due to faulty diet or other causes in which use of cold creams is of no benefit, and lines and blemishes cannot be wiped away by use of the creams, and while use of cold cream may postpone time when wrinkles will be quite noticeable, such use alone will not retard appearance thereof; and

- (c) Made representations and claims, since about July 1938, to the effect that the vitamin content of its creams, which it then described as "New Skin Vitamin Creams," nourished the skin of the user, that when it found a way to put this "skin vitamin" in its cream it gave to women an important new scientific aid to skin care, and that through use of its said lotion, the skin vitamin was put into and stored up in the hands of the user;

Facts being that, while vitamin A, when included in a suitable vehicle, may be absorbed by the skin of a human being in physiologically significant quantities, to accomplish such result enormous quantities of the vitamin must be added to the vehicle and applied to the skin for several hours, accompanied by considerable massaging, due to the relatively small absorption compared with oral administration, proper treatment for a deficiency; only in very small proportion of cases is a harsh, dry condition of the skin due to vitamin A deficiency, in which event a physician is needed; the most its creams could accomplish would be to postpone the day when lines and wrinkles would be quite noticeable; while application of its creams might be helpful in keeping the skin smooth and preventing excessive dryness, the vitamin A content would not increase said creams' emollient