

Complaint

IN THE MATTER OF

TITUS BLATTER & COMPANY

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

Docket 4306. Complaint, Sept. 6, 1940—Decision, Nov. 18, 1941

Wherein a corporation engaged in the competitive interstate sale and distribution of various textile fabrics trade named and marked "Pearlglow,"—

Falsely represented, through use of word "sunfast" in advertisements and on labels and otherwise, that its said fabrics would not change color, lose color, or otherwise deviate from the original color, when exposed to the light of the sun;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said claim was true, with result that a number thereof bought a substantial volume of its said "Pearlglow" fabrics:

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

Mr. Robert Mathis, Jr. for the Commission.

Mr. Solomon Silverstein, 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 Titus Blatter & Co., 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, Titus Blatter & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 164 Fifth Avenue, in the city of New York, and State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing various grades and types of textile fabrics trade named and marked "Pearlglow." Respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said products, when sold, to be

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transported from its place of business in the State of New York to the purchasers thereof at their respective points of location in various States of the United States other than the State of New York and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products 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, in the offering for sale, sale and distribution of its products in commerce as herein described, and for the purpose of inducing the purchase thereof by the public, respondent has stated in advertisements, on labels, and otherwise that its fabrics designed by the name "Pearlglow" are "sunfast."

PAR. 4 By the use in advertisements, on labels, and otherwise, of the statement that its fabrics designated "Pearlglow" are "sunfast" respondent has represented that said fabrics will not change color, lose color, or otherwise deviate from their original color when exposed to the light of the sun.

PAR. 5. In truth and in fact respondent's fabrics, above referred to, and designated by it "Pearlglow," are not "sunfast," for the reason that said fabrics will change color, lose color, or otherwise deviate from their original color when exposed to the light of the sun.

PAR. 6. The use by the respondent of the aforesaid false and misleading statement that its fabrics designated by the name "Pearlglow" are "sunfast" has had, and now has, a tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statement is true. On account of this erroneous and mistaken belief, so induced by respondent, a number of the purchasing and consuming public have purchased a substantial volume of respondent's fabrics designated "Pearlglow."

PAR. 7. The aforesaid acts and practices of 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 September 6, 1940, issued and subsequently served its complaint in this proceeding upon respondent Titus Blatter & Co., 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, Titus Blatter & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 164 Fifth Avenue, in the city of New York, and State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been engaged in the business of selling and distributing various grades and types of textile fabrics trade named and marked "Pearlglow." Respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said products, when sold, to be transported from its place of business in the State of New York to the purchasers thereof at their respective points of location in various States of the United States other than the State of New York and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products 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, in the offering for sale, sale and distribution of its products in commerce as herein described, and for the purpose of inducing the purchase thereof by the public, respondent has stated in advertisements, on labels, and otherwise that its fabrics designated by the name "Pearlglow" are "sunfast."

PAR. 4. By the use in advertisements, on labels, and otherwise, of the statement that its fabrics designated "Pearlglow" are "sunfast" respondent has represented that said fabrics will not change color, lose color, or otherwise deviate from their original color when exposed to the light of the sun.

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PAR. 5. In truth and in fact respondent's fabrics, above referred to, and designated by it "Pearlglow," are not "sunfast," for the reason that said fabrics will change color, lose color, or otherwise deviate from their original color when exposed to the light of the sun.

PAR. 6. The use by the respondent of the aforesaid false and misleading statement that its fabrics designated by the name "Pearlglow" are "sunfast" has had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statement is true. On account of this erroneous and mistaken belief, so induced by respondent, a number of the purchasing and consuming public have purchased a substantial volume of respondent's fabrics designated "Pearlglow."

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 substitute answer of respondent, in which answer respondent admits all of 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, Titus Blatter & Co., a corporation, its officers, directors, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its textile fabric products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist:

Using the word "sunfast" or any other word or words of similar import and meaning to designate and describe or refer to fabrics which change or lose color or otherwise deviate from their original color when exposed to the light of the sun.

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.

Complaint

IN THE MATTER OF

CLARA STANTON, TRADING AS CLARA STANTON,
DRUGGIST TO WOMEN

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

Docket 4327. Complaint, Oct. 2, 1940—Decision, Nov. 18, 1941

Where an individual engaged in interstate sale and distribution of her "Anti-Fat Tablets"; by advertisements in newspapers and periodicals, circulars, pamphlets and other advertising literature and through use of the aforesaid name; directly and by implication—

Represented that her said preparation constituted a cure or remedy for obesity and a competent and effective treatment therefor, and that use thereof would reduce excess fat gradually and safely and prevent obesity;

The facts being that it had no qualities effective in reducing excess fat and its use was of no value in preventing obesity, the various drugs contained therein being present in such minute quantities as to render them practically inert under conditions of use;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations and implications were true, and of thereby causing it to purchase her product:

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

Before *Mr. William C. Reeves*, trial examiner.

Mr. Maurice C. Pearce and *Mr. Carrel F. Rhodes* 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 Clara Stanton, an individual, trading as Clara Stanton, Druggist to Women, herein-after 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. Respondent, Clara Stanton, is an individual trading under the name of Clara Stanton, Druggist to Women, and has her principal place of business at 313 Fourteenth Street, Denver, Colo. She is now, and for some time last past has been, engaged in the business of preparing and offering for sale and selling a preparation, containing drugs as defined in the Federal Trade Commission Act, designated "Anti-Fat Tablets." Respondent causes said product,