

## IN THE MATTER OF

J. L. RAMSAY AND G. P. MASTERS, TRADING AS ROGERS  
SILVERWARE EXCHANGE AND ROGERS REDEMPTION  
BUREAUCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4094. Complaint, Apr. 22, 1940—Decision, Feb. 9, 1942*

Where an individual, engaged in the competitive interstate sale and distribution to retail dealers of sales stimulation plans, under which the dealer contracted to purchase a designated number of said individual's gift cards at \$1 per 1,000, for distribution among his customers, based on their purchase of merchandise, and said individual agreed to redeem the cards by sending the customer a designated number of pieces of Wm. A. Rogers silverware, packed in units of six—

- (a) Prominently displayed in his contract forms and in circulars and other advertising material, and in the specimen gift cards made use of by him and his agents, the legends "Wm. A. Rogers Silverware," "Rogers Silverware" and "Wm. A. Rogers, Ltd.," and his trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau," and set forth on said gift cards the statement that "Through a national advertising campaign sponsored by this organization you may receive any of the beautiful gifts listed in free schedule by saving these gift cards," and represented orally and through his said agents that he was connected with and a representative of Oneida, Ltd., manufacturer of Wm. A. Rogers silverware, and, by said sales stimulation plan, was conducting an advertising campaign for such concern;

When in fact he was not a part of or in any way connected with said Oneida, Ltd., manufacturer of said long favorably known silverware, and his said sales plan was initiated solely on his own behalf and to sell his said cards;

- (b) Represented that he would distribute circulars and other advertising materials throughout the trade area served by the dealer, and thus assist the latter in putting plan in question into operation, and undertook, through provisions of contract in question, affirmed orally to dealers by himself and his agents, to supply to the dealer without cost a 26-piece display set of silverware with case, to remain the dealer's property, and to make cash refunds to dealer at the rate of \$1 for each 1,000 cards forwarded for redemption after 25 percent of the cards had been thus forwarded;

The facts being he made no such distribution of advertising material, did not render the dealer any other assistance in putting the plan into operation, in many instances wholly failed to supply the dealer with any display set of silverware, and did not make said cash refund; and

- (c) Represented, through contract in question, affirmed orally to dealers, that he would send to dealer's customer forwarding a specified number of cards a complete unit of six of the designated pieces of silverware;

The facts being he failed in many instances to redeem gift cards with silverware; in many instances, upon receiving the designated number of cards for redemption, required that six times that number be forwarded for the unit

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in question; and couched contract provisions in question in ambiguous language, enabling him and his agents more easily to deceive prospective purchasers;

With effect of misleading and deceiving a substantial number of dealers and members of the purchasing public into the mistaken belief that aforesaid representations were true and into the purchase of substantial quantities of his said products, whereby trade therein was diverted unfairly to him from his competitors, to the injury of competition in commerce:

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

*Mr. William L. Pencke* 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 J. L. Ramsay, and G. P. Masters, individually, and trading as Rogers Silverware Exchange, and as Rogers Redemption Bureau, hereinafter referred to as respondents, have 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. Respondents, J. L. Ramsay and G. P. Masters, are individuals trading as Rogers Silverware Exchange and as Rogers Redemption Bureau. The last-known place of business and post-office address of the respondents was 2611 Olive Street in the city of St. Louis, Mo. Respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of sales stimulation plans to retail dealers, such plans consisting of gift cards, advertising material, silverware and other merchandise.

Respondents cause their said gift cards, advertising material and merchandise when sold to be transported from their place of business in the State of Missouri to the purchasers thereof located in various other 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 products 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 respondents have been and are in substantial competition with other individuals and with firms and corporations also engaged in the business

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of selling and distributing sales stimulation plans and silverware and other merchandise of a similar nature in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, respondents, acting personally and also through agents, contact retail dealers and obtain from many of such dealers written contracts whereby the dealer agrees to purchase of respondents a designated number of respondent's gift cards at a price of \$4 per 1,000 cards. Under the terms of such contract such gift cards are to be distributed by the dealer among his customers as merchandise is purchased by such customers from the dealer, and the respondents agree to redeem such cards by sending to the customer a designated number of pieces of Wm. A. Rogers Silverware, such silverware being packed in units of 6 pieces. It is further provided in said contract that when 25 percent of said gift cards have been forwarded to respondents for redemption respondents will make a cash refund to the dealer at the rate of \$4 for each 1,000 cards forwarded for redemption. A further provision of the contract is that the respondents will supply to the dealer without cost a 26-piece set of silverware, together with case, for display purposes, such set to remain the property of the dealer.

In such contract and in the circulars and other advertising material, and in the specimen gift cards used by respondents and their agents in soliciting dealers, the legends "Wm. A. Rogers Silverware," "Rogers Silverware" and "Wm. A. Rogers, Ltd." are prominently displayed. Respondents' trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" are also prominently and conspicuously displayed on all of such contracts, circulars, gift cards, and other advertising material. Such gift cards and the specimens thereof exhibited to dealers as aforesaid contain among other representations the following:

Through a national advertising campaign sponsored by this organization you may receive any of the beautiful gifts listed in free schedule by saving these gift cards.

All contract forms, advertising material and specimen gift cards exhibited to the dealer are the property of the respondents and are supplied to respondents' agents by the respondents.

PAR. 4. In addition to the representations set forth in said contract, advertising material and gift cards as aforesaid the respondents, acting personally or through agents, in the course and conduct of their business and for the purpose of inducing the purchase of their said products, make certain oral representations to prospective pur-

chasers with respect to their products. Among such representations are the following:

That respondents are connected with and are agents and representatives of Oneida, Ltd., the manufacturer of Wm. A. Rogers Silverware, and are conducting by means of said sales stimulation plan an advertising campaign for such concern; that respondents will distribute circulars and other advertising material throughout the trade area served by the dealer and thus assist the dealer in putting the sales stimulation plan into operation and effect; that the statements in the contract and in the advertising material with respect to the number of gift cards which must be forwarded to respondents to obtain certain designated pieces of silverware mean that the forwarding of the specified number of cards will entitle the sender to receive a complete unit of six of the designated pieces of silverware rather than only one piece of such silverware. Respondents and their agents also repeat orally to dealers the representations made in said written contract with respect to the supplying by the respondents to the dealer, without cost, of the display set of silverware and with respect to the cash refund to be made by respondents to the dealer.

PAR. 5. The representations made by respondents and their agents as set forth in paragraphs 3 and 4 are grossly exaggerated, false, and misleading. In truth and in fact, respondents are not agents or representatives of Oneida, Ltd., the manufacturer of Wm. A. Rogers Silverware, nor are they connected with said concern in any other manner. The sales stimulation plan of respondents is in no sense an advertising campaign on behalf of said concern, but is a plan initiated by respondents solely on their own behalf and for the purpose of selling respondents' so-called gift cards. Respondents do not distribute circulars or any other advertising material in the trade area served by the dealer purchasing respondents' cards, nor do respondents render the dealer any other assistance in putting the sales stimulation plan into operation and effect. In many instances respondents have wholly failed to supply the dealer with the designated 26-piece set of silverware or with any display set of silverware. Respondents do not make to dealers the cash refunds provided for in said contract.

In many instances respondents have failed to redeem said gift cards by forwarding to the person sending in said cards the designated pieces of silverware or any other pieces of silverware. In many other instances the respondents, upon receiving the designated number of cards for redemption, have not forwarded to the holder of such cards a unit of six pieces of silverware, but have required that six times the designated number of cards be forwarded for such unit of silverware.

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The provisions of the written contract with respect to the number of cards required for the obtaining of silverware are couched in ambiguous and deceptive language, which fact enables the respondents and their agents more easily to mislead and deceive prospective purchasers of said gift cards.

PAR. 6. The use by respondents of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" constitutes within itself a false, deceptive, and misleading representation that respondents' business is a part of or is connected with the business of the said Oneida, Ltd., manufacturer of Wm. A. Rogers Silverware. The said silverware known as Wm. A. Rogers Silverware has for a long period of time enjoyed a good reputation and dealers and the purchasing public rely upon and have confidence in such silverware and the manufacturer thereof.

PAR. 7. The use by respondents of the false and misleading representations set forth herein, including the use of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" has the tendency and capacity to, and does, mislead and deceive a substantial number of dealers and members of the purchasing public into the erroneous and mistaken belief that such representations are true and that respondents are connected with Oneida, Ltd., and into the purchase of substantial quantities of respondents' products. As a result, trade in such products has been diverted unfairly to respondents from their competitors. In consequence injury has been done, and is now being done, to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition in commerce and 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 April 22, 1940, issued and subsequently served its complaint in this proceeding upon respondents, G. P. Masters and J. L. Ramsay, trading as Rogers Silverware Exchange and as Rogers Redemption Bureau, charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act.

Thereafter, the respondent, J. L. Ramsay, filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. No answer was filed by the respondent, G. P. Masters, who was served by registered mail in May 1940. He has not been heard from since served and his present address and whereabouts are unknown. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint and the answer of respondent J. L. Ramsay thereto, 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, J. L. Ramsay, is an individual, who traded as Rogers Silverware Exchange and Rogers Redemption Bureau. The last-known place of business and post-office address of the respondent was 231 Blair Avenue, Newport News, Va. For some years prior to early in 1940 respondent was engaged in the sale and distribution of sales stimulation plans to retail dealers, such plans consisting of gift cards, advertising material, silverware, and other merchandise.

Respondent caused his said gift cards, advertising material, and merchandise when sold to be transported from his place of business in the State of Missouri to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent at all times mentioned herein maintained a course of trade in his said products 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 his said business respondent has been in substantial competition with other individuals and with firms and corporations also engaged in the business of selling and distributing sales stimulation plans and silverware and other merchandise of a similar nature in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business as aforesaid, respondent, acting personally and also through agents, contacted retail dealers and obtained from many of such dealers written contracts whereby the dealer agreed to purchase of respondent a designated number of respondent's gift cards at a price of \$4 per 1,000 cards. Under the terms of such contract such gift cards were to be distributed by the dealer among his customers as merchandise was

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purchased by such customers from the dealer, and the respondent agreed to redeem such cards by sending to the customer a designated number of pieces of Wm. A. Rogers Silverware, such silverware being packed in units of 6 pieces. It was further provided in said contract that when 25 percent of said gift cards had been forwarded to respondent for redemption respondent would make a cash refund to the dealer at the rate of \$4 for each 1,000 cards forwarded for redemption. A further provision of the contract was that the respondent would supply to the dealer without cost a 26-piece set of silverware, together with case, for display purposes, such set to remain the property of the dealer.

In such contract and in the circulars and other advertising material, and in the specimen gift cards used by respondent and his agents in soliciting dealers, the legends "Wm. A. Rogers Silverware," "Rogers Silverware" and "Wm. A. Rogers, Ltd." were prominently displayed. Respondent's trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" were also prominently and conspicuously displayed on all of such contracts, circulars, gift cards and other advertising material. Such gift cards and the specimens thereof exhibited to dealers as aforesaid contained among other representations the following:

Through a national advertising campaign sponsored by this organization you may receive any of the beautiful gifts listed in free schedule by saving these gift cards.

All contract forms, advertising material and specimen gift cards exhibited to the dealer were the property of the respondent and were supplied to respondent's agents by the respondent.

PAR. 4. In addition to the representations set forth in said contract, advertising material and gift cards as aforesaid, the respondent, acting personally or through agents, in the course and conduct of his business and for the purpose of inducing the purchase of his said products, made certain oral representations to prospective purchasers with respect to his products. Among such representations were the following:

That respondent was connected with and was an agent and representative of Oneida, Ltd., the manufacturer of Wm. A. Rogers Silverware, and was conducting by means of said sales stimulation plan an advertising campaign for such concern; that respondent would distribute circulars and other advertising material throughout the trade area served by the dealer and thus assist the dealer in putting the sales stimulation plan into operation and effect; that the statements in the contract and in the advertising material with respect to the

number of gift cards which must be forwarded to respondent to obtain certain designated pieces of silverware meant that the forwarding of the specified number of cards would entitle the sender to receive a complete unit of six of the designated pieces of silverware rather than only one piece of such silverware. Respondent and his agents also repeated orally to dealers the representations made in said written contract with respect to the supplying by the respondent to the dealer, without cost, of the display set of silverware and with respect to the cash refund to be made by respondent to the dealer.

PAR. 5. The representations made by respondent and his agents as set forth in paragraphs 3 and 4 were grossly exaggerated, false, and misleading. In truth and in fact, respondent was not an agent or representative of Oneida, Ltd., the manufacturer of Wm. A. Rogers Silverware, nor was he connected with said concern in any other manner. The sales stimulation plan of respondent was in no sense an advertising campaign on behalf of said concern, but was a plan initiated by respondent solely on his own behalf and for the purpose of selling respondent's so-called gift cards. Respondent did not distribute circulars or any other advertising material in the trade area served by the dealer purchasing respondent's cards, nor did respondent render the dealer any other assistance in putting the sales stimulation plan into operation and effect. In many instances respondent wholly failed to supply the dealer with the designated 26-piece set of silverware or with any display set of silverware. Respondent did not make to dealers the cash refunds provided for in said contract.

In many instances respondent failed to redeem said gift cards by forwarding to the person sending in said cards the designated pieces of silverware or any other pieces of silverware. In many other instances the respondent, upon receiving the designated number of cards for redemption, did not forward to the holder of such cards a unit of six pieces of silverware but required that six times the designated number of cards be forwarded for such unit of silverware. The provisions of the written contract with respect to the number of cards required for the obtaining of silverware were couched in ambiguous and deceptive language, which fact enabled the respondent and his agents more easily to mislead and deceive prospective purchasers of said gift cards.

PAR. 6. The use by respondent of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" constituted within itself a false, deceptive, and misleading representation that respondent's business was a part of or was connected with the business of the said Oneida, Ltd., manufacturer of Wm. A. Rogers Silverware. The

said silverware known as Wm. A. Rogers Silverware has for a long period of time enjoyed a good reputation and dealers and the purchasing public rely upon and have confidence in such silverware and the manufacturer thereof.

PAR. 7. The use by respondent of the false and misleading representations set forth herein, including the use of the trade names "Rogers Silverware Exchange" and "Rogers Redemption Bureau" has had the tendency and capacity to and did mislead and deceive a substantial number of dealers and members of the purchasing public into the erroneous and mistaken belief that such representations were true and that respondent was connected with the Oneida, Ltd., and into the purchase of substantial quantities of respondent's products. As a result, trade in such products has been diverted unfairly to respondent from his competitors. In consequence injury has been done to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The Commission further finds that the public interest does not require the continuance of this proceeding against the respondent, G. P. Masters, individually, and that the same should be closed as to him, without prejudice to the right of the Commission, should the facts so warrant, to reopen the same and resume trial thereof, in accordance with its regular procedure.

#### CONCLUSION

The aforesaid acts and practices of the respondent, J. L. Ramsay, trading as Rogers Silverware Exchange and Rogers Redemption Bureau, as herein found, are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and 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 J. L. Ramsay, in which answer said respondent admits all the material allegations of fact set forth in said complaint, and states that he 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, J. L. Ramsay, individually and trading as Rogers Silverware Exchange and as Rogers Redemption

Bureau or trading under any other name or names, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of silverware or sales promotional plans, including premium certificates, gift cards or coupons redeemable in silverware or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through use of the word "Rogers," either alone or in connection with any other word or words, in a corporate or trade name, or through statements in advertising, or in any other manner, that respondent has an interest in, forms a part of, or has any connection with Oneida, Ltd., manufacturer of Wm. A. Rogers Silverware.

2. Representing that certificates, gift cards, or other similar device can be redeemed in silverware or other merchandise unless and until all of the terms and conditions of such offer are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with such offer and there is no deception as to the services or other actions to be performed or the price to be paid in connection with obtaining such silverware or other articles of merchandise.

3. Representing that the purchase price for said certificates or gift cards will be refunded to the dealer purchasers thereof or that the respondent will supply to such dealer purchasers without charge display sets of silverware, to become the property of such dealers, unless and until such are the facts and unless all of the terms and conditions of such offer or offers are clearly and unequivocally stated in equal conspicuousness and in immediate connection or conjunction with such offer or offers and there is no deception as to the services or other actions to be performed by the dealer purchasers in connection with obtaining such refund and display set of silverware.

4. Representing that the sales-stimulation plan offered by respondent is authorized by Oneida Limited, or that sales literature will be distributed by the respondent on behalf of purchasers of said sales-promotion plan, or that said purchasers will be assisted by the respondent in any other manner.

5. Representing that a complete set of silverware or any specific item of silverware can be acquired through the redemption of such certificates, gift cards or similar devices unless and until such is the fact.

6. Using any representations with respect to the number of certificates or gift cards required to be redeemed in order to obtain any specific merchandise, which representations do not clearly and accurately disclose the number of such certificates or gift cards actually required to obtain such merchandise.

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*It is further ordered,* That said respondent shall, in 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.

*It is further ordered,* That this proceeding be, and the same hereby is, closed as to the respondent, G. P. Masters, individually, without prejudice to the right of the Commission, should the facts so warrant, to reopen the same and resume trial thereof as to said respondent, in accordance with its regular procedure.

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## IN THE MATTER OF

## McK. EDWARDS

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

*Docket 4317. Complaint, Sept 17, 1940—Decision, Feb. 9, 1942*

Where an individual, engaged in interstate sale and distribution of his "McK. Edwards Eczema Remedy"; by means of advertisements in newspapers and periodicals of general circulation, and by pamphlets, circulars and other printed or written matter—

- (a) Represented that his said preparation constituted a cure or remedy for eczema, poison oak and poison ivy, and possessed substantial therapeutic value in the treatment of said conditions; and
- (b) Represented that eczema was caused by microbes in the skin, and that a cure might be effected by destroying such microbes through the external application of his said preparation, and that it was entirely safe and harmless, except in the case of infants;

The facts being that product in question, while it might constitute an effective treatment or remedy for eczema resulting from some varieties of fungus infections, had no therapeutic value for other types or in excess of affording relief in some cases from the symptoms of itching; and, except for such possible relief, had no therapeutic value in the treatment of poison oak or ivy; and

- (c) Failed to reveal facts material in the light of aforesaid representations with respect to the consequences which might result from use of the product under prescribed or usual conditions, in that by virtue of its unusually large content of salicylic acid, it might have an excoriating effect upon the skin and produce upon certain individuals an acute and painful rash, and thereby seriously aggravate certain types and conditions of eczema;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that his preparation possessed therapeutic properties which it did not in fact possess, and, except for infants, was in all cases safe and harmless; as a result whereof the purchasing public was induced to purchase substantial quantities thereof:

*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.

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

*Mr. Charles S. Cox* for the Commission.

*Mr. John T. Raftis*, of Colville, Wash., 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 McK. Edwards, an individual, hereinafter referred to as respondent, has violated the

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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, McK. Edwards, is an individual residing and maintaining a place of business at Valley, Wash. The respondent is now, and for more than 2 years last past has been, engaged in the business of selling and distributing a medicinal preparation designated as "McK. Edwards' Eczema Remedy."

In the course and conduct of his business, respondent causes said medicinal preparation, when sold, to be transported from his place of business in the State of Washington to the purchasers thereof located in various States of the United States other than the State of Washington, and in the District of Columbia. Respondent maintains, and at all times herein mentioned has maintained, a course of trade in said medicinal preparation 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 his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by the United States mails, and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among, and typical of, the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated by United States mails, by advertisements in newspapers and periodicals having a general circulation, and in pamphlets, circulars, and other printed or written matter, are the following:

## FOR ECZEMA SUFFERERS

If you or any of your friends have burning itching eczema, I have a remedy that will give positive relief in a very short time.

FOR GUARANTEED RELIEF OF ECZEMA, \* \* \* fungus poison, write McK. Edwards, Valley, Washington.

\* \* \* This remedy is very effective and will also relieve poison oak, poison ivy \* \* \*.

Symptoms: Eczema is caused by tiny microbes in the skin, and it is purely a skin disease, and with a powerful magnifying glass you can see the microbes

crawling, under the skin, but it is not infectious nor contagious in any way.

\* \* \*

Treatment: Simply stay away from water and grease as much as possible. Use a little cotton swab, saturated with my remedy, over the affected parts five or six times daily, until new skin has formed and the old crusted skin has peeled off. Thereafter, apply only when itching occurs. Be very persistent, and do not neglect. It will burn some when first applied, but will very soon relieve the itching sensation, and this is the very important part. It is then that the Remedy does its work. Do not use this Remedy for tiny babies as the burn is too severe, but do not hesitate to use it for yourself. Where instructions are properly followed I have never known this Remedy to fail.

PAR. 3. Through the use of the foregoing representations, and others of similar import not specifically set out herein, the respondent represents and has represented that his said preparation constitutes a cure or remedy for eczema, poison oak and poison ivy, and that it possesses substantial therapeutic value in the treatment of such conditions; that eczema is caused by microbes in the skin and that a cure may be effected by destroying such microbes through the external application of respondent's preparation; that said preparation is entirely safe and harmless except in the case of infants.

PAR. 4. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, respondent's preparation does not constitute a cure or remedy for eczema, poison oak, or poison ivy, nor does said preparation possess any therapeutic value in the treatment of any of such conditions. Eczema is not caused by microbes in the skin, but is an external or skin manifestation of some internal disorder of the body, and the application of respondent's preparation is wholly incapable of producing any beneficial effect upon such internal disorder.

Respondent's preparation is not safe or harmless, in that it contains an unusually high percentage of salicylic acid, and the frequent and repeated applications of the preparation to the skin, as directed by respondent, has the effect of dissolving and destroying the skin tissues. Moreover, the use of said preparation is highly irritating and painful in cases where the surface epithelium is denuded, raw, or inflamed.

PAR. 5. Further, the advertisements disseminated by the respondent, as aforesaid, constitute false advertisements for the reason that they fail to reveal facts material in the light of the representations contained therein, and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual may result in injury to the health of the user.

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PAR. 6. The use by the respondent of the foregoing false and misleading advertisements, disseminated as aforesaid, has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the respondent's preparation possesses properties which it does not in fact possess, and that said preparation is in all cases safe and harmless, when such is not the fact. As a result of such erroneous and mistaken belief, the purchasing public has been induced to and has purchased substantial quantities of respondent's preparation.

PAR. 7. 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 September 17, 1940, issued and subsequently served its complaint upon respondent, McK. Edwards, an individual, charging him 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 thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and other evidence, report of the trial examiner and exceptions thereto, and brief in support of the complaint (respondent not having filed brief and oral argument not having been requested); 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, McK. Edwards, is an individual, residing and maintaining a place of business at Valley, Wash. The respondent is now, and since early in 1938 has been, engaged in the offering for sale, sale, and distribution of a medicinal preparation designated as "McK. Edwards Eczema Remedy." In the course and

conduct of this business respondent causes said medicinal preparation, when sold, to be transported from his place of business in the State of Washington to purchasers thereof located in various States of the United States other than the State of Washington and in the District of Columbia. Respondent maintains, and has maintained, a course of trade in said medicinal preparation 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 his aforesaid business respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning the said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated by the United States mails, by advertisements in newspapers and periodicals having a general circulation, and by pamphlets, circulars, and other printed or written matter, are the following:

#### FOR ECZEMA SUFFERERS

If you or any of your friends have burning itching eczema, I have a remedy that will give positive relief in a very short time.

\* \* \* \* \*

FOR GUARANTEED RELIEF OF ECZEMA \* \* \* fungus poisoning, write McK. Edwards, Valley, Wash.

\* \* \* \* \*

This remedy is very effective, and will also relieve poison oak, poison ivy \* \* \*.

\* \* \* \* \*

Symptoms: Eczema is caused by tiny microbes in the skin, and it is purely a skin disease, and with a powerful magnifying glass you can see the microbes crawling, under the skin, but it is not infectious nor contagious in any way. \* \* \*

Treatment: Simply stay away from water and grease as much as possible. Use a little cotton swab, saturated with my remedy, over the affected parts five or six times daily, until new skin has formed, and the old crusted skin has peeled off. Thereafter, apply only when itching occurs. Be very persistent and do not neglect. It will burn some when first applied, but will very soon relieve the itching sensation, and this is the very important part, it is then that the remedy does its work. Do not use this remedy for tiny babies, as the

## Findings

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burning is too severe, but do not hesitate to use it for yourself. Where instructions are properly followed, I have never known this remedy to fail.

\* \* \* \* \*

I am offering you a proven remedy. I have healed up, and relieved, some of the worst kind of cases, and I have never known my remedy to fail. It will relieve you, too, if you will take advantage of this offer but all I can do is to make you a plain and fair offer, and I am sure that in your own opinion, that you would be willing to give the sum of \$5.00 to relieve your itching, burning eczema. I have already healed with one bottle of my Remedy eczema cases, for which the patient had spent over \$300, trying every other thing they could think of but got no results from them.

PAR. 3. By the use of the foregoing representations, and others of similar import not specifically set out herein, respondent has represented, and represents, that his said preparation constitutes a cure or remedy for eczema, poison oak, and poison ivy and that it possesses substantial therapeutic value in the treatment of such conditions; that eczema is caused by microbes in the skin and that a cure may be effected by destroying such microbes through the external application of respondent's preparation; and that said preparation is entirely safe and harmless except in the case of infants.

PAR. 4. Respondent's medicinal preparation designated as "McK. Edwards Eczema Remedy" is a solution of salicylic acid, alcohol, and water, containing a very small quantity of ethyl acetate. The proportion of salicylic acid in respondent's product varies somewhat from time to time, ranging between 10 and 15 percent, but the approximate proportion of salicylic acid is 13 percent; of ethyl acetate, three-tenths of 1 percent; and of alcohol, 67 percent.

Respondent's principal business is that of farming and sheep raising. In his youth respondent had a skin affection which at different times was treated with a salicylic acid solution by two different physicians. Respondent compounded or procured a salicylic acid solution prepared according to his recollection of the treatment previously given him and experimented with it on skin diseases of his sheep, later upon members of his family and neighbors, and finally, early in 1938, began advertising and marketing the product in the aforesaid manner.

The condition known as eczema may be due to one or more of a great variety of causes, some of which are not definitely known to the medical profession. The cause of eczema may be of an internal or systemic nature or of external origin. There are a number of different types of eczema, among which the most common are contact eczema caused by external irritation, allergic eczemas due to inherent individual idiosyncracies, fungus infections due to micro-organisms, and neurogenic eczemas due to nervous conditions. There is no single treat-

ment or preparation which constitutes a cure or remedy for all forms of eczema. Respondent's preparation may constitute an effective treatment or remedy for eczema resulting from some varieties of fungus infections. In all other cases of eczema, including those due to fungus infections not susceptible of successful treatment by respondent's preparation, it does not constitute a cure or remedy and has no therapeutic value in excess of affording relief in some cases from the symptom of itching. Respondent's preparation is not a cure or remedy for oak or ivy poison and has no therapeutic value in the treatment of such conditions in excess of possible affording relief from the burning or itching symptoms.

PAR. 5. The advertisements disseminated by the respondent as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations, and material with respect to the consequences which may result from the use of respondent's product under the conditions prescribed in said advertisements or under such conditions as are customary and usual. Salicylic acid is frequently used in preparations for the treatment of certain types of skin affections or diseases, but customarily in much smaller proportion than is present in respondent's product. In proportions of 10 to 15 percent, as used in respondent's product, salicylic acid may have an excoriating effect upon the skin of the user, and upon certain individuals it may produce an acute and painful rash. The proportion of salicylic acid in respondent's product is such as to make it an irritant to the skin, and when used upon certain types and conditions of eczema may seriously aggravate the eczematous condition.

PAR. 6. The use by the respondent of the foregoing false and misleading advertisements disseminated as aforesaid has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the respondent's preparation possesses therapeutic properties which it does not in fact possess, and that said preparation, except for infants, is in all cases safe and harmless, when such is not the fact. As a result of such erroneous and mistaken belief, the purchasing public has been induced to purchase, and has purchased, substantial quantities of respondent's preparation.

#### CONCLUSION

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.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of respondent, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner and exceptions thereto, and brief in support of the allegations of the complaint, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That respondent, McK. Edwards, an individual, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of "McK. Edwards Eczema Remedy," or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement

(A) Which represents, directly or through inference, that said preparation

(a) Is a cure or remedy for all types of eczema, or for any type of eczema except such as may be due to fungus infection, or has any therapeutic value in the treatment of eczema (except that due to fungus infection) in excess of affording relief in some cases from the symptom of itching.

(b) Is a cure or remedy for poison ivy or poison oak, or is a competent or effective treatment for, or has any therapeutic value in, the treatment of such conditions in excess of affording temporary relief from the symptom of itching.

(B) Which fails to reveal that the use of said preparation may in some cases produce an excoriating effect upon the skin of the user; or may produce an acute and painful rash upon the skin of the user; or may, if used on certain types and conditions of eczema, seriously aggravate the eczematous condition: *Provided, however*, That such advertisement need contain only the statement, "Caution, use only as directed" if and when the directions for use wherever they appear on the label, in the labeling, or both, contain warnings to the above effect.

(2) Disseminating or causing to be disseminated, by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said preparation in commerce,

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## Order

as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal the dangerous consequences which may result from the use of said preparation as required in said paragraph 1 hereof.

*It is further ordered,* That the respondent shall, within 60 days after the 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

CLIFFORD S. DONNELL, TRADING AS QUEEN ANN  
MANUFACTURING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4652. Complaint, Dec. 4, 1941—Decision, Feb. 9, 1942*

Where an individual, engaged in interstate sale and distribution of a certain hair dye cosmetic, variously designated as "Queen Ann Hair Dye," "Queen Ann Hair Coloring," and "Queen Ann Liquid Hair Coloring"—

- (a) Represented, through advertisements in newspapers and by circulars and other advertising literature, and otherwise, that his said preparation would stop hair from growing gray, give gray hair a permanent coloring, and preserve the natural beauty of the hair and make it smooth and silky; and
- (b) Represented, as aforesaid, that it was an amazing new hair dye which could be applied in half the time usually required for other hair dyes, was quicker drying and caused the hair to hold its color longer than others, was used exclusively by better beauty shops, and endorsed by the State Beauty Commission of New Jersey; -

The facts being product in question was a coal-tar dye preparation similar to many other hair dyes, would not accomplish the various results above claimed therefor, and was not used exclusively by better beauty shops or endorsed by said Commission; and

- (c) Falsely represented, through his use of trade name including word "manufacturing," that he owned or controlled a manufacturing plant which made said preparation;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true, and of inducing it, by reason thereof, to purchase his said product:

*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. Merle P. Lyon* 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 Clifford S. Donnell, an individual, trading as Queen Ann Manufacturing 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. Respondent, Clifford S. Donnell, is an individual, trading as Queen Ann Manufacturing Co., with his office and prin-