

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-

incipal place of business at 164 West Market Street, Newark, N. J., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain hair dye cosmetic, variously designated as Queen Ann Hair Dye, Queen Ann Hair Coloring, and as Queen Ann Liquid Hair Coloring.

In the course and conduct of his business the respondent causes said cosmetic, when sold, to be transported from his place of business in the State of New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said cosmetic, sold and distributed by him 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 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 his 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, as hereinabove set forth, by the United States mails, by advertisements in newspapers, by circulars, and other advertising literature, are the following:

Gray hair—Get rid of it this quick easy way.

Used exclusively by better class beauty shops.

Queen Ann Liquid Hair Coloring makes dull, faded, gray hair a Smooth Silky Jet-Black—so natural that even your closest friends can't tell it was gray! Makes you look many years younger.

Endorsed by New Jersey State Beauty Commission.

Queen Ann Hair Dye Makes Gray Hair Vanish.

A Longer Lasting hair dye, removes all traces of gray hair in one application.

Gives permanent coloring and preserves the natural beauty of the hair.

Dye a head in half the time.

Queen Ann sets Much Quicker than any other dye.

Commissioner Christine M. Howell endorses Queen Ann Hair Coloring.

Astounding Results.

Surpasses All Other Dyes.

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Quicker Drying.

Holds color longer.

Endorsed by leading beauticians of State.

Fastest Selling Hair Dye in America.

At last—here is a new, amazing hair coloring, which makes all gray, dull and faded hair disappear.

Now You Can End Gray Hair Quickly. Amazing, New, Queen Ann Hair Dye.

Amazing New Hair Dye Stops Gray Hair.

PAR. 4. By the use of the representations hereinafter set forth and other representations similar thereto, not specifically set out herein, the respondent has represented and does represent that his hair dye preparation, designated and advertised as Queen Ann Hair Dye, Queen Ann Hair Coloring, and as Queen Ann Liquid Hair Coloring will stop hair from growing gray and give gray hair a permanent coloring; that it will preserve the natural beauty of the hair and make it smooth and silky; that it is an amazing new hair dye; that it can be applied in half the time usually required to apply all other hair dyes; that it is quicker drying and causes the hair to hold its color longer than other hair dyes; and that it is used exclusively by better beauty shops and that it is endorsed by the State Beauty Commission of New Jersey.

Furthermore, respondent, by the use of the trade name, Queen Ann Manufacturing Co., represents that he owns or controls a manufacturing plant which manufactures said hair dye preparation.

PAR. 5. The aforesaid representations are grossly exaggerated, false, and misleading. The use of the aforesaid hair dye preparation will not stop hair from growing gray and will not give gray hair a permanent coloring. Said preparation will not preserve the natural beauty of the hair and make it smooth and silky. Said preparation cannot be applied in half the time required to apply other hair dyes and it will not dry quicker and cause the hair to hold its color longer than all other hair dyes. Said hair dye is not an amazing new hair dye but is a coal tar dye preparation similar to many other hair dye preparations. Said preparation is not used exclusively by better beauty shops and it has not been endorsed by the State Beauty Commission of New Jersey.

Furthermore, respondent does not own or control a manufacturing plant which manufactures said hair dye preparation.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his preparation, disseminated as aforesaid, has had and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations, and advertisements are

true, and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase 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 December 4, 1941, issued, and on December 5, 1941, served its complaint in this proceeding upon respondent, Clifford S. Donnell, an individual, trading as Queen Ann Manufacturing Co., charging him with the use of unfair and deceptive acts or practices in commerce in violation of the provisions of said act.

On December 23, 1941, the respondent 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.

Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer 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, Clifford S. Donnell is an individual, trading as Queen Ann Manufacturing Co., with his office and principal place of business at 164 West Market Street, Newark, N. J., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain hair dye cosmetic, variously designated as Queen Ann Hair Dye, Queen Ann Hair Coloring, and as Queen Ann Liquid Hair Coloring.

In the course and conduct of his business the respondent causes said cosmetics, when sold, to be transported from his place of business in the State of New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said cosmetic, sold and distributed by him 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 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 his 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, as hereinabove set forth, by the United States mails, by advertisements in newspapers, by circulars, and other advertising literature, are the following:

Gray hair—Get rid of it this quick easy way.

Used exclusively by better class beauty shops.

Queen Ann Liquid Hair Coloring makes dull, faded, gray hair a smooth Silky Jet-Black—so natural that even your closest friends can't tell it was gray! Makes you look many years younger.

Endorsed by New Jersey State Beauty Commission.

Queen Ann Hair Dye Makes Gray Hair Vanish.

A Longer Lasting hair dye, removes all traces of gray hair in one application.

Gives permanent coloring and preserves the natural beauty of the hair.

Dye a head in half the time.

Queen Ann sets Much Quicker than any other dye.

Commissioner Christine M. Howell endorses Queen Ann Hair Coloring.

Astounding Results.

Surpasses All Other Dyes.

Quicker Drying.

Holds color longer.

Endorsed by leading beauticians of State.

Fastest Selling Hair Dye In America.

At last—here is a new, amazing hair coloring, which makes all gray, dull and faded hair disappear.

Now You Can End Gray Hair Quickly. Amazing, New, Queen Ann Hair Dye.

Amazing New Hair Dye Stops Gray Hair.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto, not specifically set out herein, the respondent has represented and does represent that his hair dye preparation, designated and advertised as Queen Ann Hair Dye, Queen Ann Hair Coloring, and as Queen Ann Liquid Hair Coloring will stop hair from growing gray and give gray hair a permanent coloring; that it will preserve the natural beauty of the hair and make it smooth and silky; that it is an amazing new hair dye; that it can be applied in half

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the time usually required to apply all other hair dyes; that it is quicker drying and causes the hair to hold its color longer than other hair dyes; and that it is used exclusively by better beauty shops and that it is endorsed by the State Beauty Commission of New Jersey.

Furthermore, respondent, by the use of the trade name, Queen Ann Manufacturing Co., represents that he owns or controls a manufacturing plant which manufactures said hair dye preparation.

PAR. 5. The aforesaid representations are grossly exaggerated, false, and misleading. The use of the aforesaid hair dye preparation will not stop hair from growing gray and will not give gray hair a permanent coloring. Said preparation will not preserve the natural beauty of the hair and make it smooth and silky. Said preparation cannot be applied in half the time required to apply other hair dyes and it will not dry quicker and cause the hair to hold its color longer than all other hair dyes. Said hair dye is not an amazing new hair dye but is a coal tar dye preparation similar to many other hair dye preparations. Said preparation is not used exclusively by better beauty shops and it has not been endorsed by the State Beauty Commission of New Jersey.

Furthermore, respondent does not own or control a manufacturing plant which manufactures said hair dye preparation.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his preparation, disseminated as aforesaid, has had and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true, and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's preparation.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer the 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 its conclusion

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that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Clifford S. Donnell, an individual, trading as Queen Ann Manufacturing Co., 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 or distribution of this hair dye cosmetic variously advertised as Queen Ann Hair Dye, Queen Ann Hair Coloring, and as Queen Ann Liquid Hair Coloring, or any other hair dye cosmetic or product of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication, that said preparation will stop hair from growing gray or give gray hair a permanent coloring; that it will preserve the natural beauty of the hair or make it smooth or silky; that it is an amazing new hair dye; that it can be applied in half the time required to apply other hair dyes; that it is quicker drying or causes the hair to hold its color longer than all other hair dyes; that it is used exclusively by better beauty shops; or that it is endorsed by the State Beauty Commission of New Jersey; or which advertisement contains the word "Manufacturing" or any other word of similar import as a part of respondent's trade name or otherwise represents that respondent owns or operates a manufacturing plant or manufactures the product sold by him.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

Syllabus

IN THE MATTER OF

JOHN J. SCHOCKET, TRADING AS CONSUMERS
MERCANTILE SERVICE

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

Docket 4242. Complaint, Aug. 20, 1940—Decision, Feb. 16, 1942

Where an individual, engaged in competitive interstate sale and distribution of cameras, silverware, broilers, fishing tackle, and other merchandise—

Furnished various devices and plans of merchandising which involved the operation of games of chance, gift enterprises or lottery schemes in sale and distribution of such merchandise to ultimate consumers, and distribution to agents or operators and purchasing public of push cards and circulars explaining his plan of selling such merchandise and allotting it as premiums or prizes to the operators of the cards and the public, a typical plan providing that the person selecting that one of 79 feminine names displayed on card corresponding with name concealed under master seal received choice of certain articles of merchandise illustrated on attached or accompanying folder, and amount of money paid, if any, for chance was dependent upon number concealed by the disk, upon which appeared the name selected; and thereby

Supplied to and placed in the hands of others means of conducting lotteries in the sale of his merchandise in accordance with such sales plans, involving chance to procure article at much less than normal retail price, and under which fact as to whether purchaser received an article of merchandise or nothing for amount of money paid, or article free, was determined wholly by lot, contrary to the established public policy of the Government of the United States and in violation of criminal laws, and in competition with many who, unwilling to use any method involving game of chance or contrary to public policy, refrain therefrom;

With the result that many persons were attracted by said sales plan and the element of chance involved therein, and were thereby induced to buy and sell his merchandise in preference to that of his said competitors, whereby trade was unfairly diverted to him from them:

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

Before *Mr. W. W. Sheppard* and *Mr. Andrew B. Duvall*, trial examiners.

Mr. L. P. Allen, Jr., Mr. J. V. Mishou and *Mr. J. W. Brookfield, Jr.* for the Commission.

Mr. Arthur H. Schwab of Nash & Donnelly of Chicago, Ill., for respondent.