

Complaint

IN THE MATTER OF
PARFUMS RONNI, INC.

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

Docket 4569. Complaint, Aug. 14, 1941—Decision, Mar. 2, 1942

Where a corporation, engaged in interstate sale and distribution of a cosmetic preparation for the eyelashes variously designated as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni," and "Mascara"; by advertisements disseminated through the mails and otherwise—

Falsely represented, directly and by implication, that its said product would not smudge or run, and was waterproof and tearproof;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and into the purchase of substantial quantities of said preparation because of such mistaken belief:

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.

Before *Mr. John W. Addison*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Berlin & Hellman, 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 Parfums Ronni, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Parfums Ronni, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business at 18 West Twentieth Street, New York, N. Y.

PAR. 2. Respondent is now and for more than one year last past has been engaged in the business of selling and distributing a cosmetic preparation variously designated as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni" and "Mascara."

Respondent causes said preparation, when sold, to be transported from its place of business in the State of New York to purchasers

thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation 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 aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said preparation by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparation; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said preparation by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said preparation 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 respondent as aforesaid, are the following:

"Ronni Mascara—Smudge proof, Tearproof, Waterproof, Runproof."

PAR. 4. By the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent represents, directly and by implication, that its cosmetic preparation variously designated as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni" and "Mascara," will neither smudge nor run, and that it is waterproof and tearproof.

PAR. 5. The foregoing representations and advertisements are grossly exaggerated, false and misleading. In truth and in fact the respondent's said preparation is not smudge proof nor runproof, neither is it waterproof or tearproof.

PAR. 6. The use by respondent of the foregoing false, deceptive, misleading and exaggerated advertisements and representations with respect to said preparation 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 said advertisements and representations are true, and into the purchase of substantial quantities of respondent's said preparation because of such erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices 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 August 14, 1941, issued and subsequently served its complaint in this proceeding upon respondent, Parfums Ronni, Inc., a corporation, charging 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 (no answer having been filed by respondent), testimony, and other evidence in support of the allegations of said complaint were introduced by an attorney for the Commission before an examiner of the Commission theretofore duly designated by it (respondent having been represented at said hearing by one of its officers), 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, testimony and other evidence, report of the trial examiner, and brief in support of the complaint (no brief having been filed by respondent 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 make this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Parfums Ronni, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business at 18 West Twentieth Street, New York, N. Y.

PAR. 2. Respondent is now, and for a number of years last past has been, engaged in selling and distributing a cosmetic preparation variously designated as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni," and "Mascara." Respondent causes said preparation, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a course of trade in said preparation 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 aforesaid business respondent, by means of the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, has disseminated, and is now disseminating; and has caused, and is now causing, the dissemination of false advertisements concerning its said cosmetic preparation; and respondent, by various means, has also disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said cosmetic preparation 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 respondent, as aforesaid, are statements and representations that said cosmetic preparation is "tearproof," "waterproof," "runproof," and "smudge proof."

PAR. 4. By the use of the statements set forth in the preceding paragraph, respondent has represented directly and by implication that its preparation designed for application to the eyelashes, and variously designated as aforesaid, will not smudge or run and that it is waterproof and tearproof.

PAR. 5. The cosmetic preparation variously designated by respondent as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni," and "Mascara" is manufactured for it by another concern and delivered to respondent in bulk form. Said preparation consists of stearic acid, triethanolamine, lanolin, ozocerite, carnauba, perfume, coloring, and hot water. In the use for which it is intended, respondent's said preparation is not proof against smudging or running, nor is it waterproof or tearproof.

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

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 upon the complaint of the Commission, testimony, and other evidence in support of the allegations of said complaint taken before an examiner of the Commission theretofore duly designated by it, and report of the trial examiner, 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, Parfums Ronni, Inc., a corporation, its officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of the cosmetic preparation variously designated as "Ronni Mascara," "Ronni Cream Mascara," "Mascara by Ronni," and "Mascara," or any other cosmetic preparation which is substantially similar in composition, or possesses substantially similar properties, whether sold under the same name or any other name or names, 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 which represents, directly or through inference, that respondent's said cosmetic preparation is "smudge proof," or "waterproof," or "run-proof," or "tearproof" by the use of any of the terms stated or by the use of any other words or terms of similar import or meaning.

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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said cosmetic preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

34 F. T. C.

IN THE MATTER OF

H. M. WILLIAMS, TRADING AS WILLIAMS CANDY
COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4252. Complaint Aug. 21, 1940—Decision, Mar. 3, 1942*

Where an individual, engaged in manufacture and competitive sale and distribution of candy so packed and assembled as to involve the use of games of chance, gift enterprises or lottery schemes when sold and distributed to consumers, a typical assortment consisting of 40 uniform bars, together with a push card for use in their sale under a plan in accordance with which purchaser's payment ranged from 1 cent to 5 cents as determined by number secured by chance;

Sold such assortments to distributors, to members of the purchasing public for resale, and to retailers, by whom they were exposed and sold in accordance with aforesaid sales plan involving a game of chance to procure candy bars at much less than their normal retail price; and thereby supplied to and placed in the hands of others the means of conducting lotteries in the sale of his products, contrary to an established policy of the United States Government, and in violation of criminal laws, and in competition with many who, unwilling to use such or other method contrary to public policy, refrain therefrom;

With the result that many persons were attracted by said plan and the element of chance involved therein, and were thereby induced to buy and sell his candy in preference to products of aforesaid competitors, from whom substantial trade was thereby diverted to him;

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

Before *Mr. W. W. Sheppard*, *Mr. Arthur F. Thomas* and *Mr. John W. Addison*, trial examiners.

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

Mr. H. L. Taylor and *Mr. Thaddeus A. Adams*, of Charlotte, N. C., 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 H. M. Williams, individually and trading as Williams Candy Co., 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