

Syllabus

IN THE MATTER OF
**INDIANAPOLIS SOAP COMPANY, WILLIAMS SOAP COM-
 PANY, ET AL.**

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

Docket 3971. Complaint, Dec. 13, 1939—Decision, Apr. 6, 1942

Where two corporations, under common family ownership and control, and their three officers and owners, engaged in interstate sale and distribution of soap and soap products largely to "medicine and street men," which type of trade they solicited in a periodical of national circulation, offering among other things, their "NATURE'S WONDER * * * golden yellow soap * * * put up in attractive cartons bearing price mark of 25¢ per carton" at \$3.95 per gross, their "CUTICLEAR * * * pure white cocoanut oil soap" in cartons bearing price mark of 25¢ per cake, and their "Velvatex Cream Compound" and "Marie Martell * * * luxurious cleansing preparation," in one carton combination deals marked "75¢" and also packaged separately or in combination with other soaps such as laundry or cleaning powders—

- (a) Represented and implied that said soap had the retail value and price of figure marked on such cartons, through such practice; and
- (b) Placed in the hands of canvassers, peddlers and others, means and instrumentality whereby they were enabled to mislead and deceive members of the purchasing public who generally placed confidence in such price markings and representations as to retail values and prices; and
- (c) Placed on their soaps and on the cartons in which they were packed such statements as "Made from mineral and vegetable oils, nature's own products compounded with other pure materials by the most improved methods of modern soap making * * * absolutely free from impure or rancid animal fats or greases, chemicals, strong alkalies or other harmful substances * * * purifies and invigorates the skin, opens up the pores and gives nature the opportunity to function properly;"

Notwithstanding fact products in question were inferior in quality and contained an excessive proportion of water, increasing the size and weight without adding to the actual quantity, which type of soap soon dries out, shrinks and hardens so as to become substantially unsuited for the use intended; and external application of no soap can "open up the pores," etc., as above claimed;

With effect of misleading and deceiving a substantial portion of purchasing public into the mistaken belief that said soaps had a value greatly in excess of their actual retail price and value, and possessed qualities which they did not in fact possess; of placing in the hands of others a means to mislead and deceive said public, and of inducing it, because of its mistaken belief, to purchase substantial quantity of the soaps in question:

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.

Complaint

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

Mr. B. G. Wilson 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 Indianapolis Soap Co., a corporation, Williams Soap Co., a corporation, and Jesse M. Daily, Maude S. Daily, Robert S. Daily and Sidney F. Daily, Jr., individually and as officers of Indianapolis Soap Co. and Williams Soap Co., 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. Respondent, Indianapolis Soap Co., is a corporation organized under the laws of the State of Indiana. Said respondent operates under various trade names, including the names Union Soap Co., Sanisoap Co., Sanisoap Co., Inc., W & W Soap Mfg. Co., Crescent Soap Co., Cleanaid Products Co., Utility Cleaner Co., Hoosier Mfg. Co., and Nature's Products Co.

Respondent, Williams Soap Co., is a corporation organized under the laws of the State of Indiana. Said respondent operates under various trade names, including the names Unisoap Co. and Unisoap Sales Co.

Respondent, Jesse M. Daily, is an individual, and is President of the Indianapolis Soap Co. and secretary and treasurer of the Williams Soap Co. Said respondent is the principal stockholder in and, together with the other individual respondents named herein, formulates, controls and dominates the practices and policies of the corporate respondents.

Respondent, Maude S. Daily, is an individual and is vice president of both the Indianapolis Soap Co. and the Williams Soap Co.

Respondent, Robert S. Daily, is an individual and is secretary and treasurer of the Indianapolis Soap Co.

Respondent, Sidney F. Daily, Jr., is an individual and is president of the Williams Soap Co.

All of the respondents have their office and principal place of business at 1249 Roosevelt Avenue, in the city of Indianapolis, Ind. All have acted in conjunction and cooperation with each other in carrying out the acts, practices and methods hereinafter alleged.

PAR. 2. The respondents are now, and for more than one year last past have been, engaged in the sale and distribution of soap products. Respondents cause their said products, when sold, to be shipped from their place of business in the State of Indiana to 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. 3. In the course and conduct of their aforesaid business, respondents sell and distribute certain varieties of soaps known as canvassers' soaps, which are sold by respondents to canvassers or peddlers and in turn sold by such canvassers and peddlers to the purchasing public. Such soaps are packed by respondents in cartons and on such cartons are placed false and misleading representations with respect to the value and price of such soap. Among and typical of such false and misleading representations are the following:

Velvatex Creme Compound—a combination of vegetable oils and mineral salts for the toilet, bath and shampoo—One carton of combination deal—price of complete unit—75¢.

Marie Martell—a luxurious cleansing preparation—One carton of combination deal—price of complete unit—75¢.

By the use of the foregoing representations, together with other representations of similar import not specifically set out herein, the respondents represent that such cartons of soap have an actual retail value or retail selling price of 75¢ each.

PAR. 4. The aforesaid representations are grossly exaggerated, false and misleading. In truth and in fact the prices placed by respondents on said cartons are fictitious prices and do not in any sense represent the actual retail value or the retail price of such soap. Said prices are far in excess of the prices at which said soaps are customarily sold in the normal and regular course of business. In truth and in fact said soaps are sold by respondents to canvassers and peddlers at a price of approximately 5 cents per carton.

PAR. 5. The public generally understands the custom of marking or stamping the retail price or value on various commodities, and has been led to, and does, place its confidence in the price markings so stamped on the commodities and the representations thereby made as to the value and retail price of such products.

PAR. 6. By this means respondents have also placed directly in the hands of unscrupulous canvassers and peddlers a means and instru-

mentality whereby such canvassers and peddlers have been and are enabled to mislead and deceive members of the purchasing public.

PAR. 7. The respondents also cause to be placed on their soaps and on the cartons in which such soaps are packed and sold, false and misleading representations with respect to the grade, quality and ingredients of said soaps. Among and typical of such false and misleading representations are the following:

This soap is made from mineral and vegetable oils, nature's own products, compounded with other pure materials by the most improved methods of modern soap making. It is absolutely free from impure or rancid animal fats or greases, chemicals, strong alkalies or other harmful substances. It cleanses thoroughly, purifies and invigorates the skin, opens up the pores and gives nature the opportunity to function properly.

Nature's vegetable soap—vegetable compound—guaranteed purely vegetable—manufactured only by Nature's Products Company, Indianapolis, Indiana.

Through the use of the foregoing representations and others of similar import not specifically set out herein, respondents represent that their said soaps are absolutely free from impurities or other harmful substances; that they are made from natural mineral and vegetable oils; that they purify and invigorate the skin and open up the pores of the skin; that said soaps are of superior grade and quality.

PAR. 8. The aforesaid representations are grossly exaggerated, false and misleading. In truth and in fact said soaps are not free from impurities nor are they made entirely from natural mineral and vegetable oils. Said soaps contain caustic soda, which is irritating and injurious to the skin. Said soaps do not purify or invigorate the skin, nor do they serve to open the pores of the skin. They are not superior in grade or quality, but are of the most inferior grade and quality, in that in addition to the caustic soda content hereinbefore referred to, they contain an unusually large quantity of water, which evaporates rapidly and causes the soap to become dry and unfit for use.

PAR. 9. The acts and practices of the respondents, as herein set forth, have had and now have the capacity and tendency to and do mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's soaps have a value greatly in excess of their actual retail price and value and that said soaps possess qualities and ingredients which they do not in fact possess. As a result of such erroneous and mistaken belief the purchasing public has been induced to purchase a substantial quantity of respondent's products.

PAR. 10. 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 13, 1939, issued and subsequently served its complaint in this proceeding upon respondents, Indianapolis Soap Co., a corporation, Williams Soap Co., a corporation, and upon Jesse M. Daily, Maude S. Daily, Robert S. Daily, and Sidney F. Daily, Jr., individually, and as officers of said corporations, charging said respondents 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 respondents' answers thereto, certain stipulated facts were read into the record and testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before examiners 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 answers thereto, testimony and other evidence, report of the trial examiners and exceptions thereto, and briefs in support of and in opposition to the complaint (oral arguments 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, Indianapolis Soap Co., is a corporation organized and existing by virtue of the laws of the State of Indiana, having its principal place of business at 901 High Street, Indianapolis, Ind. It also uses the trade names "Cleanaid Products Company" and "Nature's Products Company," and has at various times used other trade names including "Sanisoap Company," "W & W Soap Manufacturing Company," and "Crescent Soap Company."

Respondent, Williams Soap Co., is a corporation organized and existing by virtue of the laws of the State of Indiana, having its principal place of business at 901 High Street, Indianapolis, Ind. It uses the trade name "Unisoap Sales Company" and has at various times used numerous other trade names.

Both respondent corporations formerly had their principal place of business at 1249 Roosevelt Avenue, Indianapolis, Ind.

Respondent, Jesse M. Daily, an individual, is president of respondent Indianapolis Soap Co. and secretary and treasurer of respondent, Williams Soap Co. He is, and for a number of years last past has been, the active manager of both corporations and has controlled and directed their business operations.

Respondent, Maud S. Daily (the individual referred to in the complaint as Maude S. Daily), now deceased, was the wife of respondent Jesse M. Daily and was formerly an officer, director, and stockholder in both respondent corporations.

Respondent, Robert S. Daily, an individual, is a son of respondent Jesse M. Daily and is secretary of respondent, Indianapolis Soap Co. He is engaged to some extent in the sale of the products of respondent corporations, and in the absence of his father directs and controls the business of the corporate respondents.

Respondent, Sidney F. Daily, Jr., an individual, is a son of respondent Jesse M. Daily and is president of respondent, Williams Soap Co. He attends stockholders' meetings and business meetings of the corporation and acts to a limited degree in an advisory capacity.

The capital stock of the Indianapolis Soap Co. consists of 100 shares, 96 shares of which are owned by respondent Jesse M. Daily, 2 shares are owned by respondent, Robert S. Daily, and 2 shares were formerly owned by respondent, Maud S. Daily. The capital stock of the Williams Soap Co. consists of 5 shares, 2 shares of which are owned by respondent, Sidney F. Daily, Jr., 1 share is owned by respondent, Jesse M. Daily, and 2 shares were formerly owned by respondent, Maud S. Daily. The corporate respondents have a joint office from which the affairs of each are directed, and are wholly owned, dominated, controlled, and directed by the individual respondents and constitute the means through which various acts and practices of respondents have been done and performed. The several respondents have acted in conjunction and cooperation with one another in carrying out such acts and practices.

PAR. 2. Respondents are now, and for a number of years last past have been, engaged in the sale and distribution of soap and soap products. Respondents cause their said products, when sold, to be shipped from their place of business in Indianapolis, Ind., to purchasers thereof located in various States of the United States and in the District of Columbia, and have maintained a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the sale and distribution of soap and soap products, respondents have specialized largely in a particular type of trade.

They have advertised under the name of the Indianapolis Soap Co. in a magazine of national circulation known as "The Billboard" in the following manner:

FOR MEDICINE
SOAPS AND STREET MEN

For more than 35 years we have specialized on pure Coconut Oil Soaps for Streetmen. Large Assortment Stock Brands, also Private Brands to order. Write today for price list and samples.

Among the soaps offered in the price list of respondent Indianapolis Soap Co. are:

NATURE'S WONDER

This is a golden yellow soap, made from pure Cochin Oil, pressed and put up in attractive cartons bearing price mark of 25 cents per carton. Very flashy package.

Price

No. 2 size----- \$3.95 per gross.

and

CUTICLEAR

Cuticlear is a pure white Coconut Oil Soap; looks unusually large for its weight. Each cake neatly pressed with brand name across the front and packed in very attractive yellow cartons printed in black ink, bearing price mark of 25 cents per cake. A new and very attractive brand for medicine men.

Price \$3.35 per gross

Respondents, through the Williams Soap Co., sell and distribute a soap designated as "Velvatex Creme Compound" packed three cakes to a carton. Across the top of the face of the carton appears the legend, "One Carton of Combination Deal," and at one end of the face of the carton are two concentric circles. In the center of the inner circle are the figures "75¢" and in the space between the inner and outer circles is the lettering, "Price of Complete Unit." Another soap offered for sale and sold through the Williams Soap Co. is designated "Marie Martell, a luxurious cleansing preparation." This soap is also packed three cakes to a carton, and the carton carries on its face the words and figures, "One Carton of Combination Deal—Price of Complete Unit—75¢" arranged in the same manner as in the case of the soap designated as "Velvatex." By such statements respondents represent and imply that such soaps have a retail value of 75 cents per carton, and such representations have the capacity and tendency to, and do, mislead members of the purchasing public into the belief that said soaps have a retail value and price of 75 cents per carton.

Respondents sell Velvatex and Marie Martell packaged as stated either separately or in combination with other soaps such as laundry

soap or cleaning powders. If purchased alone, the price of either of these brands is 4 to 5 cents per carton of three cakes. The price of 75 cents placed on cartons of the above soap grossly exaggerates and is far in excess of the retail value of such soaps and of the prices at which such soaps are customarily sold in the regular and normal course of business. Respondents' price marked products are sometimes resold in combination with other products and in such event respondents cannot, and do not, control the combinations offered and have no means of knowing what may be offered in such combinations or the retail value thereof. The aforesaid price marking places in the hands of medicine men, street men, or canvassers a means whereby they may, by offering the three-cake carton at the exaggerated price and adding to the offer a bar of laundry soap and a box of washing powder or various other items of insignificant cost, mislead and deceive prospective purchasers as to the value of the goods offered.

When questioned about this practice, respondent, Jesse M. Daily, testified that, "When people buy from peddlers they have to know what they are doing." He also testified that it would be difficult to sell these soaps if the price marks were not placed on the cartons to afford peddlers " * * * a unit price to work on * * *," and that the absence of such price marks would interfere with sales.

PAR. 4. Members of the purchasing public are familiar with and understand the custom of marking or stamping the retail price or value on various commodities, and generally place confidence in such price markings and the representations thus made as to the value and retail price of such products. By placing upon its products price markings which are fictitious and which grossly exaggerate the actual price at which such products are customarily sold to members of the purchasing public, respondents have placed in the hands of canvassers, peddlers, and others a means and instrumentality whereby such canvassers and peddlers have been, and are, enabled to mislead and deceive members of the purchasing public.

PAR. 5. Respondents cause various representations with respect to the grade, quality, and ingredients of their soaps to be placed on such soaps and on the cartons in which such soaps are packed and sold. Among such representations are:

This soap is made from mineral and vegetable oils, nature's own products, compounded with other pure materials by the most improved methods of modern soap making. It is absolutely free from impure or rancid animal fats or greases, chemicals, strong alkalis or other harmful substances. It cleanses thoroughly, purifies and invigorates the skin, opens up the pores and gives nature the opportunity to function properly.

Nature's vegetable soap—vegetable compound—guaranteed purely vegetable—manufactured only by Nature's Products Company, Indianapolis, Indiana.

In fact, respondents' soaps are inferior in quality and are water-filled, in that they contain an excessively large proportion of water which increases the apparent size and weight of the soap without adding to the actual quantity. Such excessively water-filled soaps soon dry out, shrink and harden so as to become substantially unsuitable for the use intended. The representation that respondents' soaps, or any of them, "open up the pores of the skin and give nature the opportunity to function properly" is false and misleading in that this cannot be done by the external application of any soap.

PAR. 6. The acts and practices of respondents as set forth above have had, and now have, the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' soaps have a value greatly in excess of their actual retail price and value and that said soaps possess qualities which they do not in fact possess, and said acts and practices place in the hands of others a means to so mislead and deceive. As a result of such erroneous and mistaken belief members of the purchasing public have been induced to purchase a substantial quantity of respondents' products.

CONCLUSION

The aforesaid acts and practices of respondents 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, the answers of respondents, certain stipulated facts read into the record, testimony and other evidence taken before examiners of the Commission theretofore duly designated by it, and briefs filed herein in support of and in opposition to the complaint, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, Indianapolis Soap Co., a corporation, Williams Soap Co., a corporation, their directors, officers, agents, and employees; Jesse M. Daily, an individual, Robert S. Daily, an individual, and Sidney F. Daily, Jr., an individual, and their agents, representatives, or employees; jointly or severally, directly or through any corporate or other device, in connection with the offering for

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sale, sale, and distribution of soap or other products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, by the use of fictitious price marks or in any other manner, that soaps or other products have retail values or prices in excess of the prices at which such products are regularly and customarily sold at retail.

2. Using, on or in connection with soap or other products, fictitious price representations or marks which import or imply, or placing in the hands of others such means of representing, that the retail value or price of any product, either alone or in combination with other products, is in excess of the price at which such product or combination of products is regularly and customarily sold at retail.

3. Representing that soaps which are water-filled or contain an excessive quantity of water are of superior quality.

4. Representing that respondents' soaps "open up the pores and give nature the opportunity to function properly," by the use of the words stated or by the use of any other words or terms of similar import or meaning.

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

It is further ordered, That for the reason stated in the findings as to the facts in this proceeding the complaint herein be, and the same hereby is, dismissed, as to respondent, Maude S. Daily.

Syllabus

IN THE MATTER OF
WOOL TRADING COMPANY, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4267. Complaint, Aug. 26, 1940—Decision, Apr. 6, 1942*

Where a corporation, engaged in competitive interstate sale and distribution of hand knitting yarn direct to the purchasing public, advertising in periodicals of wide circulation and forwarding to those replying thereto various advertising material such as catalogues, cards, and circulars containing samples—

- (a) Made use, in designating certain yarns in its said advertising and on labels and tags attached thereto, of names (1) "Cashmere," "Genuine Cashmere," and "Genuine Cashmere Sport," and "Genuine Imported Cashmere," and (2) "Glow Tweed," "Petite Zephyr Tweed," "Ascot Tweed," and "Shag Tweed"; notwithstanding the fact such yarns were not, respectively, composed entirely of wool made from the hair of the cashmere goat as understood by public from word "cashmere," but were composed wholly or largely of other materials nor composed entirely of wool as long understood from word "tweed," but contained substantial percentages of rayon or cotton;
- (b) Made use of word "wool" in describing certain yarns, such as "Luster Wool," "Wool Bouclé," and of word "Angora" to designate others as "Sport Angora"; notwithstanding the fact the former yarns were not composed wholly of wool, but were partly rayon; nor did the latter contain any hair of the Angora goat;
- (c) Make use, as aforesaid, of word "crepe" to designate certain yarns as "Sparkle Crepe," and of word "Shetland" to designate others as "Shetland Floss"; notwithstanding the fact yarns thus designated, respectively, contained no silk, product of the cocoon of the silk worm, as long understood by purchasing public from unqualified word "crepe," but were made of rayon or a mixture thereof; and were not made of wool from Shetland sheep grown on the Shetland Islands or on the contiguous mainland of Scotland, as understood from use of word "Shetland";
- (d) Made use of word "Scotch" to designate certain yarns as "Scotch Tweed" and "Scotch Heather," and of word "Saxony" to designate others as "Saxony Zephyr"; notwithstanding the fact such yarns or the wool from which they were made were neither made in nor imported from either Scotland or the Province of Saxony;
- (e) Falsely represented that certain domestic yarns were imported products through use of word "Imported" to describe them;
- (f) Advertised and sold various yarns which were composed in whole or in part of rayon, but had the appearance of wool and silk, without disclosing such content of rayon, which, when so manufactured, is practically indistinguishable from silk or wool by the purchasing public, with result that it purchased same as being composed entirely of silk or wool; and
- (g) Used on its letterheads the legend "Manufacturers of Peter Pan Yarns," notwithstanding the fact it was not a manufacturer, preferably dealt with directly by a substantial portion of the public as securing, in its belief