

Order

35 F. T. C.

IN THE MATTER OF

D. D. D. CORPORATION

MODIFIED ORDER TO CEASE AND DESIST

Docket 3972. Order, July 8, 1942

Modified order, pursuant to provisions of Section 5 (1) of the Federal Trade Commission Act, and in accordance with decree below referred to, in proceeding in question, in which original order issued on April 19, 1941, 32 F. T. C. 1227, 1235, and in which Circuit Court of Appeals for the Seventh Circuit, on February 12, 1942, in *D. D. D. Corporation v. Federal Trade Commission*, 125 F. (2d) 679, 34 F. T. C. 1821, rendered its opinion, and on April 4, 1942, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming same in other particulars—

Requiring respondent, its officers, etc., in connection with offer, etc., of respondent's "D. D. D. Prescription" or any other substantially similar medicinal preparation, to cease and desist from disseminating, etc., any advertisements, etc., as in said order set forth, which represent, directly or through inference, that said prescription is a cure or remedy or has therapeutic value in excess of affording relief from certain symptoms for eczema, pimples, or hives, skin disorders caused by internal or systemic conditions, blotches or rashes when due to such conditions, and athlete's foot, insect bites, and cases of ivy and oak poisoning; or which, through use of words "and other externally caused skin eruptions," etc., imply that certain diseases and conditions which may be of systemic or internal origin are solely of external origin, and that its said preparation has therapeutic value in the treatment thereof regardless of origin; or through use of the words "stops itching," etc., that it will either permanently or temporarily eliminate the disease or condition causing said symptom, or that it has any therapeutic value in excess of that afforded by alleviation thereof, etc., as in order in detail set forth.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 19, 1941, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on February 12, 1942, the United States Circuit Court of Appeals for the Seventh Circuit rendered its opinion and on April 4, 1942, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars:

Now therefore, Pursuant to the provisions of Subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues

this, its modified order to cease and desist in conformity with said decree:

It is ordered, That the respondent, D. D. D. Corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its medical preparation, D. D. D. Prescription, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

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

(a) That respondent's preparation D. D. D. Prescription is a cure or remedy for eczema, or that it has any therapeutic value in the treatment thereof in excess of affording relief from the symptom of itching.

(b) That respondent's preparation D. D. D. Prescription is a cure or remedy for pimples or hives, or that it has any therapeutic value in the treatment thereof, in excess of affording relief from the symptom of itching.

(c) That respondent's preparation has any therapeutic value in the treatment of any disorder of the skin caused by internal or systemic conditions, in excess of affording relief from the symptoms of itching.

(d) That said preparation has any therapeutic value in the treatment of blotches or rashes appearing on the skin, when due to systemic or constitutional conditions.

(e) That respondent's preparation has any therapeutic value in the treatment of athlete's foot, insect bites, and cases of ivy and oak poisoning, in excess of that afforded by the alleviation of the symptom of itching, or that afforded by the use of an antipruritic, astringent, antiseptic, and mildly germicidal agent.

(f) Through the use of the words "and other externally caused skin eruptions," or other words or phrases of similar import or meaning, in connection with diseases or conditions which may be of a systemic or internal origin, that such diseases and conditions are, in fact, solely of external origin or that respondent's preparation has therapeutic value in the treatment of such diseases and conditions regardless of their origin.

(g) Through the use of the words "stop itching" or other words or phrases of similar import or meaning, that respondent's preparation will either permanently or temporarily eliminate the disease or condition causing the symptom of itching or has any therapeutic value in

Order

35 F. T. C.

excess of that afforded by the alleviation of the symptom of itching, or that afforded by the use of an antipruritic, astringent, antiseptic, and mildly germicidal agent.

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 medicinal preparation D. D. D. Prescription, which advertisement contains any of the representations prohibited in Paragraph 1 hereof and the respective subdivisions thereof.

It is further ordered, That respondent shall within 30 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

IN THE MATTER OF

HARRY M. BITTERMAN, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED

Docket 4229—Complaint, Aug. 8, 1940—Decision, July 8, 1942

Where a corporation, and two individuals—president and director and office manager thereof—engaged in the competitive interstate purchase from numerous manufacturers and other sellers of fur garments for a number of retail establishments—

- (a) Received compensation in the form of brokerage or commissions upon orders from aforesaid buyers for the purchase of commodities including, particularly, fur garments, which it transmitted to and executed with sellers, amounting, customarily, to 5 percent of the sales prices of the goods sold, and while acting as said buyers' agent, buying representative or other intermediary; and

Where aforesaid selling concerns, engaged as above set forth, in the sale of their fur garments in interstate commerce to buyers referred to and to numerous other customers—

- (b) Paid to said corporation and individuals, acting as agents, buying representatives, or other intermediaries of said buyer retailers in the transmittal and execution of their buying orders, compensation in the form of brokerage fees or commissions as above described upon the sales prices of the goods sold by them to aforesaid buyers:

Held, That such receipt and acceptance, and payment of brokerage fees and commissions, as above set forth, constituted a violation of the provisions of Subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Edward S. Ragsdale for the Commission.

Mr. Alfred McCormack and *Mr. Harmon Duncombe*, of the firm of Cravath, DeGersdorff, Swaine & Wood, of New York City, for respondents.

COMPLAINT¹

Pursuant to the provisions of an Act of Congress, approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful

¹ Complaint is published as amended by a stipulation agreed to by and between respondents named below and W. T. Kelley, chief counsel for the Commission, and approved by the Commission on November 4, 1940, which stipulation amended original complaint, *nunc pro tunc*, as follows:

By striking from the caption of said complaint the words "Arthur Petras, Peter Petras and George Alveras, co-partners doing business under the firm name and style of Petras, Petras & Co." and substituting in lieu thereof the words "Peter Petras and George Alveras, trading as Petras & Alveras, and Arthur Petras, trading as A. Petras & Company," and

By striking from paragraph 3, page 2, of said complaint the words:

"Respondents Arthur Petras, Peter Petras and George Alveras are co-partners doing business under the firm name and style of Petras, Petras & Co. and have their principal