IN THE MATTER OF

VIVIAN S. NASH

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

Docket 4811. Complaint, Aug. 13, 1942—Decision, Oct. 26, 1942

Where an individual, engaged in the manufacture and interstate sale and distribution of certain so-called "Bee-Dew" preparations recommended for hair and scalp treatments and use as deodorant; by means of advertisements in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature—

(a) Represented, through statements and pictorial representations, including "before and after" depictions, that preparations designated by her as Bee-Dew "Special Hair Grower," "Special U-Gro," "Scalp Oil," "Shampoo," "Pressing Oil" and "U-Gro," provided a remedy for falling hair, baldness, dull hair, scalp irritation, and dandruff, and an effective treatment therefor, use of which would cause new hair to grow;

The facts being that her said products had no therapeutic value in excess of cleansing the hair and scalp, allaying itching due to minor irritations, and facilitating the removal of loose dandruff scales, and would not cause new hair to grow; and

(b) Represented that her "Bee-Dew O-No" deodorant preparation would assure complete protection from offensive body odors;

The facts being protection afforded was for a limited time only, and not complete;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true, thereby inducing purchase of said products because of such 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.

Mr. S. F. Rose 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 Vivian S. Nash, an individual 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 against said respondent stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, is an individual, now trading and doing business under the name of Bee-Dew Cosmetic Co., with her prin-

cipal place of business located at 703–705 East Forest Avenue, Detroit, Mich.

PAR. 2. The respondent was during the month of October 1937, and for more than a year prior thereto, the president of Bee-Dew Laboratories, a corporation organized under the laws of the State of Michigan. For some time subsequent thereto and prior to February 26, 1941, the said respondent was president of Bee-Dew Products, Inc., also a corporation organized under the laws of the State of Michigan. On said last named date the charter of Bee-Dew Products, Inc., was dissolved. During all the time respondent was president of said corporations she owned a large percentage of the capital stock of each of said corporations, and formulated, directed and controlled their policies and activities. Each of said corporations was engaged in the sale of a similar line of various hair and face cosmetics. Upon the dissolution of Bee-Dew Products, Inc., the respondent, under the trade name of Bee-Dew Cosmetic Co., has continued to manufacture, sell, and distribute substantially the same preparations as those sold by the corporations of which she was president.

PAR. 3. The respondent, Vivian S. Nash, an individual, is now and has been for more than 5 years last past, as stated in the preceding paragraph, engaged in the manufacture, sale, and distribution of certain preparations recommended for hair and scalp treatments, including those designated "Bee-Dew Special Hair Grower," "Bee-Dew Special U-Gro," "Bee-Dew Scalp Oil," "Bee-Dew Shampoo," "Bee-Dew Pressing Oil," and "Bee-Dew U-Gro."

In the course and conduct of her business, the respondent causes said preparations, when sold, to be transported from her place of business in the State of Michigan to the 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 preparations, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 4. Respondent in the course and conduct of her business aforesaid has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her said preparations recommended for hair and scalp treatment, by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and the respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning said preparations by various means, for the purpose of inducing and which are likely to induce, directly or in-

directly, the purchase of said preparations 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 advertisements, disseminated and caused to be disseminated as hereinabove set forth concerning her said preparations recommended for hair and scalp treatments, by the United States mails, by advertisements inserted in newspapers and periodicals, circulars, leaflets, pamphlets, and other advertising literature, are the following:

Don't surrender to short, broken, harsh hair. Every woman owes it to herself to hold on to her youth and beauty.

Before (Picture of a lady with short hair.) After (Picture of a lady with long hair.)

Use Bee-Dew Scalp Oil, Bee-Dew Shampoo, Bee-Dew Pressing Oil, Bee-Dew Special U-Gro.

Bee-Dew Special U-Gro.

Stop that falling hair and scalp irritation. Remove dandruff.

Bee-Dew U-Gro.

Remove dandruff. Stop falling hair and scalp irritations.

Bee-Dew Special U-Gro.

Check that falling hair. Bring life to your scalp.

Short, stubby, dead looking hair or even long hair not well kept is never admirable. Beautiful hair, then, is the first beauty secret.

Bee-Dew Special U-Gro.

Beautiful hair requires a healthy scalp. Thinning hair, bald spots, dull hair and itchy scalp indicate an unnatural scalp condition.

And concerning *Bee-Dew O-No* are the following:

Instant sweetness and complete protection is yours now, through Bee-Dew O-No, the perfect and sure deodorant cream.

Assures certain, instant, complete protection from offensive body odors.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, and by pictorial representations, respondent represents and has represented that her said preparations recommended for use in hair and scalp treatments provide a cure or remedy for falling hair, baldness, dull hair, scalp irritation, and dandruff, and constitute an effective treatment therefor, and that their use will cause new hair to grow.

In the same manner the respondent represents that the preparation advertised and designated as Bee-Dew O-No will assure complete protection from offensive body odors.

PAR. 6. The foregoing statements and representations are grossly exaggerated, false and misleading. In truth and in fact, the use of said hair and scalp treatments, either alone or in combination with each other, do not constitute a cure or remedy for falling hair, bald-

ness, dull hair, scalp irritations or dandruff. Respondent's preparations have no therapeutic value in the treatment of such disorders or conditions in excess of cleansing the hair and scalp and allaying itching due to minor irritations of the scalp and in facilitating the removal of accumulated loose dandruff scales. Said preparations will have no therapeutic value in the treatment of baldness and will not cause new hair to grow. Respondent's preparation Bee-Dew O-No will give protection from body odors for a limited time only and will not give complete protection from such odors.

PAR. 7. The use by the respondent of the aforesaid false, deceptive and misleading statements and representations and others of a similar nature, 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 such statements and representations are true, and to induce a number of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said preparations.

PAR. 8. 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 the 13th day of August 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Vivian S. Nash, an individual, charging her with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. On the 11th day of September 1942, the respondent filed her answer, in which answer she admited 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 is an individual, now trading and doing business under the name of Bee-Dew Cosmetic Co., with her principal place of business located at 703–705 East Forest Avenue, Detroit, Mich.

PAR. 2. The respondent was, during the month of October 1937, and for more than a year prior thereto, the president of Bee-Dew Laboratories, a corporation, organized under the laws of the State of Michigan. For some time subsequent thereto and prior to February 26, 1941, the said respondent was president of Bee-Dew Products, Inc., also a corporation organized under the laws of the State of Michigan. On said last named date the charter of Bee-Dew Products, Inc., was dissolved. During all the time respondent was president of said corporations she owned a large percentage of the capital stock of each of said corporations, and formulated, directed, and controlled their policies and activities. Each of said corporations was engaged in the sale of a similar line of various hair and face cosmetics. Upon the dissolution of Bee-Dew Products, Inc., the respondent, under the trade name of Bee-Dew Cosmetic Co., has continued to manufacture, sell and distribute substantially the same preparations as those sold by the corporations of which she was president.

PAR. 3. The respondent, Vivian S. Nash, an individual, is now and has been for more than 5 years last past, as stated in the preceding paragraph, engaged in the manufacture, sale, and distribution of certain preparations recommended for hair and scalp treatments, including those designated "Bee-Dew Special Hair Grower," Bee-Dew Special U-Gro," "Bee-Dew Scalp Oil," "Bee-Dew Shampoo," "Bee-Dew Pressing Oil," and "Bee-Dew U-Gro," and also of a preparation designated "Bee-Dew O-No," recommended for use as a deodorant.

In the course and conduct of her business the respondent causes said preparations, when sold, to be transported from her place of business in the State of Michigan to the 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 preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. Respondent in the course and conduct of her business aforesaid has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her said preparations by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and the respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning said preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations 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 advertisements disseminaed and caused to be disseminated, as hereinabove set forth, by the United States mails, by advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Don't surrender to short, broken, harsh hair. Every woman owes it to herself to hold on to her youth and beauty.

Before (Picture of a lady with short hair.)

After (Picture of a lady with long hair.)

Use Bee-Dew Scalp Oil, Bee-Dew Shampoo, Bee-Dew Pressing Oil, Bee-Dew Special U-Gro.

Bee-Dew Special U-Gro

Stop that falling hair and scalp irritation. Remove dandruff.

Check that falling hair. Bring life to your scalp.

Short stubby, dead looking hair or even long hair not well kept is never admirable. Beautiful hair, then, is the first beauty secret.

Beautiful hair requires a healthy scalp. Thinning hair, bald spots, dull hair and itchy scalp indicate an unnatural scalp condition.

Bee-Dew U-Gro

Remove dandruff. Stop falling hair and scalp irritations.

Bee-Dew O-No

Instant sweetness and complete protection is yours now, through Bee-Dew O-No, the perfect and sure deodorant cream.

Assures certain, instant, complete protection from offensive body odors.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, and by pictorial representations, respondent represents and has represented that her said preparations recommended for use in hair and scalp treatments provide a cure or remedy for falling hair, baldness, dull hair, scalp irritation, and dandruff, and constitute an effective treatment therefor, and that their use will cause new hair to grow. In the same manner, the respondent represents that the preparation advertised and designated as Dee-Dew O-No will assure complete protection from offensive body odors.

PAR. 6. The foregoing statements and representations are grossly exaggerated, false, and misleading. In truth and in fact, the use of said hair and scalp preparations, either alone or in combination with one another, does not constitute a cure or remedy for falling hair, baldness, dull hair, scalp irritations, or dandruff. Respondent's preparations have no therapeutic value in the treatment of such disorders or conditions in excess of cleansing the hair and scalp, and allaying itching due to minor irritations of the scalp, and in facilitating the removal of accumulated loose dandruff scales. Said preparations will have no therapeutic value in the treatment of baldness and will not

cause new hair to grow. Respondent's preparation Bee-Dew O-No will give protection from body odors for a limited time only, and will not give complete protection from such odors.

PAR. 7. The use by the respondent of the aforesaid false, deceptive, and misleading statements and representations, and others of a similar nature, 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 such statements and representations are true, and to induce a number of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said preparations.

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 respondent admits all the material allegations of fact set forth in said complaint and states that she 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 that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered that the respondent, Vivian S. Nash, individually and trading under the name of Bee-Dew Cosmetic Co., or trading under any other name, and her agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of her cosmetic preparations designated "Bee-Dew Special Hair Grower," "Bee-Dew Special U-Gro," "Bee-Dew Scalp Oil," "Bee-Dew Shampoo," "Bee-Dew Pressing Oil," "Bee-Dew U-Gro," and "Bee-Dew O-No," or any other preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or under any other names, 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,

(*a*) represents, directly or by implication, that the preparations designated "Bee-Dew Special Hair Grower," "Bee-Dew Special U-Gro," "Bee-Dew Scalp Oil," "Bee-Dew Shampoo," "Bee-Dew Pressing Oil," and "Bee-Dew U-Gro," either when used alone or in combination with one or more of the others, constitute a cure or remedy for falling hair, baldness, dull hair, scalp irritation, or dandruff, or that any of such preparations will promote the growth of new hair or have any effect upon the growth of hair;

(*b*) represents, directly or by implication, that said preparations "Bee-Dew Special Hair Grower," "Bee-Dew Special U-Gro," "Bee-Dew Scalp Oil," "Bee-Dew Shampoo," "Bee-Dew Pressing Oil," and "Bee-Dew U-Gro" have any therapeutic values in the treatment of falling hair, baldness, dull hair, scalp irritation, or dandruff, in excess of cleansing the hair and scalp, allaying itching due to minor scalp irritations, and facilitating the removal of loose dandruff scales;

(*c*) uses the word "grow" or "grower," or any other word which is similar thereto either in spelling or in phonetics, to designate or describe the preparations now designated "Bee-Dew Special Hair Grower," "Bee-Dew Special U-Gro," and "Bee-Dew U-Gro," or otherwise represents that any of said preparations has any effect upon the growth of hair; or

(*d*) represents, directly or by implication, that the preparation "Bee-Dew O-No" will give complete protection from offensive body odors, or that it will have any effect in excess of affording temporary protection from such odors.

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 respondent's cosmetic preparations, which advertisement contains any representation prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

BEN ARNOVITZ AND WILFORD ARNOVITZ, TRADING AS UTAH BEVERAGE AND DISTRIBUTING COMPANY

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

Docket 4591. Complaint, Sept. 16, 1941—Decision, Oct. 27, 1942

Where two individuals, engaged in competitive interstate sale of various assortments of merchandise, including candies, gums, nuts, glassware, clocks, and handkerchiefs, which involved use of lottery schemes in sale and distribution to public, a typical assortment consisting of a number of uniform candy bars together with a push card for use in their sale and distribution under a plan, as there explained, by which a customer of said "Baseball" assortment received for 5 cents from 5 to 1 bars, dependent upon receipt of "Home Run," "3-Base Hit," or other legend concealed in that one of the board's 110 disks selected by him, with maker of "Last Play" in first section receiving 2 bars and of "Last Play" on card receiving 3;

Sold such assortments to retailers by whom they were exposed and sold to the purchasing public in accordance with said sales plan, and thereby supplied to and placed in the hands of such retailers means of conducting lotteries in the sale of their products, contrary to an established public policy of the United States Government, and in competition with many who do not use chance or lottery methods;

With effect, by reason of such element of chance, of diverting substantial trade unfairly to themselves from their said competitors:

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. Miles J. Furnas*, trial examiner.

Mr. J. W. Brookfield, Jr., 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 Ben Arnovitz and Wilford Arnovitz, individuals, trading and doing business as Utah Beverage and Distributing Co., hereinafter referred to as respndents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Ben Arnovitz and Wilford Arnovitz, are individuals, trading and doing business as Utah Beverage and