

Complaint

IN THE MATTER OF
AMERICAN CHEMICAL COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4956. Complaint, Apr. 29, 1943—Decision, Apr. 25, 1944*

Where a corporation engaged in the manufacture and interstate sale of its "Flexo" so-called anti-freeze solution, to jobbers, garages and service stations for resale to the purchasing public; through representations in advertising folders, pamphlets, display posters and other advertising material, directly or by implication—

- (a) Represented that its said "Flexo" furnished protection to the cooling systems of automobile and other types of combustion engines against freezing and other damaging effects; and protected the entire cooling system against corrosion, rust, and deterioration; that use thereof would prevent rust or other damage to the hose connections, radiator and other metal and rubber parts of the cooling system and finish of automobiles; and that it would not evaporate or clog passages in the cooling system; and
- (b) Represented that it was safe and dependable for use as recommended and had proved itself to be a superior permanent-type anti-freeze—

The facts being that product in question, composed of a calcium chloride base, was not a superior type of anti-freeze solution nor a safe, dependable product for use as recommended, but on the contrary, it would bring about corrosion on most metals, including iron, steel, bronze, solder, copper, brass, and aluminum; had caused rust, corrosion, clogged passages, and other serious damage to the engines, radiators, ignition wires, spark plugs, and hose connections and to the exterior finish of automobiles; and had resulted in leakage in the cooling systems of automotive engines; and use thereof, due to calcium chloride content, would give rise to persistent ignition troubles if any of the solution came in contact with spark plugs or ignition wires;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such false statements and advertisements were true, and with tendency and capacity to induce it to purchase substantial quantities of product in question as a result thereof:

Held, That such acts and practices as above set forth were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. George B. Tidwell, Mr. Frank W. Brandon and Mr. Abe Fitterman of Atlanta, Ga., 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 American Chemical Company, 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:

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PARAGRAPH 1. Respondent, American Chemical Company, is a corporation, organized and existing under and by virtue of the laws of the State of Georgia with its office and principal place of business located at 229 Bradberry Street, S. W., Atlanta, Ga.

PAR. 2. The respondent is now and for more than one year last past has been engaged in the manufacture, sale and distribution of a so-called antifreeze solution designated "Flexo" recommended for use in the cooling system of automobiles and other combustion type engines. Said product is sold by the respondent to jobbers, garages and service stations for resale to the purchasing public. Respondent causes its said product, when sold, to be transported from its place of business in the State of Georgia to purchasers thereof located in various other States of the United States and in the District of Columbia. The respondent maintains and at all times mentioned herein has maintained a course of trade in said product 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 its said business and for the purpose of inducing the purchase of its said product "Flexo" the respondent has circulated and is now circulating among prospective purchasers throughout the United States many false advertisements concerning its said product by means of the United States mails, by means of advertising folders, pamphlets, display posters and other advertising material. Among and typical of such false statements and representations circulated as aforesaid, are the following:

- Flexo Does Not Corrode;
- Flexo Prevents Rust;
- Flexo Does Not Injure Hose;
- Flexo is Safe;
- A Permanent Anti-Freeze;
- Flexo Will Not Boil Away;
- Flexo Protects Against Engine Overheating;

Flexo is a new improved permanent type anti-freeze scientists made to a special formula, which was developed after several years laboratory tests. It is a higher boiling, non-evaporating, non-inflammable, anti-freeze preparation and contains special ingredients to protect against the rust and corrosion caused by water. Flexo Anti-Freeze mixes perfectly with water, flows freely, transfers heat efficiently and will not damage car finish. Flexo Anti-Freeze is guaranteed not to contain alcohol or glycerine;

GUARANTEE

American Chemical Company guarantees that—"Flexo" brand anti-freeze, if used according to printed directions, in normal water cooling systems that are leak-tight and in proper working order will protect the cooling system against freezing and clogging from rust formation for a full winter; will not boil away, will not damage car finish, or the metal or rubber parts of the cooling system.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto, not specifically set out herein, the respondent has represented directly or by implication that its product "Flexo" furnishes protection to the cooling systems of automobile and other types of combustion engines against freezing and other damaging effects; that it is safe and dependable for use as recommended and has proved itself to be a superior permanent-type antifreeze; that it protects the entire cooling system of automobile engines against corrosion, rust

and deterioration; that its use will prevent rust or other damage to the hose connections, radiator and other metal and rubber parts of the cooling system and finish of automobiles; and that it will not evaporate or clog passages in the cooling system.

PAR. 5. The foregoing claims, statements and representations are grossly exaggerated, false and misleading. In truth and in fact respondent's product "Flexo" is composed of a calcium chloride base and is inferior to antifreeze solutions containing glycerine or alcoholic bases. It is not a safe and dependable product for use as recommended and has not proven itself to be a superior type of antifreeze. It does not protect the cooling system of engines against corrosion, rust or other deterioration. On the contrary the use of said product causes and has caused rust, corrosion, clogged passages and other serious damage to the engines, radiators, ignition wires, spark plugs, hose connections and to the exterior finish of automobiles.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations disseminated as aforesaid 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 false statements and advertisements are true and to induce, and does induce, the public to purchase substantial quantities of respondent's product as the result of such belief.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged, are all to the prejudice 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 April 29, 1943, issued and subsequently served its complaint in this proceeding on the respondent, American Chemical Company, a corporation, charging it 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 respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before a trial examiner 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, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, and brief filed in support of the complaint (no brief having been filed by the 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 makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, American Chemical Company, is a corporation, organized and existing under and by virtue of the laws of the

State of Georgia, with its office and principal place of business located at 229 Bradberry Street, S. W., Atlanta, Ga.

PAR. 2. The respondent is now and for more than one year last past has been engaged in the manufacture, sale, and distribution of a so-called antifreeze solution designated "Flexo," recommended for use in the cooling system of automobiles and other combustion type engines. Said product is sold by the respondent to jobbers, garages, and service stations for resale to the purchasing public. Respondent causes its said product, when sold, to be transported from its place of business in the State of Georgia to purchasers thereof located in various other States of the United States and in the District of Columbia. The respondent maintains and at all times mentioned herein has maintained a course of trade in said product 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 its said business and for the purpose of inducing the purchase of its said product "Flexo" the respondent has circulated and is now circulating among prospective purchasers throughout the United States, many false advertisements concerning its said product by means of the United States mails, by means of advertising folders, pamphlets, display posters, and other advertising material. Among and typical of such false statements and representations circulated as aforesaid are the following:

- Flexo Does Not Corrode;
- Flexo Prevents Rust;
- Flexo Does Not Injure Hose;
- Flexo is Safe;
- A Permanent Anti-Freeze;
- Flexo Will Not Boil Away;
- Flexo Protects Against Engine Overheating;

Flexo is a new improved permanent type anti-freeze scientists made to a special formula, which was developed after several years laboratory tests. It is a high boiling, non-evaporating, non-inflammable, anti-freeze preparation and contains special ingredients to protect against the rust and corrosion caused by water. Flexo Anti-Freeze mixes perfectly with water, flows freely, transfers heat efficiently and will not damage car finish. Flexo Anti-Freeze is guaranteed not to contain alcohol or glycerine.;

GUARANTEE

American Chemical Company guarantees that—"Flexo" brand anti-freeze, if used according to printed directions, in normal water cooling systems that are leak-tight and in proper working order will protect the cooling system against freezing and clogging from rust formation for a full winter; will not boil away, will not damage car finish, or the metal or rubber parts of the cooling system.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto, not specifically set out herein, the respondent has represented directly or by implication that its product "Flexo" furnishes protection to the cooling systems of automobile and other types of combustion engines against freezing and other damaging effects; that it is safe and dependable for use as recommended and has proved itself to be a superior permanent-type antifreeze; that it protects the entire cooling system of automobile engines against corrosion, rust, and deterioration; that its use will prevent rust or other damage to the hose connections, radiator and other metal and rubber parts of the cooling

system and finish of automobiles; and that it will not evaporate or clog passages in the cooling system.

PAR. 5. The foregoing claims, statements, and representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's product "Flexo" is composed of a calcium chloride base and is not a superior type of antifreeze solution and is not a safe and dependable product for use as recommended. It does not protect the cooling system of engines against corrosion, rust, or other deterioration. In fact, the use of said product will bring about corrosion on most metals, including iron, steel, bronze, solder, copper, brass, and aluminum; and causes and has caused rust, corrosion, clogged passages, and other serious damage to the engines, radiators, ignition wires, spark plugs, and hose connections and to the exterior finish of automobiles; and results in leakage in the cooling systems of automotive engines. The use of respondent's radiator solution containing calcium chloride will give rise to persistent ignition troubles if any of the solution comes in contact with spark plugs or ignition wires because the salt deposited when the water evaporates is very difficult to remove completely and when it cools it absorbs water, causing short circuits.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations disseminated as aforesaid has a tendency and capacity to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements and advertisements are true and a tendency and capacity to induce the public to purchase substantial quantities of respondent's product as the result of such erroneous belief.

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, answer of the respondent, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, and brief in support of the complaint (no brief having been filed by the respondent and oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, American Chemical Company, a corporation, and its officers, representatives, agents, and employees directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of its product designated "Flexo" or any other product of substantially similar composition, whether sold under the same name or under any other name, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

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1. That said product is a safe or dependable antifreeze preparation for use in the cooling systems of automobile engines.
2. That said product is a superior type of antifreeze preparation.
3. That said product will protect the cooling systems of automobile engines against corrosion, rust, or other deterioration.
4. That said product will not cause rust, corrosion, or other damage to the cooling systems of automobile engines or damage to such engines or to radiators or hose connections or the exterior finish of automobiles.
5. That said product will not evaporate in use or clog passages in the cooling systems of automobile engines.
6. That said product will not injure, rust, or corrode aluminum, brass, copper, iron, or other metals, or injure the rubber parts of the cooling systems of automobile engines.

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

D. E. HAMIEL TRADING AS ALL-WINTER ANTI-FREEZE
COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5016. Complaint, July 22, 1943—Decision, Apr. 25, 1944*

Where an individual, engaged in interstate sale and distribution of a so-called anti-freeze solution which he designated as "All-Winter Anti-Freeze" and "Chem-A-Cool"—

(a) Represented through use of term "Anti-Freeze" to designate his said product, and through statements in radio continuities, advertising folders, pamphlets, and other media, that his said product was an effective anti-freeze solution, which afforded protection to automotive cooling systems or engines against freezing, rust and corrosion, and was safe and dependable;

The facts being that, essentially a solution of calcium chloride, it was capable of causing and did cause serious damage to the cooling systems of automobiles and was neither dependable nor safe; and

(b) Failed to disclose in his said advertisements, damaging effects likely to result from use thereof in that such use might cause serious corrosion of parts of the cooling system and motor; stoppage of water passages, particularly in the radiator, with resultant overheating; and short circuit in the ignition system, necessitating replacement thereof;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the nature, effectiveness, and safety of his said product, and thereby cause it to purchase substantial quantities thereof:

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

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Phil S. Bradford, of Columbus, Ohio, 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 D. E. Hamiel, an individual, trading as All-Winter Anti-Freeze Company, 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. The respondent, D. E. Hamiel, is an individual, trading as All-Winter Anti-Freeze Company, with his office and place of business located at 329-333 East Long Street, Columbus, Ohio.

PAR. 2. The respondent is now and for more than four years last past has been engaged in the manufacture, sale and distribution of a so-called anti-freeze solution designated "All-Winter Anti-Freeze," recommended