

Complaint

IN THE MATTER OF

MOTLOID COMPANY, INC. AND WALLACE A. ERICKSON

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

Docket 5042. Complaint, Sept. 7, 1943—Decision, June 21, 1944

Where a corporation and an individual engaged in the manufacture and interstate sale and distribution of a denture base designated "Moldent"; by advertisements in trade periodicals and advertising circulars, and labels on the boxes or containers thereof—

Falsely represented to the members of the dental profession and to those engaged in dental laboratory work that the product "Moldent" was superior to all other denture bases and particularly acrylic denture bases, and complied with a certain specification set up by the American Dental Association known as Revised A.D.A. Specification No. 12 of January 1, 1942;

With effect of misleading and deceiving a substantial portion of the members of said profession and those engaged in said laboratory work into the erroneous belief that such representations were true and into the purchase of substantial quantities of such product 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. Miles J. Furnas*, trial examiner.

Mr. Joseph Callaway for the Commission.

Mr. John R. Hackett, of Chicago, Ill., for respondents.

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 Motloid Company, Inc., and Wallace A. Erickson, hereinafter referred to as respondents, 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 public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Motloid Company, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 325 West Huron Street, Chicago, Ill. Respondent, Wallace A. Erickson, is an individual, with his place of business at 325 West Huron Street, Chicago, Ill.

PAR. 2. The respondent, Motloid Company, Inc., is now and for more than one year last past, has been engaged in the sale and distribution of a denture base designated as Moldent. Respondent, Wallace A. Erickson, was for a considerable period of time prior to January 1, 1943, vice president of said corporation. Since about January 1, 1943, he has been engaged as an individual, in the business of manufacturing the product Moldent, and selling and distributing it through Motloid Company, Inc.

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In the course and conduct of their said business respondents cause said product, when sold, to be transported from their place of business in the State of Illinois to the 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 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 their said business and for the purpose of inducing the purchase of said product in commerce by the members of the dental profession and those engaged in dental laboratory work, respondents have made and are now making certain false, deceptive and misleading statements and representations regarding said product by means of advertisements inserted in trade periodicals, advertising circulars and labels on the boxes or containers in which said product is sold and in various other ways. Typical representations are as follows:

MOLDENT

"Truly Superior"

The

"Truly Superior"

Acrylic Denture Base

A Methyl Methacrylate Composition Guaranteed to Comply with the Revised A.D.A. Specification No. 12 of January 1, 1942.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning not specifically set out herein, the respondents have represented and are now representing, among other things, to the members of the dental profession and those engaged in dental laboratory work that the product Moldent is superior to all other denture bases and particularly superior to all other acrylic denture bases, and further that it complies with a certain specification set up by the American Dental Association and known to the members of the dental profession and those engaged in dental laboratory work as Revised A.D.A. Specification No. 12 of January 1, 1942.

PAR. 5. The foregoing representations are extravagant, false, deceptive and misleading in the following respects:

The product Moldent is not superior to all other denture bases including acrylic denture bases now generally in use by the members of the dental profession and dental laboratories. It does not comply with the specification set up by the American Dental Association known as Revised A.D.A. Specification No. 12 of January 1, 1942.

PAR. 6. The use by the respondents of the foregoing extravagant, false, deceptive and misleading statements and representations, disseminated as aforesaid, in connection with the offering for sale, and sale, of said product in commerce has had and now has the capacity and the tendency to and does mislead and deceive a substantial portion of the members of the dental profession and those engaged in dental laboratory work into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of such product in commerce because of such erroneous and mistaken belief.

Findings

PAR. 7. The aforesaid acts and practices of the respondents, 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 September 7, 1943, issued and thereafter served its complaint in this proceeding upon the respondents, Motloid Company, Inc., a corporation, and Wallace A. Erickson, an individual, charging them 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' answer, the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and substitute answer, and the Commission having duly considered the matter and being now fully advised in the premises makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Motloid Company, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 325 West Huron Street, Chicago, Ill.

Respondent, Wallace A. Erickson, is an individual, with his place of business also located at 325 West Huron Street, Chicago, Ill.

PAR. 2. Respondent, Motloid Company, Inc., is now, and for more than one year last past has been, engaged in the sale and distribution of a denture base designated as Moldent. Respondent, Wallace A. Erickson was, for a considerable period of time prior to January 1, 1943, vice president of said corporation. Since about January 1, 1943, he has been engaged as an individual in the business of manufacturing the product, Moldent, and selling and distributing it through Motloid Company, Inc. In the course and conduct of their said business, respondents cause said product, when sold, to be transported from their place of business in the State of Illinois to the 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 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 their said business, and for the purpose of inducing the purchase of said product in commerce by the members of the dental profession and those engaged in dental laboratory work, respondents have made and are now making certain false and misleading statements and representations regarding said product by means of advertisements inserted in trade periodicals, advertising circulars, and labels

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on the boxes or containers in which said product is sold and in various other ways. Typical representations are as follows:

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PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning not specifically set out herein, the respondents have represented and are now representing, among other things, to the members of the dental profession and to those engaged in dental laboratory work that the product Moldent is superior to all other denture bases and particularly superior to all other acrylic denture bases, and further that it complies with a certain specification set up by the American Dental Association and known to the members of the dental profession and those engaged in dental laboratory work as Revised A.D.A. Specification No. 12 of January 1, 1942.

PAR. 5. The foregoing representations are extravagant, false, deceptive and misleading in the following respects:

The product Moldent is not superior to all other denture bases including acrylic denture bases now generally in use by the members of the dental profession and dental laboratories. It does not comply with the specification set up by the American Dental Association known as Revised A.D.A. Specification No. 12 of January 1, 1942.

PAR. 6. The use by the respondents of the foregoing extravagant, false, deceptive and misleading statements and representations, with respect to their said product, disseminated as aforesaid, has had and now has the capacity and the tendency to and does mislead and deceive a substantial portion of the members of the dental profession and those engaged in dental laboratory work into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of such product in commerce because of such erroneous and mistaken 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 and the substitute answer of the respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commis-

sion 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 the respondent, Motloid Company, Inc., a corporation, its officers, representatives, agents, and employees, and respondent, Wallace A. Erickson, an individual, his agents, representatives, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of their product, Moldent, or any other product of substantially similar composition, whether sold under the same name or any other name in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that their product is superior to all other denture bases, or all other acrylic denture bases.

2. Representing that their product complies with the specification of the American Dental Association known as revised, A.D.A. Specification No. 12 of January 1, 1942.

3. Falsely representing that their product complies with any specification promulgated for the guidance or information of the dental profession.

It is further ordered, That the respondents, and each of them, shall, within 60 days after 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.

IN THE MATTER OF

DETROIT SODA PRODUCTS COMPANY AND AARONS,
SILL & CARON, INC.

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

Docket 5037. Complaint, Aug. 31, 1943—Decision, June 26, 1944

Where a corporation engaged in the packing and interstate sale and distribution of its "Crystal Brand Baking Soda," and its advertising agent; through advertisements in radio continuities—

- (a) Represented that said product used as dentifrice would freshen the breath, keep gums healthy, remove all teeth stains and restore dentine's natural brilliance;

The facts being that so used it would only tend to freshen the breath when bad breath arises from the accumulation of food debris and other material on or between the teeth, and would not be otherwise effective; it could not be relied upon to keep gums healthy, and while it would to some extent act as a polishing agent should a sufficient quantity be used, it would not remove all types of stain from the teeth, nor restore dentine's natural brilliance, for which the enamel of the tooth structure and not the dentine is responsible;

- (b) Represented that it was an ideal remedy for indigestion, colds and coughs;

The facts being that the only condition of stomach distress which might be described as indigestion in which it could be of value is hyperacidity and it was not an effective or adequate treatment for colds and coughs; and

Where aforesaid corporation, in advertisements in newspapers, periodicals, circulars, leaflets, pamphlets and other advertising literature, directly or by implication—

- (c) Falsely represented that its said product "contained innate properties which were indispensable for making food easy to digest," would "relieve inflammation and give soothing effect to the membrane of the mouth" and constituted a competent and effective treatment and remedy for indigestion and dyspepsia; and

- (d) Represented that, used as recommended, it constituted a competent and effective treatment or remedy for ivy poisoning, lumbago, scalds and burns, toothache, and eczema;

The facts being that while application of sodium bicarbonate solution would have some tendency to relieve itching such as that caused by poison ivy, it would not reduce the eruption; addition thereof to a hot bath would exert no beneficial effect in cases of lumbago, any temporary benefits derived being from the heat involved; while a paste of baking soda and water is suitable for application to minor scalds and burns, it is not an appropriate treatment for severe ones; application of small pieces of cotton dipped in baking soda solution to the cavity in an aching tooth would have no significant tendency to relieve toothache; and while such a solution is suitable as a cleansing agent in removing dried exudates such as those formed in cases of seborrheic eczema, it would have no actual therapeutic effect on eczema; and

- (e) Falsely represented that, used as recommended, it constituted a competent and effective treatment for acidity, colic in babies, rheumatism, colds, grippe and influenza, had tonic properties and would act as a general tonic, would break up, prevent and cure a common cold, and kill the germs responsible therefor and for grippe and influenza, and prevent them and similar diseases from becoming serious;