

Order

IN THE MATTER OF
AURINE COMPANY, INC.

MODIFIED ORDER TO CEASE AND DESIST

Docket 3993. Order, March 12, 1945

Modified order in proceeding in question in which original order issued on June 26, 1940, 31 F.T.C. 292, requiring respondent, its officers, etc., in connection with the offering, etc., of its preparation "Aurine," to cease and desist from disseminating advertisements which represent said preparation as a cure or remedy for deafness or partial deafness or as having any therapeutic value in the treatment thereof, or as a competent or effective treatment for said condition or for ringing or buzzing head noises due to hardened wax in the ear, etc., and from representing that it makes refunds to dissatisfied purchasers, etc., as in order set forth.

Mr. J. W. Brookfield, Jr. for the Commission.

Mr. Frank E. Gettleman, of Chicago, Ill., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission and the answer of respondent, and the matter having been set for hearing, a stipulation of facts was dictated into the record in lieu of the taking of testimony in support of the charges stated in the complaint and in opposition thereto, the filing of briefs and the filing of a trial examiner's report having been expressly waived, and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated June 26, 1940, and the Commission having further considered said order to cease and desist heretofore issued and being of the opinion that the public interest requires that a modified order to cease and desist should be issued in said cause, and the Commission having given due notice to the respondent to show cause on December 21, 1944, why this case should not be reopened for the purpose of modifying said order to cease and desist, and the Commission having considered the matter and the record herein and having issued its order modifying said order in certain respects, issues this its modified order to cease and desist.

It is ordered, That the respondent, Aurine Company, Inc., a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of its medicinal preparation designated Aurine, or any other medicinal preparation composed of substantially similar properties whether sold under the same name or 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 said preparation is a cure or remedy for or has any therapeutic value in the treatment of deafness or partial deafness;

(b) That said preparation is a competent or effective treatment for deafness or partial deafness, or ringing or buzzing head noises due to hardened or coagulated wax in the ear;

(c) That the use of said preparation will materially benefit or relieve temporary deafness or ringing or buzzing head noises due to an accumulation of wax in the ear, except that its use will soften such wax and thereby facilitate its removal by other means.

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 of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

3. Representing that respondent makes refunds to dissatisfied purchasers of said preparation when it does not in fact maintain a definite policy and practice of making such refunds.

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.

IN THE MATTER OF
WILLIAM H. HOWE

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

Docket 5089. Complaint, Nov. 30, 1943—Decision, Mar. 13, 1945

Where an individual engaged in the interstate sale and distribution of his "Lady Ashton Foot Ease," active ingredients of which were saponified coconut and palm oils and sodium carbonate, added to the mixture in the form of soap flakes and soap powder, along with 1 1/10 percent pine oil, with water as a carrier for the active ingredients; through advertisements on cards, folders, circulars and by means of radio continuities, directly and by implication—

Represented falsely that his said product, when used as directed, would completely remove foot callouses and relieve all painful conditions of the feet; the facts being that said product would not dissolve or remove callouses; its effect, when used as directed with a warm foot bath, was temporarily to soften the outer layers of callouses, some of which might be removed when followed by massage as directed, and while such use might result in temporary relief for tired and aching feet, or temporarily relieve foot discomfort, such results were in substantial part due to the warm foot bath and massage;

With tendency and capacity to mislead and deceive a substantial number of the purchasing public into the mistaken belief that such false representations were true and thereby induce their purchase thereof:

Held, That said 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. 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 William H. Howe, an individual, hereinafter referred to as respondent, has 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, William H. Howe, is an individual, having his office and principal place of business at 122 Jewett Street, Lowell, Mass.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of a preparation designated as "Lady Ashton Foot Ease," in commerce between and among the various States of the United States and in the District of Columbia.

Respondent causes his said preparation, when sold, to be shipped from his said place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States and in the District of Columbia.