

Complaint

IN THE MATTER OF

KODIZE PROCESS CORPORATION, AND MAX WRIGHT
TRADING AS KODIZE SALES CORPORATION

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

Docket 5206. Complaint, Aug. 26, 1944—Decision, Apr. 21, 1945

Where a corporation and the individual who was its vice president and general manager, engaged in the manufacture and interstate sale and distribution of their "Kodize" product, which was designed for use, when mixed with water as a treatment for soft coal, and consisted largely of common salt and a very small amount of coloring matter; through statements in circulars, leaflets and other advertising matter—

- (a) Represented and implied falsely that the use of their product "Kodize" in treating or processing soft or bituminous coal resulted in a 25% to 45% saving in coal, labor, and electricity, a reduction in soot and smoke, and increased efficiency with improved combustion; and
- (b) Represented falsely that their product "Kodize" was a secret formula for treating or processing coal, and that said formula had been patented and copyrighted; and, Where said individual, engaged in the sale and distribution of the product "Kodize" made by aforesaid corporation—
- (c) Represented and implied, through use of word "Corporation" in the trade name used by him, that such business was owned and operated by a corporation, when in fact it was individually owned by him;

With result that many members of the public dealt with him as being a legally organized and existing corporation, such as a substantial portion of the purchasing public prefers to do business with, as assuring, in its belief, greater stability and financial responsibility; by reason, among other things, of the provisions of law and the regulations concerning the organization and operation of corporations;

With tendency and capacity to mislead a substantial portion of the purchasing public into the mistaken belief that the aforesaid misleading representations were true, and thereby into purchase of substantial quantities of their said product:

Held, That said acts and practices 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. 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 Kodize Process Corporation, a corporation, and Max Wright, an individual, trading as Kodize Sales Corporation, hereinafter referred to as respondents, have 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, Kodize Process Corporation, is a corporation, organized, existing and doing business under and by virtue of the

laws of the State of Georgia with its office and principal place of business at 1026 Virginia Avenue, N. E., Atlanta, Ga.

Respondent, Max Wright, is vice president and general manager of respondent, Kodize Process Corporation, and as such formulates, controls and directs its acts, practices and policies. Respondent, Max Wright, trading under the name Kodize Sales Corporation, sells and distributes the product hereinafter described, known as "Kodize," which is manufactured by respondent, Kodize Process Corporation. Said respondents have acted together and in cooperation with each other in doing the acts and things herein alleged.

PAR. 2. The respondents are now, and for more than two years last past have been, engaged in the sale and distribution of a chemical product designated "Kodize," designed to be used when mixed with water as a treatment for soft or bituminous coal, at wholesale to dealers and at retail to the purchasing public in commerce between and among the various States of the United States and in the District of Columbia.

Respondents cause their said product, when sold, to be transported from their 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.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said product, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their said product "Kodize," respondents have distributed or caused to be distributed, to purchasers and prospective purchasers of said product in various States of the United States circulars, leaflets and other advertising matter. In said advertising circulars and leaflets many false and misleading statements and representations are made by respondents in describing their said product and the properties thereof. Among and typical of said statements and representations so made and circulated are the following:

KODIZE—A COAL SAVING PROCESS

KODIZE is a remarkable secret formula for processing coal. After more than two years of exhaustive tests and demonstrations, KODIZE has been acclaimed as the miracle formula and process which is destined to "revolutionize the burning of coal."

SAVES COAL

KODIZE has actually effected savings in apartments, homes, industrial plants, etc., ranging from 25% to 45%, both in stokers and hand firing.

ELIMINATES BLACK SMOKE

KODIZE PROCESSED coal burns freely and clean without draft, thereby burning up the carbon ordinarily escaping from raw coal as black smoke.

REDUCES SOOT

"KODIZED COAL" (ordinary coal to which KODIZE has been applied) positively will burn clean instead of forming the usual thick soot from raw coal. KODIZE reduces soot to a negligible minimum.

IMPROVES COMBUSTION

KODIZE greatly improves combustion, regardless of the method or equipment employed, but greatest economy and best results are obtained when *all drafts are closed*.

REDUCES FIRING PERIODS TO A MINIMUM

APARTMENT HOUSE Janitors report that immediately following the application of KODIZE to their coal, they decrease firings of four, five and six times daily to only two firings in 24 hours in hot water heaters, using from one-fourth to nearly one-half LESS COAL. Fire holds overnight.

KODIZE SAVES 25%

AND MORE IN

Coal . Labor . Electricity

Equipment

SAVES

Grates . Fire Box Linings

Smoke Pipe . Flue Linings.

AMERICA'S FOREMOST COAL SAVING PROCESS.

KODIZE is not mythical or experimental. It is a scientific combination of chemicals (a patented and copyrighted formula) and when applied to your coal, aids in more complete coal combustion.

PAR. 4. The foregoing statements and representations, together with similar statements and representations not specifically set out herein, purport to be descriptive of respondents' said product and of its efficiency and of the benefits to be derived from its use. By means thereof, respondents represent and imply and have represented and implied that the use of their product "Kodize" in treating or processing soft or bituminous coal results in or accomplished a material saving ranging from 25% to 45% in coal, labor and electricity, a reduction in soot and smoke, and increased efficiency with improved combustion. Respondents also represent that their product "Kodize" is a secret formula for treating or processing coal, and that said formula has been patented and copyrighted.

PAR. 5. The foregoing statements and representations are false, misleading and deceptive. In truth and in fact, the use of respondents' said product "Kodize" in treating or processing soft or bituminous coal does not effectuate or result in any appreciable saving in coal, labor and electricity. The use of said product, when applied to soft or bituminous coal, does not reduce soot or smoke nor improve combustion. Respondents' said product, in fact, is a chemical mixture consisting largely of common salt, a very small amount of coloring matter, and has no material or appreciable beneficial effect when used in treating or processing coal. The formula for "Kodize" is not secret, nor has said formula been patented or copyrighted.

PAR. 6. Through the use by the respondent, Max Wright, of the word "corporation" in the trade name Kodize Sales Corporation, he represents and implies that the business conducted under said name is owned and operated by a corporation organized, existing and doing business under and by virtue of the laws of some State of the United States. Said business is not owned and operated by a corporation, but individually by said respondent, Max Wright. A substantial portion of the purchasing public prefer to do business with a lawfully organized and existing corporation for the reason, among others, that it is believed that the provisions of law

and the regulations concerning the organization and operation of corporations are such as to assure greater stability and financial responsibility.

Many members of the public have dealt with respondent, Max Wright, under the mistaken belief that "Kodize Sales Corporation" was a legally organized and existing corporation.

PAR. 7. The aforesaid acts and practices and representations of the respondents have had and now have the tendency and capacity to deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that the aforesaid false, misleading and deceptive acts and practices and representations are true, and into the purchase of substantial quantities of respondents' product because of such erroneous and mistaken belief so induced.

PAR. 8. 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 August 26, 1944, issued and subsequently served its complaint in this proceeding upon respondents, Kodize Process Corporation, a corporation, and Max Wright, an individual, trading as Kodize Sales Corporation, charging them with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the filing of answer by respondent Max Wright, certain facts were stipulated into the record in lieu of testimony in support of and in opposition to the charges stated in the complaint at a hearing before an examiner of the Federal Trade Commission theretofore duly designated by it, and it was agreed that the Commission may proceed upon said statement of facts to make its findings as to the facts and its conclusion based thereon and issue its order disposing of this proceeding without intervening procedure. Thereafter, this proceeding came on for final hearing before the Commission on the complaint, answer, and stipulation as to the facts, said stipulation having been approved by the Commission; 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, Kodize Process Corporation, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business at 1026 Virginia Avenue, N. E., Atlanta, Ga. Respondent, Max Wright, is vice president and general manager of respondent, Kodize Process Corporation, and as such helps formulate, control, and direct its acts, practices, and policies. Respondent, Max Wright, formerly trading under the name of Kodize Sales Corporation, but now trading under the name of Kodize Sales Company, sells and distributes the product "Kodize," which is manufactured by respondent, Kodize Process Corporation. Said respondents have acted together and in cooperation with each other in doing the following acts and things.

PAR. 2. For more than two years last past the respondents have been engaged in the sale and distribution, at wholesale to dealers and at retail to the purchasing public, of a chemical product designated "Kodize." This product is designed to be used when mixed with water as a treatment for soft or bituminous coal. Respondents cause their said product, when sold, to be transported from their 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, and maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their said product "Kodize," respondents have distributed, or caused to be distributed, to purchasers and prospective purchasers of said product in various States of the United States circulars, leaflets, and other advertising matter. In said advertising circulars and leaflets many false and misleading statements and representations are made by respondents in describing their said product and its properties. Among and typical of the statements and representations so made and circulated are the following:

KODIZE—A COAL SAVING PROCESS

KODIZE is a remarkable secret formula for processing coal. After more than two years of exhaustive tests and demonstrations, KODIZE has been acclaimed as the miracle formula and process which is destined to "revolutionize the burning of coal."

SAVES COAL

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APARTMENT HOUSE Janitors report that immediately following the application of KODIZE to their coal, they decrease firings of four, five and six times daily to only two firings in 24 hours in hot water heaters, using from one-fourth to nearly one-half LESS COAL. Fire holds overnight.

* * * * *

KODIZE SAVES 25%
AND MORE IN

Coal . Labor . Electricity
Equipment

Findings

40 F. T. C.

SAVES

Grates . Fire Box Linings
Smoke Pipe . Flue Linings

* * * * *

AMERICA'S FOREMOST COAL SAVING PROCESS

* * * * *

KODIZE is not mythical or experimental. It is a scientific combination of chemicals (a patented and copyrighted formula) and when applied to your coal, aids in more complete coal combustion.

PAR. 4. By means of the foregoing statements and representations, and similar statements and representations not specifically set out herein, respondents represent and imply, and have represented and implied, that the use of their product "Kodize" in treating or processing soft or bituminous coal results in or accomplishes a material saving ranging from 25% to 45% in coal, labor, and electricity, a reduction in soot and smoke, and increased efficiency with improved combustion. Respondents also represent that their product "Kodize" is a secret formula for treating or processing coal and that said formula has been patented and copyrighted.

PAR. 5. The foregoing statements and representations are false, misleading, and deceptive. In truth and in fact, the use of respondents' said product "Kodize" in treating and processing soft or bituminous coal does not effectuate or result in any appreciable saving in coal, labor, or electricity. The use of said product, when applied to soft or bituminous coal, does not reduce soot or smoke or improve combustion to the extent claimed. In fact, said product is a chemical mixture consisting largely of common salt and a very small amount of coloring matter. It has no material or appreciable beneficial effect when used in treating or processing coal. The formula for "Kodize" is not secret, nor has said formula been patented or copyrighted.

PAR. 6. Through the use by the respondent, Max Wright, of the word "Corporation" in the trade name "Kodize Sales Corporation," he has represented and implied that the business conducted under said name is owned and operated by a corporation organized, existing, and doing business under and by virtue of the laws of some State of the United States. Said business is not owned and operated by a corporation, but is individually owned by respondent, Max Wright. A substantial portion of the purchasing public prefers to do business with a lawfully organized and existing corporation for the reason, among others, that it is believed that the provisions of law and the regulations concerning the organization and operation of corporations are such as to assure greater stability and financial responsibility. Many members of the public have dealt with respondent, Max Wright, under the mistaken belief that Kodize Sales Corporation was a legally organized and existing corporation.

PAR. 7. The aforesaid acts and practices of respondents have had, and now have, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the aforesaid misleading and deceptive representations are true, and into the purchase of substantial quantities of respondents' product because of the erroneous and mistaken belief so induced.

CONCLUSION

The aforesaid acts and practices of the respondents 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, the answer filed by respondent Max Wright, and a stipulation as to the facts entered into upon the record by and between counsel for the Commission and counsel for the respondents, which stipulation provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon respondents herein findings as to the facts and an order disposing of the proceeding, and the Commission 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 respondent, Kodize Process Corporation, a corporation, its officers, agents, representatives, and employees, and respondent, Max Wright, an individual, trading as Kodize Sales Company, or trading under any other name, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a chemical product for the treatment of coal designated "Kodize," or any other preparation of substantially similar composition, whether sold under the same name or under any other name, do forthwith cease and desist from representing, directly or by implication:

1. That the use of respondents' product "Kodize" in treating or processing coal results in a saving of from 25% to 45%, or any appreciable saving, in coal, labor, and electricity; or results in any appreciable reduction in soot and smoke; or results in increased efficiency or improved combustion.

2. That said product "Kodize" is a secret formula for treating or processing coal, or that said formula has been patented or copyrighted.

It is further ordered, That respondent, Max Wright, do forthwith cease and desist using the word "Corporation" in the trade name used to designate the business operated by him individually, or otherwise representing in any manner that said business is incorporated or operated by a corporation.

It is further ordered, That the respondents 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

E. GRIFFITHS HUGHES, INC.

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

Docket 4711. Complaint, Feb. 19, 1942—Decision, Apr. 25, 1945

Where a corporation engaged in the interstate sale and distribution of its "Kruschen Salts"; in advertisements in newspapers and otherwise—

- (a) Represented falsely, directly and by implication, that its said preparation "Kruschen Salts," taken repetitiously, constituted a cure or remedy for sick headache, biliousness, poor digestion, unnatural fatigue, and constipation, when such symptoms or conditions were caused by deficiency in liver bile secretion; that it would significantly increase the discharge of bile from the liver; was safe and harmless; and was an effective obesity remedy or treatment which would reduce fat promptly and safely, or was an effective part of, or adjunct to, a weight-, fat-, or flesh-reducing regime; and,
- (b) Failed to reveal facts material in the light of such representations, with respect to consequences which might result from the use of said preparation under usual or prescribed conditions, in that it was an irritant laxative and was potentially dangerous when taken by one suffering from abdominal pains, stomach-ache, cramps, nausea, vomiting, or other symptoms of appendicitis;

With the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and that said preparation might be taken under all conditions without ill effects, and thereby to induce the purchase of substantial quantities thereof:

Held, That said acts and practices were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. William M. King for the Commission.

Strange, Myers, Hinds & Wight, of New York City, 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 E. Griffiths Hughes, Inc., 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:

PARAGRAPH 1. Respondent, E. Griffiths Hughes, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 26 Forbes Street, Rochester, N. Y.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution of a drug known and designated as Kruschen Salts. Respondent causes its said product when sold to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times men-