

IN THE MATTER OF
REJUVE NE MANUFACTURING CO.

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

Docket 5355. Complaint, July 18, 1945—Decision, Nov. 28, 1945

Where two individuals engaged in the compounding and interstate sale and distribution of a cosmetic preparation designated "Rejuvene"—

- (a) Falsely represented, directly and by implication, through statements in advertising thereof, that by the use of said preparation lines, wrinkles, moles, and blackheads would be removed from the skin; that the skin would be rendered taut and smooth, and a youthful appearance and the original facial contour restored; and that such effects were permanent; and
- (b) Falsely represented, directly and by implication, through the use of the word "Rejuvene" in their trade name and as the name of said product, that said preparation possessed qualities which would rejuvenate the skin of persons of advancing years and restore to such skin the qualities and appearance of youth;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that said representations were true, and into the purchase of substantial quantities of their said product because of such belief:

Held, That said 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.

Mr. Randolph W. Branch for the Commission.

Mr. Crozier C. Culp, of Oakland, Calif., 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 James Lloyd Cayne, also known as James Lloyd Cayce, and Herbert W. Cayne, also known as Herbert W. Cayce, individually and as partners trading under the name Rejuvene Manufacturing Co., hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents James Lloyd Cayne and Herbert W. Cayne, are individuals, trading as partners under the name Rejuvene Manufacturing Co., and having a principal place of business at 2511 Prince Street, Berkeley, Calif. Respondents are now, and have been for more than two years last past, engaged in the business of compounding and selling "Rejuvene," a cosmetic preparation as defined in the Federal Trade Commission Act.

Respondents cause said preparation, when sold, to be transported from their aforesaid place of business in the State of California 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 said preparation in commerce

between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said "Rejuvene" by the United States mails and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated, and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said "Rejuvene" by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product 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 aforesaid by the United States mails and by other means in commerce are the following:

75 YEARS OLD
AND NOT A WRINKLE

See what REJUVENE will do for you. No massage—no peeling—no plasters. REJUVENE has been on the market for years. It has been used successfully by famous actresses of the stage and screen.

One application of REJUVENE will convince you that wrinkles may be removed. One week's treatment will assure you of its lasting effect.

Don't risk expensive surgical face lifting, but use the safe, inexpensive REJUVENE treatment that gives you a face lifting that will restore the most youthful appearance of the skin.

REJUVENE is not a cream, not a clay, not a mask. It is a liquid that restores the contour of the face permanently.

Within ten minutes after you first apply REJUVENE to your face, you can see and feel the effect on the skin.

The skin becomes smooth and taut and the contour will be restored.

For the young people REJUVENE gives the most natural, clear and beautiful complexion, removes moles and blackheads.

Men can use it too. After the complete treatment, keep on hand a bottle of REJUVENE to discourage the return of vanished lines.

PAR. 3. Through the use of the aforesaid statements and claims hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the cosmetic properties of "Rejuvene" respondents have represented, directly and by implication, that by the use of said preparation lines, wrinkles, moles, and blackheads will be removed from the skin which will be rendered taut and smooth and a youthful appearance and the original facial contour restored, and that such effects are permanent.

Through the use of the word "Rejuvene" as a part of their trade name and as the name of the said product, respondents have represented, directly and by implication, that said preparation possesses qualities which will rejuvenate the skins of persons of advancing years and restore to such skins the qualities and appearance of youth.

PAR. 4. The foregoing representations and claims are false and misleading. In truth and in fact "Rejuvene," used as directed, will not remove lines, wrinkles, moles or blackheads from the skin of the face. It will

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not tighten or restore a youthful appearance to the skin or affect the facial contour temporarily or permanently. The only effect of the product is to partially fill facial wrinkles or creases while it remains on the face.

The use of the word "Rejuvenene" as set forth above is false and misleading in that said product is not a rejuvenating preparation and will not rejuvenate or restore the qualities and appearance of the skin of youth to the skins of persons of advancing years.

PAR. 5. The use by respondents of the foregoing false, deceptive and misleading statements and representations with respect to their said "Rejuvenene" has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of substantial quantities of respondents' said product because of such erroneous and mistaken belief.

PAR. 6. The aforesaid acts and practices of 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 July 18, 1945, issued and thereafter served its complaint in this proceeding upon respondents, James Lloyd Cayne and Herbert W. Cayne, as individuals and as partners trading under the name Rejuvenene Manufacturing Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 10, 1945, respondents filed their answer, in which answer they admitted 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. The respondents, James Lloyd Cayne and Herbert W. Cayne, are individuals, trading as partners under the name Rejuvenene Manufacturing Co., and having a principal place of business at 2511 Prince Street, Berkeley, Calif. Respondents are now, and have been for more than two years last past, engaged in the business of compounding and selling "Rejuvenene," a cosmetic preparation as defined in the Federal Trade Commission Act.

Respondents cause said preparation, when sold, to be transported from their aforesaid place of business in the State of California 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 said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business, respondents have disseminated and have caused the dissemination of false advertisements concerning said "Rejuvene" by the United States mails and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated, and have caused the dissemination of, false advertisements concerning said "Rejuvene" by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product 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 aforesaid by the United States mails and by other means in commerce are the following:

75 YEARS OLD AND NOT A WRINKLE

See what REJUVENE will do for you. No massage—no peeling—no plasters. Rejuvene has been on the market for years. It has been used successfully by famous actresses of the stage and screen.

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Don't risk expensive surgical face lifting, but use the safe, inexpensive REJUVENE treatment that gives you a face lifting that will restore the most youthful appearance of the skin.

REJUVENE is not a cream, not a clay, not a mask. It is a liquid that restores the contour of the face permanently.

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The skin becomes smooth and taut and the contour will be restored.

For the young people REJUVENE gives the most natural, clear and beautiful complexion, removes moles and blackheads.

Men can use it too. After the complete treatment keep on hand a bottle of REJUVENE to discourage the return of vanished lines.

PAR. 3. Through the use of the aforesaid statements and claims hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the cosmetic properties of "Rejuvene," respondents have represented, directly and by implication, that by the use of said preparation lines, wrinkles, moles and blackheads will be removed from the skin, which will be rendered taut and smooth and a youthful appearance and the original facial contour restored, and that such effects are permanent.

Through the use of the word "Rejuvene" as a part of their trade name and as the name of the said product, respondents have represented, directly and by implication, that said preparation possesses qualities which will rejuvenate the skin of persons of advancing years and restore to such skin the qualities and appearance of youth.

PAR. 4. The foregoing representations and claims are false and misleading. In truth and in fact "Rejuvene," used as directed, will not remove lines, wrinkles, moles, or blackheads from the skin. It will not tighten or restore a youthful appearance to the skin or affect the facial contour temporarily or permanently. The only effect of the product is to partially fill facial wrinkles or creases while it remains on the face.

The use of the word "Rejuvene," as set forth above, is false and mis-

leading, in that said product is not a rejuvenating preparation and will not rejuvenate or restore the qualities and appearance of youth to the skin of persons of advancing years.

PAR. 5. The use by respondents of the foregoing false, deceptive and misleading statements and representations with respect to their said product has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of substantial quantities of respondents' said product because of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of respondents, as herein found, 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.

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 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 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 the respondents, James Lloyd Cayne and Herbert W. Cayne, and their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondents' product heretofore designated by the name "Rejuvene," or any other product of substantially similar composition or possessing substantially similar properties, 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 by implication:

That said product will remove lines, wrinkles, moles, or blackheads from the skin, tighten the skin, restore a youthful appearance to the skin, or affect the facial contour.

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 said product, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondents and their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said product, or any other product of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from:

Using the word "Rejuvene," or any other word of similar import, as a part of respondents' trade name, or to designate, describe, or refer to respondents' product; or otherwise representing, directly or by implication, that said product will rejuvenate the skin.

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

KORET, INC.

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

Docket 4848. Complaint, Oct. 15, 1942—Decision, Nov. 30, 1945

Where a corporation engaged in the manufacture and interstate sale and distribution of ladies handbags made in whole or in part of calfskin leather—

- (a) Made use, in furtherance of representations that its said products were composed in whole or in part of the skin of the antelope, of the trade name "Korantelope" for said handbags and displayed said name upon the lining thereof, along with the confusing and contradictory legend in smaller type "Non-Crockable black suede calf," and used it also in window and counter display cards and other advertising material shaped to resemble an antelope, and in advertisements generally; and
- (b) Made use, as aforesaid, of depictions and cuts of an antelope through placing also upon the aforesaid linings a trademark containing an antelope superimposed over its own name "Koret," and through use, as above described, of advertising material cut to simulate the animal;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the belief that such handbags were composed in whole or in part of the skin of the antelope and with the capacity and tendency so to do, with result that members of the public purchased substantial quantities thereof; and with result of placing in the hands of retailers and dealers the means and instrumentality of misleading and deceiving the purchasing public as aforesaid:

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.

As respects the misleading use of the trade name "Korantelope" to designate and describe certain ladies' handbags composed in whole or in part of calfskin leather, the phrase "suede calf" which sometimes accompanied said name, did not serve to place purchasers of such products on notice that, despite the use of the coined name containing the word "antelope" as a trade name, such articles were actually made of calfskin, the use of said phraseology in connection with said word being contradictory and merely serving to further confuse members of the purchasing public.

In a proceeding in which the Commission's complaint challenged as misleading respondent's use of the trade name "Korantelope" as applied to ladies' handbags composed in whole or in part of calfskin leather, but made no charge against respondent's subsequent change of said trade name to "Koretolope," the Commission made no finding as to the effect of the term "Koretolope" when used alone or in conjunction with the term "black suede calf" to designate or describe respondent's products, but was of the opinion and found that the term "Koretolope" when used in conjunction with a pictorial representation of an antelope to designate or describe a leather product has the capacity to cause purchasers to believe that such product was made of antelope instead of calfskin.

While, as respects respondent's application of the term "Non-Crockable" to ladies' "suede calf" hand bags to represent that the coloring matter in said leather would