

IN THE MATTER OF

LANGENDORF UNITED BAKERIES, INC., AND OLD HOME-
STEAD BAKERY, INC.

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

Docket 5250. Complaint, Nov. 21, 1944—Decision, Sept. 13, 1946

Where a corporation, which owned and operated a number of bakeries in California and Washington, and was engaged in the manufacture and interstate sale and distribution of bread under various trade names, including its "Holsum," "Langendorf," "Wealth-O-Wheat," "American Meal," "Dr. Penland's Vitamin B₁," and "Hollywood" products; through advertisements in radio continuities, newspapers, trade periodicals, and other advertising literature—

- (a) Falsely represented, with respect to its "Holsum" bread, that it had been appointed as the official baker of bread for the Dionne quintuplets, that its said product was a part of their daily fare, and was the most nourishing white bread on the market;
- (b) Represented falsely that its "Langendorf Bread" contained ingredients that produced more energy than other breads, contained more than five times the amount of vitamin B₁ and 50 percent more minerals than were found in ordinary unenriched white bread, and had been adjudged the finest bread in America by qualified experts;

The facts being that practically all white breads on the American market are enriched with vitamin B₁ and minerals; its said bread did not have significantly greater amounts thereof than most competitive breads and furnished no more energy than many; and no tests justifying last claim had been made by qualified experts;

- (c) Represented falsely that its "Wealth-O-Wheat Bread" was more digestible, more nourishing, and lower in calories than either ordinary white or wheat bread; that it contained eight times the amount of vitamin B₁ found in ordinary white bread; that the vitamin B₁ would build healthy nerves and increase vitality; that no other bread was equal thereto; and that it was made from flour milled by a new process not available to competitive bakers;
- (d) Represented falsely that its product designated as "American Meal Bread" was a new and different reducing-diet bread; that it was low in caloric value, but contained ingredients that would keep up ones vitality and keep one fit while reducing;
- (e) Represented falsely that the intake of 200 to 300 units of vitamin B₁ daily is sufficient to maintain good health; that the consumption of two or three slices of "Dr. Penland's Vitamin B₁ Wheat Bread" at each meal would provide the daily requirement of said vitamin, and that the daily consumption of said bread insured healthy nerves, bodily fitness and vitality; and
- (f) Represented falsely that its "Hollywood Bread" was extremely low in caloric value, and that the eating of said product would cause a substantial loss of weight, without exercise or medicine and without a feeling of hunger;

Complaint

that an overweight person could acquire a slender figure, without the muscles becoming soft and flabby, by substituting two slices of said bread in the place of more fattening food at each meal; and that said bread was made of nonfattening flours;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby into purchase of substantial quantities of its said products, and with capacity and tendency so to do:

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.

In a proceeding in which the complaint challenged various representations made by respondent seller-baker in behalf of its breads, as false and misleading, including the representation that its "Hollywood Bread," used as a part of an effective reducing diet, would prevent hunger, through the consumption of two slices thereof, and in which proceeding it appeared that the caloric content of said bread was practically the same as an ordinary bread: It was the opinion of the four participating Commissioners, as respects some question as to whether the order should embrace, among other inhibitions, one against representing that said bread in the amount suggested would prevent hunger when used as part of an effective reducing diet, that the order should include such an inhibition, since the claim that a person could reduce weight by eating two slices of the Hollywood Bread at a meal, at the same time "avoid feeling hungry," "be slim the modern 'hungerless' way," etc., was an important misrepresentation, designed to induce the sale of the bread, for the reason that most reducing diets involve such a reduction in food intake that hunger and consequent discomfort does result; the representation was admittedly false; and there was no reason whatever why the cease and desist order should not be directed against said false representation, as well as the numerous other representations, the falsity of which was specifically admitted by the respondent.

Before *Mr. Clyde M. Hadley*, trial examiner.

Mr. Joseph Callaway for the Commission.

Covington, Burling, Rublee, Acheson & Shorb, of Washington, D. C., and *Heller, Ehrman, White & McAuliffe*, of San Francisco, Calif., for Langendorf United Bakeries, Inc.

COMPLAINT¹

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 Langendorf United

¹ The Commission on May 28, 1946, issued an order closing case in regard to the allegations of paragraph numbered seven of the complaint, as follows:

This matter coming on to be heard by the Commission upon the record herein, and the Commission now being fully advised in the premises:

It is ordered, that this proceeding, insofar as the allegations contained in numbered paragraph 7 of the complaint are concerned, be, and the same hereby is closed, without prejudice to the right of the Commission to proceed in the future upon the allegations of said paragraph if it should consider such action necessary in the public interest.

Complaint

43 F. T. C.

Bakeries, Inc., a corporation, and Old Homestead Bakery, Inc., a corporation, 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 Langendorf United Bakeries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located at No. 1160 McAllister Street, San Francisco, Calif. Said respondent is engaged in the bakery business and owns and operates a number of bakeries in the States of California and Washington.

Respondent, Old Homestead Bakery, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California, with its principal place of business located at Nineteenth and Van Ness Avenue, San Francisco, Calif., It is a wholly owned and controlled subsidiary of respondent Langendorf United Bakeries, Inc., both corporations having the same officers.

PAR. 2. Respondents are now and for more than 3 years last past have been engaged in the manufacture, sale, and distribution of bread under various trade names. Some of the trade names used by the respondent Langendorf Bakeries, Inc., are Holsum, Langendorf, Wealth-O-Wheat, American Meal and Dr. Penland's Vitamin B₁. Some of the trade names used by the respondent Old Homestead Bakery, Inc., are Hollywood and Butter-Nut.

Respondents cause their breads, when sold, to be transported from their respective places of business in the State of California to the purchasers thereof located in various other States of the United States. Respondents maintain and at all times mentioned herein have maintained, a course of trade in their said products in commerce among and between various other States of the United States.

PAR. 3. In the course and conduct of their said businesses, respondents have disseminated, and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said products by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said products by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

132

Complaint

Among and typical of the false and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails, by radio continuities and by advertisements inserted in newspapers, trade periodicals and other advertising literature, are the following:

(With respect to Holsum Bread)

NOW YOU CAN HAVE THE SAME NOURISHING
BREAD THAT THE QUINTUPLETS EAT

* * * * *
By appointment Holsum bakers have been selected as the official bakers of the Dionne quintuplets bread made with Cerobrex, according to the formula and specifications approved by the guardians of the Dionne quintuplets.

The quints' own bread now baked for you. * * * This extra nourishing white bread has been a part of their daily fare since they were 2 years old. Now you and your family may enjoy this special bread, too.

* * * * *
Holsum Bread is now the most nourishing white bread you can buy.

(With respect to Langendorf Bread)

Langendorf super-energy bread.

More than 5 times the vitamin B₁, 50% more minerals * * * than are present in ordinary unenriched white bread.

* * * the bread that baking experts judged America's finest.

(With respect to Wealth-O-Wheat Bread)

* * * more digestible than ordinary whole wheat bread and far more nourishing than ordinary bread * * * lower in calories than white or ordinary wheat bread. Every Wealth-O-Wheat loaf contains approximately 8 times the amount of vitamin B₁ in ordinary white bread. B₁ is necessary for healthy nerves, vitality, food digestion. * * * No other bread like this.

New, ingenious, wheat milling process makes possible this superbread. * * * No other bread offers so much.

(With respect to American Meal Bread)

* * * If you're overweight, why not take off those extra pounds the American Meal way, simply by dieting sensibly with American Meal bread, the amazing new and different reducing diet bread. It's high in vitality value but lower in calories * * * fortified with the vitamins vital to vitality, plus iron and calcium and gentle roughage to help you keep fit while you're reducing. * * * the perfect reducing diet bread for American slenderness * * *.

(With respect to Dr. Penland's Vitamin B₁ Wheat Bread)

* * * Doctors say you need 200 to 300 vitamin B₁ units every day. To be sure of your daily B₁ quota, eat Dr. Penland's vitamin B₁ wheat bread * * *.

Complaint

43 F. T. C.

Two or three delicious slices with every meal will assure you your proper B₁ supply.

So, for healthy nerves, fitness and vitality eat Dr. Penland's vitamin B₁ wheat bread every day.

(With respect to Hollywood Bread.)

Why Be Fat

Hollywood Stars Tell Amazing New
Way to be Thin

You don't have to starve or wear yourself to a frazzle with violent exercise to have a trim waist. And you don't have to experiment dangerously with drugs. Lose weight and stay slender by using the same system as leading movie stars. * * * All you do is substitute two slices of Hollywood Bread at each meal for more fattening food. That way you fill up and avoid feeling hungry but do not add excessively to your weight for Hollywood Bread has very few fat making calories.

Streamline your figure.

Bring your figure up to date * * * down in weight.

Hollywood Bread is exceptionally high in energy elements yet extremely low in calories.

The easy pleasant way to slenderize.

Made of nonfattening vegetable flours.

Hollywood Bread supplies necessary proteins to help keep your muscles from becoming soft and flabby while you are reducing.

Be slim the modern "hungerless" way.

PAR. 4. Through the use of the foregoing statements and representations and others of the same import and meaning not specifically set out herein, the respondent Langendorf United Bakeries, Inc., has represented and is now representing:

That it has been appointed as the official baker of bread for the Dionne quintuplets; that its product designated as Holsum Bread is a part of the daily fare of the quintuplets and that Holsum Bread is the most nourishing white bread on the market.

That its product designated as Langendorf Bread contains ingredients that produce more energy than other breads; that Langendorf Bread contains more than five times the amount of vitamin B₁ and 50 percent more minerals than are found in ordinary unenriched white bread and has been adjudged the finest bread in America by qualified experts.

That its product designated as Wealth-O-Wheat Bread is more digestible, more nourishing and lower in calories than either ordinary white or wheat bread; that it contains eight times the amount of vitamin B₁ found in ordinary white bread; that the vitamin B₁ will build healthy nerves and increase the vitality; that no other bread is

Complaint

equal to this bread and that it is made from flour milled by a new process not available to competitive bakers.

That its product designated as American Meal Bread is a new and different reducing diet bread; that it is low in caloric value, but contains ingredients that will keep up one's vitality and keep one fit while reducing.

That the intake of 200 to 300 units of vitamin B₁ daily is sufficient to maintain good health; that the consumption of two or three slices of Dr. Penland's Vitamin B₁ Wheat Bread at each meal will provide the daily requirement of said vitamin, and that the daily consumption of said bread insures healthy nerves, bodily fitness and vitality.

PAR. 5. Through the use of the statements and representations set forth in paragraph 3 hereof with respect to Hollywood Bread and Butter-Nut Bread, and others of the same import and meaning not specifically set out herein, the respondents Langendorf United Bakers, Inc., and Old Homestead Bakery, Inc., have represented and are now representing:

That respondents' product designated as Hollywood Bread is extremely low in caloric value, and that the eating of said product will cause a substantial loss of weight, without exercise or medicine and without a feeling of hunger; that an overweight person can acquire a slender figure, without the muscles becoming soft and flabby, by substituting two slices of this bread in the place of more fattening food at each meal and that said bread is made of nonfattening flours.

PAR. 6. The foregoing representations are false, deceptive, and misleading in the following respects:

Respondent Langendorf Bakeries, Inc., has not been appointed official bakers for the Dionne quintuplets. Holsum Bread is not eaten by the quintuplets. Other white breads on the market are equally as nourishing.

Langendorf Bread furnishes no more energy than many other competitive breads. Practically all of the white breads on the American market are enriched with vitamin B₁ and minerals and Langendorf Bread does not have a significantly greater amount of vitamin B₁ or minerals than most competitive breads. The comparison of this bread with unenriched bread is therefore not proper and tends to mislead. No tests have been made by qualified experts, the results of which justify the claim that this bread is the finest in America.

Although Wealth-O-Wheat Bread is more digestible than whole wheat bread, it is not more digestible than white bread. It is slightly more nourishing than white bread, but not more nourishing than whole wheat bread. Its caloric content is not significantly less than

Complaint

43 F. T. C.

white or ordinary wheat bread. Since most white breads are enriched with vitamin B₁, it cannot be truthfully stated that Wealth-O-Wheat Bread is significantly richer in vitamin B₁ than most white breads. The vitamin B₁ in this bread will not build healthier nerves or increase the vitality. Other breads on the market are made from flour manufactured by the same process as that used in Wealth-O-Wheat Bread.

There is no basis for the designation of American Meal Bread as a reducing diet bread, because the consumption of it in sufficient quantities would tend to increase rather than decrease body weight. It contains practically as many calories as ordinary bread.

The most authoritative medical opinion holds that the minimum daily requirement of vitamin B₁ is in excess of 300 units. The consumption of two or three slices of Dr. Penland's Vitamin B₁ Bread a day at each meal will not provide the minimum daily requirement of this vitamin, nor will the daily consumption of said bread insure healthy nerves, bodily fitness, or vitality.

Hollywood Bread has no unique properties in connection with the reduction of excess weight. The flour from which it is made is no less fattening than flour used in other breads. If this bread is consumed in sufficient quantities, it will cause an individual to gain rather than lose weight. Any reduction in weight which might occur in connection with the eating of Hollywood Bread, as well as American Meal Bread, would result from the reduction of the person's total intake and not from the use of these breads to replace some other article of diet. Hollywood Bread as a part of an effective reducing diet will not prevent hunger; nor used in such a way will it prevent the muscles from becoming soft and flabby.

PAR. 7.² Respondents manufacture and sell two breads under the trade name "Butter-Nut." In one of these breads, the shortening ingredient is butter, and in the other, only an insignificant amount of butter is used. In advertising disseminated as aforesaid, these breads are referred to as "Homestead Butter-Nut." Some of such advertisements identify the bread made with butter as cellophane wrapped, and a split loaf. In advertising this product, the butter content and its superior qualities, because of such content, are emphasized. The product containing only a small amount of butter is wrapped in wax paper. Other than as above outlined, the appearance of the two wrapped loaves is practically the same. The practice of respondents in designating the two loaves as Butter-Nut without clearly distinguishing the two products, tends to confusion and deception and the likelihood that persons will be misled into believing that the shorten-

² See footnote on p. 133.

ing used in both products is butter. Moreover, the use of the trade name "Butter-Nut" in connection with the bread in which only an insignificant quantity of butter is used is misleading and deceptive, and that it has the tendency and capacity to lead purchasers into the mistaken belief that the shortening used in said product is butter.

PAR. 8. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations, disseminated and caused to be disseminated as aforesaid in connection with the offering for sale and sale of their products 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 such statements and representations are true and into the purchase of substantial quantities of respondents' products in commerce because of such erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce and 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 November 21, 1944, issued and on November 27, 1944, served its complaint in this proceeding upon respondent Langendorf United Bakeries, Inc., 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 the answer of said respondent, the Commission, by order entered herein, granted the motion of said respondent for permission to withdraw its answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint except those allegations contained in Paragraph Seven of the 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. Subsequent to the granting of said motion, the proceeding was closed insofar as the allegations of said paragraph were concerned, without prejudice to the right of the Commission to proceed in the future upon the allegations of said paragraph if it should consider such action necessary in the public interest. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and substitute answer and the Com-

Findings

43 F. T. C.

mission, 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 Langendorf United Bakeries, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located at 1160 McAllister Street, San Francisco, Calif. Said respondent is engaged in the bakery business and owns and operates a number of bakeries in the States of California and Washington.

PAR. 2. Respondent is now and for more than 3 years last past been engaged in the manufacture, sale, and distribution of bread under various trade names. Some of the trade names used by respondent are Holsum, Langendorf, Wealth-O-Wheat, American Meal, Dr. Penland's Vitamin B₁ and Hollywood.

Respondent causes its breads, when sold, to be transported from its places of business in the State of California to the purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said products in commerce among and between various States of the United States.

PAR. 3. In the course and conduct of its said business, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by United States mails, by radio continuities and by advertisements inserted in news-

papers, trade periodicals and other advertising literature, are the following:

(With respect to Holsum Bread)

NOW YOU CAN HAVE THE SAME NOURISHING BREAD THAT THE
QUINTUPLETS EAT

* * * * *

By appointment Holsum bakers have been selected as the official bakers of the Dionne quintuplets bread made with Cerobrex, according to the formula and specifications approved by the guardians of the Dionne quintuplets.

The quints' own bread now baked for you. * * * This extra nourishing white bread has been a part of their daily fare since they were two years old. Now you and your family may enjoy this special bread, too.

Holsum Bread is now the most nourishing white bread you can buy.

(With respect to Langendorf Bread)

Langendorf super-energy bread.

More than 5 times the vitamin B₁, 50 percent more minerals * * * than are present in ordinary unenriched white bread.

* * * the bread that baking experts judged America's finest.

(With respect to Wealth-O-Wheat Bread)

* * * more digestible than ordinary whole wheat bread and far more nourishing than ordinary bread * * * lower in calories than white or ordinary wheat bread. Every Wealth-O-Wheat loaf contains approximately 8 times the amount of vitamin B₁ in ordinary white bread. B₁ is necessary for healthy nerves, vitality, good digestion. * * * No other bread like this.

New, ingenious, wheat milling process makes possible this superbread. * * * No other bread offers so much.

(With respect to American Meal Bread)

* * * If you're overweight, why not take off those extra pounds the American Meal way, simply by dieting sensibly with American Meal bread, the amazing new and different reducing diet bread. It's high in vitality value but lower in calories, * * * fortified with the vitamins vital to vitality, plus iron and calcium and gentle roughage to help you keep fit while you're reducing. * * * the perfect reducing diet bread for American slenderness * * *.

(With respect to Dr. Penland's Vitamin B₁ Wheat Bread)

* * * Doctors say you need 200 to 300 vitamin B₁ units every day. To be sure of your daily B₁ quota, eat Dr. Penland's vitamin B₁ wheat bread * * *.

Two or three delicious slices with every meal will assure you your proper B₁ supply.

So, for healthy nerves, fitness and vitality eat Dr. Penland's vitamin B₁ wheat bread every day.

Findings

43 F. T. C.

(With respect to Hollywood Bread)

Why Be Fat

Hollywood Stars Tell Amazing New
Way to be Thin

You don't have to starve or wear yourself to a frazzle with violent exercise to have a trim waist. And you don't have to experiment dangerously with drugs. Lose weight and stay slender by using the same system as leading movie stars. * * * All you do is substitute two slices of Hollywood Bread at each meal for more fattening food. That way you fill up and avoid feeling hungry but do not add excessively to your weight for Hollywood Bread has very few fat making calories.

Streamline your figure.

Bring your figure up to date * * * down in weight.

Hollywood Bread is exceptionally high in energy elements yet extremely low in calories.

The easy pleasant way to slenderize.

Made of nonfattening vegetable flours.

Hollywood Bread supplies necessary proteins to help keep your muscles from becoming soft and flabby while you are reducing.

Be slim the modern "hungerless" way.

PAR. 4. Through the use of the foregoing statements and representations and others of the same import and meaning not specifically set herein, the respondent Langendorf United Bakeries, Inc., has represented and is now representing:

That it has been appointed as the official baker of bread for the Dionne quintuplets; that its product designated as Holsum Bread is a part of the daily fare of the quintuplets and that Holsum Bread is the most nourishing white bread on the market.

That its product designated as Langendorf Bread contains ingredients that produce more energy than other breads; that Langendorf Bread contains more than 5 times the amount of vitamin B₁ and 50 percent more minerals than are found in ordinary unenriched white bread and has been adjudged the finest bread in America by qualified experts.

That its product designated as Wealth-O-Wheat Bread is more digestible, more nourishing and lower in calories than either ordinary white or wheat bread; that it contains eight times the amount of vitamin B₁ found in ordinary white bread; that the vitamin B₁ will build healthy nerves and increase the vitality; that no other bread is equal to this bread and that it is made from flour milled by a new process not available to competitive bakers.

That its product designated as American Meal Bread is a new and different reducing diet bread; that it is low in caloric value, but con-

tains ingredients that will keep up one's vitality and keep one fit while reducing.

That the intake of 200 to 300 units of vitamin B₁ daily is sufficient to maintain good health; that the consumption of two or three slices of Dr. Penland's Vitamin B₁ Wheat Bread at each meal will provide the daily requirement of said vitamin, and that the daily consumption of said bread insures healthy nerves, bodily fitness and vitality.

That respondent's product designated as Hollywood Bread is extremely low in caloric value, and that the eating of said product will cause a substantial loss of weight, without exercise or medicine and without a feeling of hunger; that an overweight person can acquire a slender figure, without the muscles becoming soft and flabby, by substituting two slices of this bread in the place of more fattening food at each meal and that said bread is made of non-fattening flours.

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

Respondent Langendorf United Bakeries, Inc., has not been appointed official bakers for the Dionne quintuplets. Holsum Bread is not eaten by the quintuplets. Other white breads on the market are equally as nourishing.

Langendorf bread furnishes no more energy than many other competitive breads. Practically all of the white breads on the American market are enriched with vitamin B₁ and minerals and Langendorf Bread does not have a significantly greater amount of vitamin B₁ or minerals than most competitive breads. The comparison of this bread with unenriched bread is therefore not proper and tends to mislead. No tests have been made by qualified experts, the results of which justify the claim that this bread is the finest in America.

Although Wealth-O-Wheat Bread is more digestible than whole wheat bread, it is not more digestible than white bread. It is slightly more nourishing than white bread, but not more nourishing than whole wheat bread. Its caloric content is not significantly less than white or ordinary wheat bread. Since most white breads are enriched with vitamin B₁, it cannot be truthfully stated that Wealth-O-Wheat Bread is significantly richer in vitamin B₁ than most white breads. The vitamin B₁ in this bread will not build healthier nerves or increase the vitality. Other breads on the market are made from flour manufactured by the same process as that used in Wealth-O-Wheat Bread.

There is no basis for the designation of American Meal Bread as a reducing diet bread, because the consumption of it in sufficient quantities would tend to increase rather than decrease body weight. It contains practically as many calories as ordinary bread.

The most authoritative medical opinion holds that the minimum daily requirement of vitamin B₁ is in excess of 300 units. The consumption of two or three slices of Dr. Penland's Vitamin B₁ bread a day at each meal will not provide the minimum daily requirement of this vitamin, nor will the daily consumption of said bread insure healthy nerves, bodily fitness or vitality.

Hollywood Bread has no unique properties in connection with the reduction of excess weight. The flour from which it is made is no less fattening than flour used in other breads. If this bread is consumed in sufficient quantities, it will cause an individual to gain rather than lose weight. Any reduction in weight which might occur in connection with the eating of Hollywood Bread, as well as American Meal Bread, would result from the reduction of the person's total intake and not from the use of these breads to replace some other article of diet. The caloric content of this bread is practically the same as ordinary bread. Hollywood Bread as a part of an effective reducing diet will not prevent hunger; nor used in such a way will it prevent the muscles from becoming soft and flabby.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements and representations, disseminated and caused to be disseminated as aforesaid in connection with the offering for sale and sale of its products 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 such statements and representations are true and into the purchase of substantial quantities of respondent's products 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 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 respondent Langendorf United Bakeries, Inc., in which answer said respondent admitted, with certain exceptions, all the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to said facts, and the Com-

132

Order

mission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, that respondent Langendorf United Bakeries, Inc., and its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its Holsum Bread, Langendorf Bread, Wealth-O-Wheat Bread, American Meal Bread, Dr. Penland's Vitamin B₁ Bread, and Hollywood Bread, or any other breads of substantially similar composition or possessing substantially similar properties, whether sold under said names or under any other names, 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:

(a) That respondent has been appointed official baker for the Dionne quintuplets;

(b) That respondent's Holsum Bread is eaten by the Dionne quintuplets;

(c) That respondent's Holsum Bread is the most nourishing white bread on the market;

(d) That respondent's Langendorf Bread:

(1) furnishes more energy than all competitive breads;

(2) has a greater amount of vitamin B₁ or minerals than most competitive breads;

(3) has been adjudged by experts to be America's finest bread;

(e) That respondent's Wealth-O-Wheat Bread:

(1) is more digestible than white bread;

(2) is more nourishing than whole wheat bread;

(3) has a lower caloric content than white or ordinary wheat bread;

(4) is richer in vitamin B₁ than most white breads;

(5) is made from flour milled by a process not available to competitive bakers;

(f) That the vitamin B₁ in respondent's Wealth-O-Wheat Bread will build healthier nerves or increase the vitality of the user;

(g) That respondent's American Meal Bread is a reducing diet bread or contains significantly less calories than ordinary bread;

(h) That the daily intake of 200 to 300 units of vitamin B₁ is sufficient to maintain good health, or that the daily consumption of two or three slices of respondent's Dr. Penland's vitamin B₁ Bread will

provide the minimum daily requirement of vitamin B₁ or that the daily consumption of this bread will insure healthy nerves, bodily fitness, or vitality;

(i) That respondent's Hollywood Bread:

- (1) has lower caloric content than ordinary bread or is made with nonfattening flour;
- (2) has any reducing properties in itself;
- (3) will prevent hunger or prevent the muscles from becoming soft and flabby, when used as part of an effective reducing diet.

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 respondent's breads in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph 1 hereof.

It is further ordered, that respondent Langendorf United Bakeries, Inc., 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.

It is further ordered, that the complaint herein be, and it hereby is, dismissed as to respondent Old Homestead Bakery, Inc.

OPINION BY COMMISSIONER DAVIS, CONCURRED IN BY COMMISSIONERS
AYRES, FERGUSON AND FREER

This matter is presently before the Commission for final determination on the merits.

On November 21, 1944, complaint issued herein charging the above named respondents with the use of unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

After setting forth numerous specific advertisements with respect to the different breads which respondents were selling, the complaint in paragraphs 4 to 6 summarized as follows:

PAR. 4. Through the use of the foregoing statements and representations and others of the same import and meaning not specifically set out herein, the respondent Langendorf United Bakeries, Inc., has represented and is now representing:

That it has been appointed as the official baker of bread for the Dionne quintuplets; that its product designed as Holsum Bread is a part of the daily fare of the quintuplets and that Holsum Bread is the most nourishing white bread on the market.

That its product designated as Langendorf Bread contains ingredients that produce more energy than other breads; that Langendorf Bread contains more than five times the amount of vitamin B₁ and 50 percent more minerals than are found in ordinary unenriched white bread and has been adjudged the finest bread in America by qualified experts.

That its product designated as Wealth-O-Wheat Bread is more digestible, more nourishing, and lower in calories than either ordinary white or wheat bread; that it contains eight times the amount of vitamin B₁ found in ordinary white bread; that the vitamin B₁ will build healthy nerves and increase the vitality; that no other bread is equal to this bread and that it is made from flour milled by a new process not available to competitive bakers.

That its product designated as American Meal Bread is a new and different reducing diet bread; that it is low in caloric value, but contains ingredients that will keep up one's vitality and keep one fit while reducing.

That the intake of 200 to 300 units of vitamin B₁ daily is sufficient to maintain good health; that the consumption of two or three slices of Dr. Penland's Vitamin B₁ Wheat Bread at each meal will provide the daily requirement of said vitamin, and that the daily consumption of said bread insures healthy nerves, bodily fitness and vitality.

PAR. 5. Through the use of the statements and representations set forth in paragraph 3 hereof with respect to Hollywood Bread and Butter-Nut Bread, and others of the same import and meaning not specifically set out herein, the respondents Langendorf United Bakers, Inc., and Old Homestead Bakery, Inc., have represented and are now representing:

That respondents' product designated as Hollywood Bread is extremely low in caloric value, and that the eating of said product will cause a substantial loss of weight, without exercise or medicine and without a feeling of hunger; that an overweight person can acquire a slender figure, without the muscles becoming soft and flabby, by substituting two slices of this bread in the place of more fattening food at each meal and that said bread is made of nonfattening flours.

PAR. 6. The foregoing representations are false, deceptive, and misleading in the following respects:

Respondent Langendorf Bakeries, Inc., has not been appointed official bakers for the Dionne quintuplets. Holsum Bread is not eaten by the quintuplets. Other white breads on the market are equally as nourishing.

Langendorf bread furnishes no more energy than many other competitive breads. Practically all of the white breads on the American market are enriched with vitamin B₁ and minerals and Langendorf Bread does not have a significantly greater amount of vitamin B₁ or minerals than most competitive breads. The comparison of this bread with unenriched bread is therefore not proper and tends to mislead. No tests have been made by qualified experts, the results of which justify the claim that this bread is the finest in America.

Although Wealth-O-Wheat Bread is more digestible than whole wheat bread, it is not more digestible than white bread. It is slightly more nourishing than white bread, but not more nourishing than whole wheat bread. Its caloric content is not significantly less than white or ordinary wheat bread. Since most white breads are enriched with vitamin B₁, it cannot be truthfully stated that Wealth-O-Wheat Bread is significantly richer in vitamin B₁ than most white breads. The vitamin B₁ in this bread will not build healthier nerves or increase the vitality. Other breads on the market are made from flour manufactured by the same process as that used in Wealth-O-Wheat Bread.

There is no basis for the designation of American Meal Bread as a reducing diet bread, because the consumption of it in sufficient quantities would tend to increase rather than decrease body weight. It contains practically as many calories as ordinary bread.

The most authoritative medical opinion holds that the minimum daily requirement of vitamin B₁ is in excess of 300 units. The consumption of two or three slices of Dr. Penland's vitamin B₁ bread a day at each meal will not provide the minimum daily requirement of this vitamin, nor will the daily consumption of said bread insure healthy nerves, bodily fitness or vitality.

Hollywood Bread has no unique properties in connection with the reduction of excess weight. The flour from which it is made is no less fattening than flour used in other breads. If this bread is consumed in sufficient quantities, it will cause an individual to gain rather than lose weight. Any reduction in weight which might occur in connection with the eating of Hollywood Bread, as well as American Meal Bread, would result from the reduction of the person's total intake and not from the use of these breads to replace some other article of diet. The caloric content of this bread is practically the same as ordinary bread. Hollywood Bread as a part of an effective reducing diet will not prevent hunger; nor used such a way will it prevent the muscles from becoming soft and flabby.

I omit description of paragraph 7 for the reason I recommend that no corrective action be taken as to it as hereinafter explained.

Paragraph 8 of the complaint reads as follows:

PAR. 8. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations, disseminated and caused to be disseminated as aforesaid in connection with the offering for sale and sale of their products 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 such statements and representations are true and into the purchase of substantial quantities of respondents' products in commerce because of such erroneous and mistaken belief.

After the issuance of said complaint and the filing of the answer of said respondents, the Commission by order entered upon the record granted a motion of respondents for permission to withdraw their answer and to substitute therefor an answer admitting all the material allegations of fact set forth in the complaint except those allegations contained in paragraph 7 of the complaint and waiving all intervening procedure and hearing as to the facts.

Thereupon complaint filed an answer as follows:

Comes now the respondent in the above matter, Langendorf United Bakeries, Inc., a corporation, and answering the complaint in this proceeding states that it admits all of the material allegations of fact set out in said complaint and waives all intervening procedure and further hearings as to said facts, excepting the allegations of paragraph 7.

Respondent accepts the "without prejudice" condition imposed by the Commission as set forth in telegram of April 17, 1946, from Commission to respondent's attorneys.

Subsequent to the granting of said motion the proceeding was closed insofar as the allegations of said paragraph 7 were concerned without prejudice to the right of the Commission to proceed in the future upon the allegations of such paragraph if it should consider such proceeding necessary in the public interest.

Tentative drafts of findings as to the facts and order to cease and desist were considered.

During the discussion at the table one of the Commissioners expressed doubt as to whether the order should embrace an inhibition against representing that respondent's Hollywood Bread in the amount suggested will prevent hunger, when used as part of an effective reducing diet.

Opinion

43 F. T. C.

Among other advertisements charged in the complaint, and the falsity of which was admitted in the answer, is the following:

(With respect to Hollywood Bread)

Why Be Fat

Hollywood Stars Tell Amazing New

Way to be Thin

You don't have to starve or wear yourself to a frazzle with violent exercise to have a trim waist. And you don't have to experiment dangerously with drugs. Lose weight and stay slender by using the same system as leading movie stars. * * * All you do is substitute two slices of Hollywood Bread at each meal for more fattening food. That way you fill up and avoid feeling hungry but do not add excessively to your weight for Hollywood Bread has very few fat making calories.

Streamline your figure.

Bring your figure up to date * * * down in weight.

Hollywood Bread is exceptionally high in energy elements yet extremely low in calories.

The easy pleasant way to slenderize.

Made of nonfattening vegetable flours.

Hollywood Bread supplies necessary proteins to help keep your muscles from becoming soft and flabby while you are reducing.

Be slim the modern "hungerless" way.

The claim that a person could reduce weight by eating two slices of the Hollywood Bread at a meal, at the same time "avoid feeling hungry," "be slim the modern 'hungerless' way," etc., is an important misrepresentation, designed to induce the sale of the bread, for the reason that most reducing diets involve such a reduction in food intake that hunger and consequent discomfort does result. It is an admittedly false representation. There is no reason whatever why the cease and desist order should not be directed against this false representation, as well as the numerous other false representations, the falsity of all of which is specifically admitted by the respondent. I am of the opinion that the order is entirely proper. The draft of findings as to the facts follows in all material respects the allegations of the complaint and the admissions thereof in the answer, with the exception of paragraph 7 thereof, on which paragraph the Commission has previously taken action.

Both the findings of facts and order being in proper form, it is my recommendation that they be approved and issued.

Complaint

IN THE MATTER OF

AMASIA IMPORTING CORPORATION

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

Docket 4459. Complaint, Feb. 4, 1941—Decision, Sept. 16, 1946

Where a corporation engaged in the manufacture of corsets and foundation garments for women, some made entirely of cotton yarn and others of cotton elastic yarn combined with lisle, rayon or silk, and in the interstate sale and distribution thereof, said products to and through department stores and other retailers—

Represented, directly and by implication, that its said garments were composed of silk, the product of the cocoon of the silk worm, through use of trade name "Silk Skin" to designate and describe them, irrespective of composition, in advertisements in newspapers and periodicals and in advertising copy for use in retailers' own advertisements, and in circulars and other printed matter, and on tags and labels attached to said products and to the containers thereof, and set forth in much smaller type, on such tags and boxes and also in various advertising, the notation "80% to 100% elastic yarn combined with lisle, rayon or silk";

The facts being none of the garments thus designated and described contained in excess of 20 percent silk fiber and many contained no silk at all; during the years 1941 and 1942 the percentage of its "Silk Skin" foundation garments which actually contained silk fiber in addition to the elastic yarn constituted 15 percent of its total volume of sales of such garments; a second label which stated the purported percentages of elastic and lisle, rayon, or silk, was hidden underneath the primary label and was not readily discernible or noticed by a purchaser; and such representations as to fiber content were misleading in that its method of calculation made no break-down as between the cotton wrapping and the rubber core of the elastic yarn;

With capacity and tendency to mislead and deceive a substantial portion of the consuming public into the erroneous belief that such false representations were true, and thereby cause it to purchase said garments:

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. Miles J. Furnas*, trial examiner.

Mr. S. F. Rose for the Commission.

Mr. I. Gainsburg, 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 Amasia Importing Corp., a corporation, hereinafter referred to as the respondent, has violated the provisions of the said act, and it appearing to the Com-