

Order

IN THE MATTER OF

G. S. BLAKESLEE & CO.

MODIFIED CEASE AND DESIST ORDER

Docket 4678. Order, November 1, 1949

Modified order in proceeding in question, in which original order issued on December 30, 1948, 45 F. T. C. 418, requiring respondent, its officers, etc., in connection with the offer, etc., in commerce, of its synthetic degreasing solvents, to cease and desist from misrepresenting in any manner the constituents, properties, etc., of "Kolene T," or of any other degreasing solvent sold in competition with respondent's product, etc., as in said order below set out.

Mr. John R. Phillips, Jr., for the Commission.

D'Ancona, Pflaum, Wyatt & Riskind, of Chicago, Ill., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondent's answer thereto, and a stipulation as to the facts entered into by and between the respondent, by its counsel, and Daniel J. Murphy, Assistant Chief Trial Counsel of the Commission, which stipulation provided, among other things, that without further evidence or other intervening procedure except the filing of briefs and the presentation of oral argument (the filing of briefs and the presentation of oral argument having been subsequently waived), the Commission may issue and serve upon the respondent its findings as to the facts and conclusion based thereon and an order disposing of the proceeding; and the Commission, having made its findings as to the facts and its conclusion that said respondent had violated the provisions of the Federal Trade Commission Act, on December 30, 1948, issued and on January 13, 1949, served upon the respondent its order to cease and desist. Thereafter, this matter again came on for hearing before the Commission upon a motion, filed by the respondent, requesting that the aforesaid order to cease and desist be modified, the answer to such motion, filed by counsel opposing the same, and the respondent's reply thereto; and the Commission having considered said motion, answer, and reply, and the record herein, and being of the opinion that its order to cease and desist issued December 30, 1948, should be modified:

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It is ordered, That the respondent, G. S. Blakeslee & Co., and its officers, agents, representatives, 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 its synthetic degreasing solvents, do forthwith cease and desist from:

(1) Misrepresenting in any manner the constituents, properties, or characteristics of "Kolene T," or any other degreasing solvent sold in competition with the respondent's products;

(2) Representing, directly or by implication, that "Kolene T" has no merit or value or that it is not suitable or satisfactory as a degreasing agent;

(3) Representing, directly or by implication, that "Kolene T," when used in synthetic solvent degreasing machines will separate, break down, or form acid, or that it will react unfavorably against or corrode the metals being degreased or the machines in which such solvent is used;

(4) Representing, directly or by implication, that the toxicity of or dangers from the fumes of "Kolene T" are greater than the toxicity of or dangers from the fumes of the respondent's degreasing solvents; or misrepresenting in any manner the absolute or comparative toxicity of or dangers from the fumes of "Kolene T" or any other competing degreasing solvent;

(5) Representing, directly or by implication, that the hazards of fire or explosion from the use of "Kolene T" are greater than the hazards of fire or explosion from the use of the respondent's degreasing solvents; or representing, directly or by implication, that "Kolene T" is inflammable or explosive when used for degreasing purposes under standard or usual conditions for such work;

(6) Making or publishing any false or disparaging representations concerning the degreasing solvent of any competitor; or supplying to or placing in the hands of distributors or others any misleading statement, claim, report or data which may be used by such distributors or others as a means of or basis for any false or disparaging representation concerning the degreasing solvent of any competitor.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF

E. I. DU PONT DE NEMOURS & CO., INC.

MODIFIED CEASE AND DESIST ORDER

Docket 4685. Order, November 1, 1949

Modified order in proceeding in question, in which original order issued on December 30, 1948, 45 F. T. C. 437, requiring respondent, its officers, etc., in connection with the offer, etc., in commerce, of respondent's synthetic dry cleaning and degreasing solvents, to cease and desist from misrepresenting in any manner the constituents, properties, or characteristics of "Kolene C" or "Kolene T," or of any other dry cleaning or degreasing solvent sold in competition with respondent's products, etc., as below set out.

Mr. John R. Phillips, Jr., for the Commission.
Covington, Burling, Rublee & Shorb, of Washington, D. C., and
Mr. Oscar A. Provost and *Mr. John W. Eckelberry*, of Wilmington, Del., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondent's answer thereto, a stipulation as to the facts entered into by and between the respondent, by its counsel, and Daniel J. Murphy, Assistant Chief Trial Counsel of the Commission, and briefs in support of and in opposition to the allegations of the complaint, and said stipulation providing, among other things, that without further evidence or other intervening procedure except the presentation of briefs and oral argument (oral argument having been subsequently waived), the Commission may issue and serve upon the respondent its findings as to the facts and conclusion based thereon and an order disposing of the proceeding; and the Commission, having made its findings as to the facts and its conclusion that said respondent had violated the provisions of the Federal Trade Commission Act, on December 30, 1948, issued, and on January 12, 1949, served upon the respondent its order to cease and desist. Thereafter, this matter again came on for hearing before the Commission upon a motion, filed by the respondent, requesting that the aforesaid order to cease and desist be modified, the answer to such motion, filed by counsel opposing the same, and the respondent's reply thereto; and the Commission, having considered said motion, answer, and reply, and the record herein, and being of the

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opinion that its order to cease and desist issued December 30, 1948, should be modified:

It is ordered, That the respondent E. I. du Pont de Nemours & Co., Inc., and its officers, agents, representatives 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 its synthetic dry cleaning and degreasing solvents, do forthwith cease and desist from:

(1) Misrepresenting in any manner the constituents, properties, or characteristics of "Kolene C" or "Kolene T," or of any other dry cleaning or degreasing solvent sold in competition with the respondent's products;

(2) Representing, directly or by implication, that "Kolene C" has no merit or value or that it is not suitable or satisfactory as a dry cleaning agent, or that "Kolene T" has no merit or value or that it is not suitable or satisfactory as a degreasing agent;

(3) Representing, directly or by implication; that either "Kolene C" or "Kolene T," when used in synthetic solvent dry cleaning or degreasing machines will separate, break down or form acid, or that either of said solvents will react unfavorably against or corrode the materials or metals being dry cleaned or degreased or the machines in which said solvent is used;

(4) Representing, directly or by implication, that the toxicity of or dangers from the fumes of "Kolene C" or "Kolene T" are greater than the toxicity of or dangers from the fumes of the respondent's dry cleaning or degreasing solvents; or misrepresenting in any manner the absolute or comparative toxicity of or dangers from the fumes of "Kolene C" or "Kolene T" or any other competing dry cleaning or degreasing solvent;

(5) Representing, directly or by implication, that the hazards of fire or explosion from the use of "Kolene C" or "Kolene T" are greater than the hazards of fire or explosion from the use of respondent's solvents; or representing, directly or by implication, that "Kolene C" or "Kolene T" is inflammable or explosive when used for dry cleaning or degreasing purposes under standard or usual conditions for such work;

(6) Making or publishing any false or disparaging representations concerning the dry cleaning or degreasing solvent of any competitor; or supplying to or placing in the hands of distributors or others any misleading statement, claim, report or data which may be used by such distributors or others as a means of or basis for any false or dis-

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paraging representation concerning the dry cleaning or degreasing solvent of any competitor.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
CONCRETE MATERIALS CORPORATION

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

Docket 5474. Complaint, Dec. 10, 1946—Decision, Nov. 9, 1949

Where a corporation, engaged in the manufacture and interstate sale and distribution, under the trade name "Comco," of various products for treating stone, brick, and cement structures to make them more resistant to water; through statements in folders, pamphlets, circular letters and labels, directly or by implication—

- (a) Falsely represented that its product "Comco 2 Iron Waterproofing" or "Comco 2" or "Comco No. 2," containing 90 percent metallic iron, would permanently stop all leaks and seepage in concrete, brick, stone, and tiles; would waterproof basements below water level and pits under pressure; and would, when mixed with water and brushed into the cracks of walls and floors needing repairs, permanently waterproof and stop leaks in such surfaces under all conditions of water contact; and that use thereof would permanently waterproof concrete, brick, stone, and tile walls and floors when used either from the inside or outside and create a positive waterproof condition for all classes of construction under all conditions, no matter how severe;

The facts being that no iron waterproofing has been developed which is capable of coping with all forms of seepage above and below grade;

- (b) Falsely represented that its "Comco Transparent Waterproofing" or "Comco 6" effectively sealed and waterproofed concrete, brick, stone, stucco, plaster and masonry surfaces, and made said surfaces upon which it was applied permanently nonabsorbent to water;

The facts being that said product, composed primarily of aluminum salts in a mixture of fatty acids, was of little value when applied to highly permeable masonry walls; while it would tend to seal the pores in masonry surfaces as against capillary penetration, its efficacy in such connection was less than the life of the structure and might last for but 5 or 6 years; and it would not seal openings larger than pore spaces which permit water to come through in quantity;

- (c) Represented that its "Comco Waterproofing Paste" or "Comco 4" permanently waterproofed concrete on all forms of new construction work; the facts being that while, when properly integrated with concrete, it would improve impermeability by effecting small inductions in absorption through capillarity and lessening the incidence of honeycomb, and similar structural defects, it would not effectively waterproof structures below grade which are subjected to water under pressure; and

- (d) Falsely represented through the use of the word "Waterproof" or words of similar import, that its said products, when applied as directed, would render masonry units or structures impervious to and proof against the pas-