

IN THE MATTER OF
GUSTAVE GOLDSTEIN TRADING AS HUMANIA HAIR
GOODS & SPECIALTY CO.

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

Docket 5249. Complaint, Nov. 21, 1944—Decision, June 16, 1950

Where an individual engaged in the interstate sale of certain cosmetic preparations for the skin, hair, and scalp; in advertising in catalogs distributed throughout the United States by the mails and by other means in commerce—

- (a) Represented that his "B. Paul's Compound" for coloring the hair was composed of harmless ingredients and could be used without harmful effects; notwithstanding the fact that by virtue of its pyrogallic acid content, a caustic, use thereof would under certain conditions irritate the skin and mucous membranes;
- (b) Falsely represented that "Herolin Skin Cream" provided a competent and effective treatment for superficial pimples and skin marks of external origin;
- (c) Represented that "Henry's Super-Light Working Oil," "Working Oil," and "Henry's Sulphur Lanolin Treatment for Hair and Scalp" were competent and effective treatments for itchy scalp and dandruff, and that "Henry's Sulphur Lanolin Treatment" for hair and scalp was a competent and effective treatment for baldness, falling hair, itchy scalp, and dandruff;

The facts being that while said preparations might in most cases temporarily relieve itching of the scalp caused by minor scalp disorders and might make loose dandruff scales less noticeable by matting them to the hair and scalp, none of them was a competent, effective, or adequate treatment for many of the underlying causes of itching scalp or dandruff; use thereof would not relieve itching in some scalp conditions; and use of said last-named preparation would not prevent falling hair or baldness and was not a competent or effective treatment therefor; and

- (d) Falsely represented that "Humania Dandruff Treatment" was a competent and effective treatment for dandruff and would cure it;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby induce its purchase of substantial quantities of his said preparations:

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.

In said proceeding in which the complaint also charged, and in which the Commission had theretofore found, as set forth in its prior findings issued on April 27, 1945, 40 F. T. C. 466, that respondent's advertisements concerning certain of his preparations constituted false advertisements for failure to reveal certain potential dangers in the use thereof, in that—

1. Said "B. Paul's Compound," when applied to the skin was potentially dangerous by reason of its pyrogallic acid content—as to which it appeared,

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after the reopening of the instant proceeding, that it consisted of 98 to 99 percent of henna (varying with the shade), together with small percentages of copper sulphate and pyrogalllic acid, and that, when used in accordance with directions, it is unlikely to be seriously injurious to health;

2. Said "Apex Skin Bleach," when applied to the skin was similarly dangerous, by reason of its ammoniated mercury content—as to which it similarly appeared that a product of the composition of said bleach containing less than 5 percent of ammoniated mercury, when used in accordance with the directions therefor, it is unlikely to be seriously injurious;

3. Said "Magic Shaving Powder," a depilatory, when applied to the skin was potentially dangerous by reason of its irritating ingredients, which included barium sulfide, calcium hydroxide, calcium carbonate, and powdered corn starch (in different proportions for its "full strength" and "medium strength" products)—as to which it similarly appeared from the evidence that products of such composition when used in accordance with directions are unlikely to be seriously injurious; and

4. Certain hair dye preparations, namely, "Luxe Hair Coloring," "Eau Sublime," and "Godefroy's L'arieuse" when applied to the skin were potentially dangerous by reason of their para-phenylenediamine content—as to which it similarly appeared from the record that the cautionary statement on the label and the accompanying directions were in all respects adequate to enable purchasers to make preliminary safety tests with respect to the individual skin sensitiveness, and that the Commission had determined on November 24, 1948 (acting under its statement of policy promulgated on December 11, 1946, as amended on March 2, 1948), that it would not thereafter consider any advertisement of the coal tar hair dye of the "para" type as false merely because of its failure to reveal that the preparation was potentially dangerous by reason of its aforesaid content when the label bore such a statement and the accompanying directions were adequate for preliminary testing:

The Commission was of the opinion and found that respondent's advertisements of his various aforesaid preparations, as set forth in paragraphs 1 to 3 above, did not constitute false advertisements because of their failure to reveal that such preparations are potentially dangerous by reason of the facts above set forth; and was accordingly of the opinion that said previous findings to the contrary should be set aside; and

The Commission was of the further opinion and found, as respects said last-named preparations, that respondent's advertisements under the Commission's present policy did not constitute false advertisements because of their failure to reveal that they are potentially dangerous by reason of their para-phenylenediamine content, and that by reason of said fact it would be in the public interest for its previous findings to such effect to be set aside.

Mr. B. G. Wilson for the Commission.

Reeves, Todd, Ely & Beaty, 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

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Trade Commission, having reason to believe that Gustave Goldstein, an individual, trading as Humania Hair Goods & Specialty Co., hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent Gustave Goldstein is an individual trading as Humania Hair Goods & Specialty Co., with his office and principal place of business at 303 Fourth Avenue, New York, N. Y.

PAR. 2. The respondent is now and for more than 2 years last past has been engaged in the business of selling and distributing cosmetic preparations under various names, among them being: Luxe Hair Coloring, Eau Sublime, B. Paul's Compound, Herolin Skin Cream, Godefroy's Larieuse, Apex Skin Bleach, Magic Shaving Powder, Henry's Super-Light Working Oil, Working Oil, Henry's Sulphur Lanolin Treatment for Hair and Scalp, and Humania Dandruff Treatment, in commerce between and among the various States of the United States and the District of Columbia.

Respondent causes said preparations, when sold, to be transported from his said 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 mentioned herein has maintained, a course of trade in his said preparations in commerce between and among the various States of the United States and the District of Columbia.

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

Among and typical of the false, deceptive and misleading statements and representations contained in the false advertisements disseminated and caused to be disseminated, as hereinabove set forth, in catalogs distributed throughout the United States by United States mails, and by other means in commerce, are the following:

Representations with respect to B. Paul's Compound:

Made of pulverized roots and other harmless ingredients.

Representations with respect to Herolin Skin Cream:

If your surface skin is too dark due to exposure to sun and wind, and is blemished by superficial pimples and marks of external origin, try Herolin Skin Cream.

Representations with respect to Henry's Super-Light Working Oil and Working Oil:

Wonderful for itchy scalp and dandruff.

Representations with respect to Henry's Sulphur Lanolin Treatment for Hair and Scalp:

Baldness, Itchy-Scalp, Falling out Hair; Dandruff, etc., are not inherited
* * * Don't let dry, itchy scalp or dandruff drive you mad. * * * Start
Using Henry's Treatment tonight.

Representations with respect to Humania Dandruff Treatment:

Dandruff, the greatest foe of beautiful hair and a healthy scalp is responsible for a large percent of all cases of baldness and falling hair. It is a serious affection and must be given persistent treatment. When the white flakes or scales that indicate this condition begin to disappear, do not stop—but continue the Humania dandruff treatment regularly.

PAR. 7. Through the use of the foregoing statements and representations and others of the same import not specifically set out herein, respondent represents that the preparation, B. Paul's Compound, is composed of harmless ingredients and can be used without harmful effects; that Herolin Skin Cream provides a competent and effective treatment for superficial pimples and skin marks of external origin; that Henry's Super-Light Working Oil and Working Oil are competent and effective treatments for itchy scalp and dandruff; that Henry's Sulphur Lanolin Treatment for Hair and Scalp is a competent and effective treatment for baldness, falling hair, itchy scalp and dandruff and that Humania Dandruff Treatment is a competent and effective treatment for dandruff and will cure dandruff.

PAR. 5. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, the preparation B. Paul's Compound is not harmless as it contains pyrogallie acid, which is a caustic and irritates the skin and mucous membranes. Herolin Skin Cream is not a competent and effective treatment for superficial pimples and will not remove many marks on the skin, although of external origin. While Henry's Super-Light Working Oil, Working Oil, and Henry's Sulphur Lanolin Treatment for the Hair and Scalp

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may, in most cases, temporarily relieve itching of the scalp caused by minor scalp disorders and may make loose dandruff scales less noticeable by matting them to the hair and scalp, none of these preparations is a competent, effective, or adequate treatment for many of the underlying conditions which cause itching scalp, or for dandruff. Their use will not relieve itching in some scalp conditions. Henry's Sulphur Lanolin Treatment for Hair and Scalp will not prevent falling hair or baldness and is not a competent or effective treatment therefor. Humania Dandruff Treatment will not cure dandruff and is not a competent or effective treatment for dandruff.

PAR. 6. Respondent has disseminated and is now disseminating advertisements, in the manner aforesaid, with respect to his preparations designated Luxe Hair Coloring, Eau Sublime, Godefroy's Larieuse in which advertisements these preparations are offered as hair dyes. These advertisements, as well as the advertisements above quoted with respect to B. Paul's Compound, a hair dye; and Apex Skin Bleach, and Magic Shaving Powder, both offered as preparations to be applied to the skin, constitute false advertisements for the reason that they fail to reveal facts material in the light of the representations therein contained or material with respect to the consequences which may result from the use of the preparations to which the advertisements relate, under the conditions prescribed in said advertisements, or under such conditions as are customary and usual. The preparations Luxe Hair Coloring, Eau Sublime, and Godefroy's Larieuse are para-phenylenediamine hair dyes and are potentially dangerous in that their use may cause skin irritations. Said preparations should not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness. They should not be used in any event when there is any disease of or eruptions on the skin or the scalp, nor until after a proper patch test has demonstrated that the person is not sensitive to and can resist the effects of said preparation without harmful effects.

The preparation B. Paul's Compound contains pyrogalllic acid, which is a caustic and may cause skin irritation. It should not be permitted to remain on the skin or scalp for prolonged periods of time, should never be used when the skin or scalp is broken or where an eruption is present, and should not be permitted to come into contact with the eyes.

The preparation Apex Skin Bleach contains ammoniated mercury and is potentially dangerous as it may cause skin irritations. It should not be applied to an area of the skin larger than the face and neck at any one time. Too frequent applications and use over ex-

cessive periods of time should be avoided and adequate rest periods between series of treatments should be observed.

This preparation should not be used where the skin is cut or broken and in all cases a proper patch test should be made to determine whether the user is sensitive to the preparation. The preparation Magic Shaving Powder contains ingredients which have an irritating effect upon the skin and should not be used by those having tender skins. It should not be allowed to come into contact with the eyes; to do so would cause extreme irritation.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading statements 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, representations and advertisements are true, and that the preparations enumerated in paragraph 6 hereof are harmless and may be used without ill effects to the user, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's said cosmetic preparations.

PAR. 8. The aforesaid acts and practices of the respondent, 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, MODIFIED 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 thereafter served upon the respondent, Gustave Goldstein, an individual trading as Humania Hair Goods & Specialty Co., its complaint in this proceeding, charging said respondent with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the issuance of said complaint and the filing of the respondent's answer thereto, a stipulation was entered into by and between the respondent, Gustave Goldstein, and Richard P. Whiteley, Assistant Chief Counsel of the Commission, in which stipulation it was agreed that, subject to the approval of the Commission, the statement of facts contained therein might be taken as the facts in this proceeding in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission might proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order dis-

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posing of the proceeding. In said stipulation the respondent expressly waived the filing of a trial examiner's report upon the evidence. Subsequently, this proceeding regularly came on for final consideration by the Commission upon the complaint of the Commission, the respondent's answer thereto, and the stipulation, said stipulation having been approved, accepted, and filed; and the Commission, having duly considered the matter, on April 27, 1945, made and issued its findings as to the facts, its conclusion drawn therefrom, and its order to cease and desist disposing of said proceeding. Thereafter, on April 25, 1949, pursuant to a motion filed by counsel in support of the complaint and consented to by the respondent (which motion was supplemented by additional material filed April 20, 1950) the proceeding was reopened for the purpose of receiving such supplemental evidence as might be offered to determine whether or not changed conditions of fact or the public interest, or both, require a modification of the aforesaid findings as to the facts and order to cease and desist, and, in accordance with this direction, certain supplemental evidence was subsequently received and filed; and the Commission, having duly considered said supplemental evidence and the entire record and being of the opinion that its findings as to the facts and its conclusion issued herein on April 27, 1945, should be modified in certain respects, now makes this its modified findings as to the facts and its conclusion drawn therefrom, the same to be in lieu of said findings as to the facts and conclusion issued on April 27, 1945.

MODIFIED FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Gustave Goldstein, is an individual trading as Humania Hair Goods & Specialty Co., with his office and principal place of business located at 303 Fourth Avenue, New York, N. Y.

PAR. 2 The respondent is now, and for a number of years last past he has been, engaged in the business of selling and distributing certain cosmetic preparations. Included among said preparations are those sold under the following names: "Luxe Hair Coloring," "Eau Sublime," "B. Paul's Compound," "Herolin Skin Cream," "Godefroy's Larieuse," "Apex Skin Bleach," "Magic Shaving Powder," "Henry's Super-Light Working Oil," "Working Oil," "Henry's Sulphur Lanolin Treatment for Hair and Scalp," and "Humania Dandruff Treatment." The respondent causes said preparations, when sold, to be transported from his 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. The respondent maintains, and at all times mentioned herein he has maintained, a course of trade in such preparations 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 his aforesaid business, the respondent has disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning said preparations, by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and the respondent has also disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning said preparations by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of such preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in the false advertisements, disseminated and caused to be disseminated as hereinabove set forth, in catalogs distributed throughout the United States by the United States mails, and by other means in commerce, are the following:

Representations with respect to "B. Paul's Compound":

Made of pulverized roots and other harmless ingredients.

Representations with respect to "Herolin Skin Cream":

If your surface skin is too dark due to exposure to sun and wind, and is blemished by superficial pimples and marks of external origin, try Herolin Skin Cream.

Representations with respect to "Henry's Super-Light Working Oil" and "Working Oil":

Wonderful for itchy scalp and dandruff.

Representations with respect to "Henry's Sulphur Lanolin Treatment for Hair and Scalp":

Baldness, Itchy-Scalp, Falling Out Hair; Dandruff, etc., are not inherited * * *

Don't let dry, itchy scalp or dandruff drive you mad * * * Start using Henry's Treatment tonight.

Representations with respect to "Humania Dandruff Treatment":

Dandruff, the greatest foe of beautiful hair and a healthy scalp is responsible for a large percent of all cases of baldness and falling hair. It is a serious affection and must be given persistent treatment. When the white flakes or

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scales that indicates this condition begin to disappear, do not stop—but continue the Humania dandruff treatment regularly.

PAR. 4. Through the use of the foregoing statements and representations, and others of the same import not specifically set out herein, the respondent has represented that the preparation, B. Paul's Compound, is composed of harmless ingredients and can be used without harmful effects; that Herolin Skin Cream provides a competent and effective treatment for superficial pimples and skin marks of external origin; that Henry's Super-Light Working Oil and Working Oil are competent and effective treatments for itchy scalp and dandruff; that Henry's Sulphur Lanolin Treatment for Hair and Scalp is a competent and effective treatment for baldness, falling hair, itchy scalp and dandruff, and that Humania Dandruff Treatment is a competent and effective treatment for dandruff and will cure dandruff.

PAR. 5. In the respects and to the extent hereinafter mentioned the aforesaid statements and representations were false, misleading, and deceptive.

The preparation "B. Paul's Compound" contains pyrogalllic acid, which ingredient is a caustic, and the use of a preparation containing this ingredient will, under certain conditions, irritate the skin and mucous membranes. Insofar as the respondent's advertising stated or implied that this preparation will not under any circumstances cause injury to the user it was misleading and untrue.

Contrary to the respondent's representations, "Herolin Skin Cream" is not a competent or effective treatment for superficial pimples, and it will not remove any marks on the skin, although of external origin.

While "Henry's Super-Light Working Oil," "Working Oil," and "Henry's Sulphur Lanolin Treatment for the Hair and Scalp" may, in most cases, temporarily relieve itching of the scalp caused by minor scalp disorders and may make loose dandruff scales less noticeable by matting them to the hair and scalp, none of these preparations is a competent, effective, or adequate treatment for many of the underlying conditions which cause itching scalp or dandruff. Their use will not relieve itching in some scalp conditions.

"Henry's Sulphur Lanolin Treatment for Hair and Scalp" will not prevent falling hair or baldness and is not a competent or effective treatment therefor.

"Humania Dandruff Treatment" will not cure dandruff and is not a competent or effective treatment for dandruff.

PAR. 6. (a) The complaint in this proceeding also charged, and the Commission, in its findings as to the facts issued on April 27, 1945, found, that the respondent's advertisements concerning his hair dye

preparation "B. Paul's Compound" constituted false advertisements for the further reason that they failed to reveal that this preparation, when applied to the skin, is potentially dangerous by reason of its pyrogalllic acid content; that his advertisements concerning his skin bleach preparation "Apex Skin Bleach" constituted false advertisements because of their failure to reveal that this preparation, when applied to the skin, is potentially dangerous by reason of its ammoniated mercury content; that his advertisements concerning his depilatory preparation "Magic Shaving Powder" constituted false advertisements because of their failure to reveal that this preparation, when applied to the skin, is potentially dangerous by reason of its irritating ingredients; and that his advertisements concerning his hair dye preparations "Luxe Hair Coloring," "Eau Sublime" and "Godefroy's L'arieuse" constituted false advertisements because of their failure to reveal that these preparations, when applied to the skin, are potentially dangerous by reason of their para-phenylenediamine content.

(b) Evidence introduced after this proceeding was reopened shows that the preparation "B. Paul's Compound" consists of 98 to 99 percent of henna (varying with the shade), together with small percentages of copper sulphate and pyrogalllic acid. The directions for the use of said preparation are as follows:

FOR COLORING GRAY HAIR

WILL NOT BLEACH

The hair must be shampooed thoroughly and left damp, not dry. For best results always empty the entire contents of box, in order to have all of the various ingredients, into a bowl, not metallic, and add sufficient boiling water gradually until the preparation becomes the thickness of a soft paste, at the same time stir continually with a wooden spoon so as to dissolve the powder. Place bowl in a very hot water bath and stir paste for about five minutes, as it is necessary to keep and apply paste as warm as one can stand it. For those who wish a red cast add a tablespoon of vinegar to the paste.

Then separate the hair into small strands, and apply the paste with the brush on the hair you want colored, always commencing at the roots and where the hair is most gray. The gray hair must be well saturated with the paste, just as if in a mud bath. Leave the paste on *fifty minutes* for all Brown shades, Blonde shades *thirty minutes*, Dark Brown, *one hour and a half*, and Black, *Two Hours*. The longer paste is on the hair the darker the color.

For Auburn shades on gray hair, apply the Auburn shade of B. Paul's Henna desired, leave on one hour, rinse off with warm water and then apply the light brown shade for *thirty minutes*, to tone down the brightness of the gray hair.

When the hair is only *slightly gray* leave the paste on *fifteen minutes less* than the time specified. If the whole length of the hair is to be colored and the hair near the scalp is done, the paste should be weakened and made thinner

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by adding hot water and the remaining thin paste applied toward the ends, as the ends of the hair take the dye more rapidly than the roots.

After the application the hair should be thoroughly rinsed with warm water until all paste is out of the hair, the famous B. Paul Shampoo being strongly recommended for shampooing. Be sure to apply the Shampoo quite warm. Slight stains on the fingernails can be easily removed with peroxide adding a few drops of ammonia.

The shade of color will develop, while the hair dries and complete results will be seen on the third day after the application.

Should the first application fail to give the desired results, a second application should be made, but not before five days have elapsed, using the same shade, but leaving the paste on the hair *twenty minutes only*.

Imperfect results are always caused by an imperfect application or because the hair is not thoroughly cleansed.

As bleached hair or hair on which peroxide has been used is porous and lacks resistance, it is impossible to state how fast or dark color will take. If over bleached color is apt to turn Black in five minutes. It is best to try a sample. Paul's Compound should be used for coloring gray hair only. *It will not bleach or lighten the hair.*

Self applications of our hair coloring preparations can be made providing you carefully follow directions.

CAUTION—This product contains Metallic Salts and Pyrogallol. It is for external use only to color hair on a healthy scalp, not where skin is broken. **Must Not** be used for dyeing eyelashes or eyebrows.

The evidence further discloses that this preparation, when used in accordance with the foregoing directions for its use, is unlikely to be seriously injurious to the health of the user. The Commission is of the present opinion, therefore, and finds, that the respondent's advertisements concerning his hair dye preparation "B. Paul's Compound" did not constitute false advertisements because of their failure to reveal that this preparation is potentially dangerous by reason of its pyrogallic acid content and that its previous finding to the contrary should be set aside.

(c) According to information now in the record, the preparation "Apex Skin Bleach" is composed of the following ingredients in the quantities or proportions given:

	Ounces
Ammoniated mercury.....	0.75
Bismuth subnitrate.....	.50
White beeswax.....	1.75
White petrolatum.....	13.00
Oil red rose.....	(¹)

The directions for use of said preparation are as follows:

The face and neck should be thoroughly cleansed with warm water and soap and then a good cleansing cream. We recommend APEX CLEANSING CREAM,

¹ Sufficient to perfume.

due to the fact that the cream properly massaged into the skin will remove dirt and grime which cannot be properly reached with just soap and water.

After using APEX CLEANSING CREAM, thoroughly remove the excess cream from the face with a soft cloth or tissues. With the finger tips, spread a thin film of APEX BLEACH over the face, neck, or arms, being careful not to get it into the eyes.

Don't massage or rub in into the skin, just spread it over the skin lightly. Let Bleach remain on overnight or a few hours during the day. Next morning or when ready to remove the BLEACH CREAM, apply APEX CLEANSING CREAM. Then remove it with a soft cloth or tissues. By rinsing the face in cold water you will close the pores.

Repeat these treatments daily unless the skin is sensitive. After a few applications you will note a difference in your complexion. Your skin will become lighter and softer.

The cream can also be used on the neck, shoulders, and arms to lighten them, as well as the face. The use of APEX CLEANSING CREAM for cleansing the face before and after using the APEX BLEACH CREAM is, indeed, very beneficial. This is a new cream.

Try APEX BLEACH CREAM for a few days and note the great difference in the appearance of your skin.

DO NOT USE BLEACH IF YOU HAVE SENSITIVE SKIN. CAUTION FOR THOSE WITH UNUSUALLY SENSITIVE SKIN. Many persons have sensitive skins. As you perhaps are aware, there are certain foods that some people cannot eat because they will give them a rash or a breaking out on the skin. For instance, some people are not able to eat strawberries because they will give them "strawberry rash." Therefore, due to the fact that the APEX BLEACH CREAM contains an ingredient known as Ammoniated Mercury, which is a product containing the bleaching properties necessary in all bleaching creams, people who have SUPER-SENSITIVE skins should not use it or any kind of a bleaching cream. If skin irritation appears after application, use of this product should be immediately discontinued.

We suggest that you make a test before using the cream by spreading a small quantity of it on your arm and letting it remain overnight. Should you notice that the skin appears somewhat irritated do not use it.

CHILDREN UNDER TWELVE YEARS OF AGE SHOULD NOT USE THIS BLEACH CREAM.

Persons who have skin diseases, or if the skin is cut or there is an abrasion, the bleach cream should not be used.

It is necessary for us to give this warning because of the fact that some people have skin diseases and desire to use the bleach cream. Because of the diseases the cream would perhaps be injurious to them. We recommend that all persons with skin diseases see their physician immediately.

The evidence introduced after this proceeding was reopened further discloses that a product of the composition of "Apex Skin Bleach" containing less than 5 percent of ammoniated mercury, when used in accordance with the foregoing directions, is unlikely to be seriously injurious to the health of the user. The Commission therefore finds that the respondent's advertisements concerning this preparation did

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not constitute false advertisements because of their failure to reveal that this preparation is potentially dangerous by reason of its ammoniated mercury content and, in conformity therewith, is of the opinion that its previous finding to the contrary should be set aside.

(d) The record now shows that the preparation "Magic Shaving Powder (depilatory)" is composed of barium sulfide, calcium hydroxide, calcium carbonate, and powdered corn starch and that it is marketed in two different strengths under differently colored labels. The red label "Magic Shaving Powder (Depilatory)—Full Strength" is composed of the following ingredients in the quantities and proportions given:

	<i>Pounds</i>
Barium sulfide.....	23.50
Calcium hydroxide.....	23.75
Calcium carbonate.....	38.00
Powdered corn starch.....	95.00

The blue label "Magic Shaving Powder (Depilatory)—Medium Strength" is composed of the following ingredients in the quantities and proportions given:

	<i>Pounds</i>
Barium sulfide.....	20.00
Calcium hydroxide.....	14.25
Calcium carbonate.....	47.25
Powdered corn starch.....	95.00

The directions for use of both products are the same and are as follows:

Removes Hair Without A Razor

DIRECTIONS

Let hair grow out well before using. Mix quantity needed with cold water into a smooth paste. Apply paste with a spatula or flat stick in an even layer thick enough to cover the hair. Let paste remain on hair 5 minutes to remove coarse hair. DO NOT RUB. Scrape paste off with sharp edge of spatula or dull tool, and wash skin thoroughly with wet rag and clean, cold water. Then dry with soft towel and apply cold cream or talcum powder.

CAUTION:

Do Not Get Into Eyes.

Should not be used by those having a tender or irritated skin.

Depilatory for Women.

Magic Shaving Powder is used by women as a depilatory for removing superfluous hair from the neck, arms, underarms, legs, or any part of the body.

The evidence further shows that products of the composition of either of these preparations, when used in accordance with the foregoing directions, are unlikely to be seriously injurious to the health of

the user. The Commission therefore finds that the respondent's advertisements concerning his preparation "Magic Shaving Powder" did not constitute false advertisements because of their failure to reveal that this preparation is potentially dangerous by reason of its irritating ingredients, and accordingly is of the opinion that its previous finding to the contrary should be set aside.

(e) With respect to the preparations "Luxe Hair Coloring," "Eau Sublime," and "Godefroy's Lariouse," the record now shows that the label on the container in which each of said preparations is sold bears the following statement:

CAUTION: This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes and eyebrows; to do so may cause blindness.

and that the accompanying directions are in all respects adequate to enable purchasers of such preparations to make the preliminary test referred to in said statement.

The record further shows that the Commission, on November 24, 1948, acting under its statement of policy promulgated on December 11, 1946, as amended on March 2, 1947, determined that it would not thereafter consider any advertisement of a coal tar hair dye of the "para" type as false merely because of the failure of such advertisement to reveal that the preparation is potentially dangerous by reason of its para-phenylenediamine content when the label on such preparation bears such a statement and when the accompanying directions are adequate for the preliminary testing. The Commission is of the opinion, therefore, and finds, that the respondent's advertisements concerning his preparations "Luxe Hair Coloring," "Eau Sublime," and "Godefroy's Lariouse" would not under the Commission's present policy constitute false advertisements because of their failure to reveal that these preparations are potentially dangerous by reason of their para-phenylenediamine content, and that by reason of this fact it would be in the public interest for its previous findings that such advertisements were false to be set aside.

PAR. 7. The use by the respondent of the false, deceptive, and misleading statements and representations referred to in paragraphs 3, 4, and 5 has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of the respondent's cosmetic preparations.

Order

46 F. T. C.

PAR. 8. The respondent states that he is a distributor of the preparations herein described, that the statements made by him were supplied by the manufacturers of said products, and that he had no knowledge that his advertisements were false or deceptive.

CONCLUSION

The acts and practices of the respondent as herein found (excluding those referred to in par. 6) were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having heretofore 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, Gustave Goldstein, and Richard P. Whiteley, Assistant Chief Counsel of the Commission, which said stipulation provided, among other things, that without further evidence or other intervening procedure the Commission might issue and serve upon the respondent its findings as to the facts and its conclusion based thereon and an order disposing of said proceeding; and

The Commission, after having made its findings as to the facts and its conclusion that the respondent had violated the provisions of the Federal Trade Commission Act, on April 27, 1945, issued, and on April 30, 1945, served upon the respondent said findings as to the facts, conclusion, and its order to cease and desist; and

This proceeding, on April 25, 1949, having been reopened for the purpose of receiving such supplemental evidence as might be offered to determine whether or not changed conditions of fact or the public interest, or both, require modification of said findings as to the facts and order to cease and desist, certain supplemental evidence was received and duly filed; and the Commission, having considered said supplemental evidence and the entire record herein, and having made its modified findings as to the facts and its conclusion based thereon, and being of the opinion that its order to cease and desist issued on April 27, 1945, should also be modified in certain respects:

It is ordered, That the Commission's findings as to the facts, conclusion, and order to cease and desist issued in this proceeding on April 27, 1945, be, and they hereby are, set aside.

It is further ordered, That the respondent, Gustave Goldstein, an individual trading as Humania Hair Goods & Specialty Co., or trading under any other name or through any corporate or other device, and said respondent's agents, representatives, and employees, in connection with the offering for sale, sale, or distribution of his cosmetic preparation designated "B. Paul's Compound," "Herolin Skin Cream," "Henry's Super-Light Working Oil," "Working Oil," "Henry's Sulphur Lanolin Treatment for Hair and Scalp," and "Humania Dandruff Treatment," or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication—

(a) That the preparation, "B. Paul's Compound," is composed of harmless ingredients or can be used without harmful effects;

(b) That the preparation, "Herolin Skin Cream" constitutes a competent or effective treatment for superficial pimples or marks on the skin;

(c) That the preparations, "Henry's Super-Light Working Oil," "Working Oil," and "Henry's Sulphur Lanolin Treatment for Hair and Scalp" constitute competent or effective treatments for dandruff or itchy scalp or will relieve itchy scalp, except that caused by minor scalp irritations;

(d) That the preparation "Henry's Sulphur Lanolin Treatment for Hair and Scalp" will prevent falling hair or baldness or constitutes a competent or effective treatment therefor;

(e) That the preparation "Humania Dandruff Treatment" will cure dandruff or constitutes a competent or effective treatment for dandruff.

2. Disseminating, or causing to be disseminated, 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 preparations, any advertisement which contains any representation prohibited in paragraph 1 hereof.

IN THE MATTER OF
GAY TIME FROCK CO. OF SCRANTON ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF AN ACT
OF CONGRESS APPROVED OCT. 14, 1940

Docket 5350. Complaint, July 3, 1945—Decision, June 22, 1950

Garments made from rayon fibers which have been so manufactured as to simulate natural fibers in texture and appearance have the appearance and feel of natural-fiber garments, and many members of the purchasing public are unable to distinguish between such rayon garments and those made from natural fibers, so that the former are readily accepted by some as natural fiber products.

Products manufactured from silk, the product of the cocoon of the silk worm, for many years have been held and still are held in great public esteem because of their outstanding qualities, and there has been for many years and still is a public demand for such products.

Where two corporations and two individuals who were officers and directors of both, engaged in the sale and distribution of women's wearing apparel and other articles through two types of retail stores—their "Gay Time" and their "York" stores, which they operated in Indiana, Illinois, Pennsylvania, and Virginia, and in purchasing for their said stores through their New York buying office merchandise from various sources in other States, which, when delivered to them in said city, they examined, sorted, priced, and, when necessary, labeled, and shipped to their said various retail stores; and engaged also for a time in carrying on a mail order business pursuant to which they shipped merchandise to purchasers in other States—

Offered and sold certain garments which simulated in texture and appearance garments composed of natural fibers but were made wholly or in part of rayon, without disclosing in words familiar to the purchasing public the fact that said garments were wholly or partly rayon;

Whereby many members of the purchasing public were led to believe that said garments were composed wholly or in part of silk, the product of the silk worm, or of other natural fibers:

Held, That such acts, practices, and methods, 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 within the intent and meaning of the Federal Trade Commission Act: and

Where two partners, engaged in the manufacture of women's wearing apparel and in the interstate sale of such apparel and other articles to the aforementioned corporation and individuals, among others, and in introducing into commerce and manufacturing for introduction into commerce wool products composed in whole or in part of wool, reprocessed wool or reused wool, and, as such, subject to the Wool Products Labeling Act and the rules and regulations promulgated thereunder—