

IN THE MATTER OF
EARL ARONBERG ET AL. TRADING AS THE RONALD CO.

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

Docket 5729. Complaint, Dec. 22, 1949—Decision, Apr. 5, 1951

Where two individuals engaged in the interstate sale of their "Shadz Color Shampoo"; in advertising in various periodicals and otherwise—

Falsely represented, directly and by implication, that their said product, used as directed, colored gray hair jet black and other colors; when in fact an acid medium is required to color hair, whereas the ingredients in said product produce an alkaline medium;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby induce its purchase of substantial quantities of said product:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

As regards the charge in the complaint that respondents falsely represented their product to be a new discovery, no evidence was introduced with respect to such allegation, and no findings, consequently, were made with respect thereto.

Before *Mr. Frank Hier*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Frank E. & Arthur Gittleman, of Chicago, Ill., and *Mr. James B. Goding*, of Washington, D. C., for respondents.

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 Earl Aronberg and Lewis Potter, individuals trading as The Ronald Co., hereinafter referred to as respondents, have violated the provisions of the said act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Earl Aronberg and Lewis Potter, are individuals trading as The Ronald Co. with their office and principal place of business located at 6605 Cottage Grove, Chicago, Ill.

PAR. 2. Respondents are now and for more than 1 year last past have been engaged in the business of selling and distributing a cosmetic

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product as "cosmetic" is defined in the Federal Trade Commission Act. The designation used by respondents for said product and the formula and directions for use thereof are as follows:

DESIGNATION

Shadz Color Shampoo.

FORMULA

Tallow—fine grade.
Coconut Oil.
Fatty acids.
Sodium Hydroxide Solution.
Detergent Agent.
Essential Oils (minute quantities).
Colors—D and C Orange No. 1.
D and C Black No. 1.
Cocoline Brown.
Sunset Yellow.
Tartazine.
FD and C No. 1. Yellow.

DIRECTIONS

Follow these directions to get the best results with SHADZ. Use warm water, and rinse hair completely, getting it wet from scalp to tip. Then rub SHADZ COLOR SHAMPOO cake right into the hair. Work up a rich, creamy lather with the finger-tips, then rinse. Now apply SHADZ COLOR SHAMPOO again. If you wish, leave this second lather right on your hair for about 15 minutes. Then rise thoroughly with clear, warm water, and dry. See how Colorful and Glamorous your hair looks, and how soft and silky it feels, after every shampoo. Easier to manage too. Won't hurt Permanents.

Use SHADZ every week or so, just as you would any shampoo.

SHADZ WILL NOT STAIN HANDS OR SCALP.

All shades made with certified colors only.

PAR. 3. Respondents cause and have caused said product when sold to be transported from their place of business in the State of Illinois to purchasers located in various other States of the United States and at all times mentioned herein maintained and have maintained a course of trade in said product in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their business respondents subsequent to March 31, 1938, disseminated and caused the dissemination of certain advertisements concerning said product by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements in True Romance Magazine, February and November

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1948 issues; Chicago Defender newspaper, January 8, 1949, issue; Photoplay Magazine, October 1948 issue; Norfolk, Virginia, Journal and Guide, August 21, 1948, issue; Southern Farmer Magazine, June, August, and October 1948 issues; and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce the purchase of said product; and respondents have disseminated and caused the dissemination of advertisements concerning their said product, including but not limited to the advertisements referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among the statements and representations contained in the said advertisements disseminated as aforesaid are the following:

DON'T DYE GRAY HAIR! COLOR IT JET BLACK with this new **STARTLING DISCOVERY!** Now! You can actually give your hair New **JET BLACK BEAUTY** without dyeing. New amazing Color Shampoo gives dull, drab, Gray, faded discolored hair a rich **JET BLACK COLOR** that's full of life and sparkle, and at the same time washes out dirt, oily grime, grease and loose dandruff. So why go around with off-color hair? Get Shadz Color Shampoo and see how your hair becomes progressively blacker, softer, prettier and easier to dress with each shampoo. No messing around with dyes that may prove difficult. No test required. No dyed appearance; no harm to hair; will not stain hands or scalp. Helps you look years younger, helps invite romance, attract new friends, become more popular, or get a better job. Highly praised by users everywhere. Also comes in Light, Medium and Dark Brown, Auburn and Blonde. (State shade.)

Said advertisement carries the pictorial representation of a lady with long black hair.

PAR. 6. Through the use of advertisements containing the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents represented, directly and by implication, that their said product, used as directed, colors gray hair jet black and other colors and that Shadz Color Shampoo is a new discovery.

PAR. 7. That said advertisements are misleading in material respects and are "false advertisements," as that term is defined in the Federal Trade Commission Act. In truth and in fact, the use of Shadz Color Shampoo, as directed, will not color gray hair jet black nor any shade of black or other color. Said preparation is not a new discovery as it contains the same ingredients in the same forms as preparations of similar nature which have been on the market for many years.

PAR. 8. The aforesaid acts and practices of respondents, as herein

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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.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF
COMPLIANCE

Pursuant to the provisions of the Federal Trade Commission Act the Federal Trade Commission, on December 22, 1949, issued and subsequently served its complaint in this proceeding upon the respondents, Earl Aronberg and Lewis Potter, individuals trading as The Ronald Co., charging them 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 respondents' answer thereto, hearings were held at which testimony and other evidence were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. On January 9, 1951, the trial examiner filed his initial decision, which was served on the respondents on January 20, 1951.

The Commission, having reason to believe that the initial decision was deficient in certain material respects, subsequently placed this case on its own docket for review, and on February 26, 1951, it issued, and thereafter served upon the parties, its order affording the respondents an opportunity to show cause why said initial decision should not be altered in the manner and to the extent shown in a tentative decision of the Commission attached to said order. Respondents not having appeared in response to the leave to show cause, this proceeding regularly came on for final consideration by the Commission upon the record herein on review; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts, conclusion drawn therefrom, and order, the same to be in lieu of the initial decision of the trial examiner.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, Earl Aronberg and Lewis Potter, are individuals trading as The Ronald Co., with their office and principal place of business located at 6605 Cottage Grove, Chicago, Ill.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the business of selling and distributing a cosmetic product as "cosmetic" is defined in the Federal Trade Commis-

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sion Act. The designation used by respondents for said product and the formula and directions for use thereof are as follows:

DESIGNATION

Shadz Color Shampoo.

FORMULA

Tallow—fine grade.

Coconut Oil.

Fatty Acids.

Sodium Hydroxide Solution.

Detergent Agent.

Essential Oils (minute quantities).

Colors—D and C Orange No. 1.

D and C Black No. 1.

Cocoline Brown.

Sunset Yellow.

Tartazine.

FD and C No. 1 Yellow.

DIRECTIONS

Follow these directions to get the best results with SHADZ. Use warm water, and rinse hair completely, getting it wet from scalp to tip. Then rub SHADZ COLOR SHAMPOO cake right into the hair. Work up a rich, creamy lather with the finger-tips, then rinse. Now apply SHADZ COLOR SHAMPOO again. If you wish, leave this second lather right on your hair for about 15 minutes. Then rinse thoroughly with clear, warm water, and dry. See how Colorful and Glamorous your hair looks, and how soft and silky it feels, after every shampoo. Easier to manage too. Won't hurt Permanents.

Use SHADZ every week or so, just as you would any shampoo.

SHADZ WILL NOT STAIN HANDS OR SCALP.

All shades made with certified colors only.

PAR. 3. Respondents cause and have caused said product, when sold, to be transported from their place of business in the State of Illinois to purchasers located in various other States of the United States, and at all times mentioned herein maintained and have maintained a course of trade in said product in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their business respondents, subsequent to March 31, 1938, disseminated and caused the dissemination of certain advertisements concerning said product by the United States mails and by various means in commerce as "commerce" as defined in the Federal Trade Commission Act, including but not limited to advertisements in True Romance Magazine, February and November 1948 issues; Chicago Defender newspaper, January 8, 1949, issue; Photoplay Magazine, October 1948 issue; Norfolk, Virginia, Journal and Guide, August 21, 1948, issue; Southern Farmer Magazine, June,

August, and October 1948 issues; and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce the purchase of said product; and respondents have disseminated and caused the dissemination of advertisements concerning their said product, including but not limited to the advertisements referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among the statements and representations contained in the said advertisements disseminated as aforesaid are the following:

DON'T DYE GRAY HAIR! COLOR IT JET BLACK with this new STARTLING DISCOVERY! Now! You can actually give your hair New JET BLACK BEAUTY without dyeing. New amazing Color Shampoo gives dull, drab, Gray, faded discolored hair a rich JET BLACK COLOR that's full of life and sparkle, and at the same time washes out dirt, oily grime, grease and loose dandruff. So why go around with off-color hair? Get Shadz Color Shampoo and see how your hair becomes progressively blacker, softer, prettier and easier to dress with each shampoo. No messing around with dyes that may prove difficult. No test required. No dyed appearance; no harm to hair; will not stain hands or scalp. Helps you look years younger, helps invite romance, attract new friends, become more popular, or get a better job. Highly praised by users everywhere. Also comes in Light, Medium and Dark Brown, Auburn and Blonde. (State shade.)

Said advertisement carries the pictorial representation of a lady with long, black hair.

PAR. 6. Through the use of advertisements containing the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents represented, directly and by implication, that their said product, used as directed, colors gray hair jet black and other colors.

PAR. 7. Respondents' said advertisements are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. Actual tests of respondents' product on a number of swatches of human hair, purchased for the purpose, failed to show that said product, when used as directed, will change the color of the hair, as represented. Reliable and scientific opinion is that respondents' product will not color hair at all, because an acid medium is required to do so, whereas the ingredients in respondents' product produce an alkaline medium.

PAR. 8. The use by the respondents of the aforesaid false advertisements has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondents' product and to cause such portion of the public to purchase substantial

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quantities of said product as a result of the erroneous and mistaken belief so engendered.

PAR. 9. No evidence was introduced with respect to the allegation in the complaint that the respondents falsely represented their product to be a new discovery, and consequently no findings with respect to such allegation have been made.

CONCLUSION

The acts and practices of respondents as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents, Earl Aronberg and Lewis Potter, individually and trading as The Ronald Co., or under any other name, their employees, agents, and representatives, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of Shadz Color Shampoo, or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, 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 through inference, that said product will color hair.

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 product, any advertisement which contains the representation prohibited in paragraph 1 of this order.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

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IN THE MATTER OF

KIMBERLEY GIRL COATS, INC., 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 5779. Complaint, May 24, 1950—Decision, Apr. 5, 1951

Where a corporation and the two officers and directors who formulated, controlled, and directed its policies and practices, engaged in the introduction into commerce and in the offer, sale, transportation, and distribution therein of wool products subject to the Wool Products Labeling Act—

Misbranded certain ladies' coats in violation of the provisions of said act in that said coats, composed wholly or in part of reprocessed wool, were labeled by them as 100 percent wool:

Held, That such acts and practices, under the circumstances set forth, were in violation of said act and the rules and regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Mr. DeWitt T. Puckett and *Mr. Russell T. Porter* for the Commission.

Mr. George Feinberg, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Kimberley Girl Coats, Inc., a corporation, and Samuel Plotkin and Leon Waisman, individually and as officers of respondent Kimberley Girl Coats, Inc., hereinafter referred to as respondents, have violated the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, 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, Kimberley Girl Coats, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Its principal office and place of business are located at 270 West Thirty-eighth Street, New York, N. Y. The respondents, Samuel Plotkin and Leon Waisman, are officers and stockholders of the respondent, Kimberley Girl Coats, Inc., and as such they formulate, control, and direct its policies and practices.