

Order

IN THE MATTER OF

ELGIN RAZOR CORPORATION ET AL.

MODIFIED ORDER TO CEASE AND DESIST

Docket 4458. Order, May 24, 1951

Order modifying prior order of Commission, in accordance with the opinion and decision of the Court of Appeals for the Seventh Circuit on February 5, 1951, in *Galter et al. v. Federal Trade Commission*, 186 F. (2d) 810, and the court's final decree in said matter (which modified the Commission's cease and desist order issued on August 4, 1947, in *Elgin Razor Corporation et al.*, 44 F. T. C. 80, by striking therefrom paragraphs 1 (g) and 5 (f) reading "Representing as 'candid type' cameras any cameras which are not equipped with special lenses and shutters and which are incapable of taking action pictures under very unfavorable light conditions", and by striking therefrom also the names of two corporate respondents; and affirmed said order as modified;

So as to require respondents to cease and desist from the deceptive and misleading use of the words "Elgin", "Hamilton", "Remington", or "Underwood", to designate, describe or refer to their products, or as a part of their corporate or trade names, and from misrepresenting prices and guarantees in said order in detail set out.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Carrel F. Rhodes and *Mr. Edward L. Smith* for the Commission.

Mr. James R. McKnight and *Nash & Donnelly*, of Chicago, Ill., for Elgin Razor Corp., Underwood Laboratories, Inc., and Underwood Industries, Inc.

Mr. Henry H. Koven and *Nash & Donnelly*, of Chicago, Ill., for Match King, Inc.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents, certain stipulations of fact entered into between the respondents and counsel for the Commission, and testimony and other evidence, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on August 14, 1947; and

Respondents Jack Galter, individually and as former president of Match King, Inc., a dissolved corporation, Dora M. Galter, William

Order

47 F. T. C.

R. Galter, Arnold F. Shapiro, individually and as former president of American Supercraft Corp., a dissolved corporation, and Monarch Manufacturing Co., a corporation, having filed in the United States Court of Appeals for the Seventh Circuit their petition to review and set aside the order to cease and desist issued herein, and that court having heard the matter on briefs and oral argument, fully considered the matter, and, on March 5, 1951, entered its final decree modifying and affirming, as modified, the aforesaid order to cease and desist pursuant to its opinion announced on February 5, 1951:

1. NOW THEREFORE, *It is hereby ordered*, That respondents Elgin Razor Corp., Underwood Laboratories, Inc., Underwood Industries, Inc., the American Camera Corp., and Electric Clock Corp. of America, corporations, and their officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, and Benjamin A. Schiff, as officers of said corporations and individually and trading under the names the Keen Manufacturing Co., Razor Service Co., General Chromium and Copper Co., and Utility Manufacturing Co., or trading under any other name, and respondents Albert I. Leight and Ed Cohan, and respondents' 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 electric shavers, cameras, electric sunlamps, talking machines, electric clocks, and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin," or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(b) Using the name "Hamilton," or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(c) Using the name "Remington," or any simulation thereof, either alone or in connection with other words, to designate, describe or refer to respondents' products;

(d) Using the name "Underwood," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(e) Representing as the customary prices of respondents' products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business;

(f) Representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for

a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business;

(g) Representing, through the issuance of purported "guarantee certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects.

2. *It is further ordered*, That respondent Elgin Razor Corp., a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, and Benjamin A. Schiff, individually and as officers of said corporation, and respondents' 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 electric shavers, cameras, electric sunlamps, talking machines, electric clocks, and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin," or any simulation thereof, as a part of the corporate or trade name of said corporation.

3. *It is further ordered*, That respondent Underwood Laboratories, Inc., a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, and Benjamin A. Schiff, individually and as officers of said corporation, and respondents' 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 electric shavers, cameras, electric sunlamps, talking machines, electric clocks, and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Underwood," or any simulation thereof, as a part of the corporate or trade name of said corporation;

(b) Using the word "Laboratories," or any simulation thereof, as a part of the corporate or trade name of said corporation.

4. *It is further ordered*, That respondent Underwood Industries, Inc., a corporation, and its officers, and respondents Henry T. Schiff, Frances R. Schiff, Robert M. Schiff, and Benjamin A. Schiff, individually and as officers of said corporation, and respondents' 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 electric shavers, cameras, electric sunlamps, talk-

ing machines, electric clocks, and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Underwood," or any simulation thereof, as a part of the corporate or trade name of said corporation.

5. *It is further ordered*, That respondent the Monarch Manufacturing Co., a corporation, and its officers, and respondents Jack Galter, Dora M. Galter, William Galter, Harry C. Feinberg, Robert D. Schoenbrod, and Arnold F. Shapiro, individually and as officers of said corporation, and respondents' 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 electric shavers, cameras, sunlamps, talking machines, electric clocks, and electric lighters, or any other merchandise, do forthwith cease and desist from:

(a) Using the name "Elgin," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(b) Using the name "Remington," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(c) Using the name "Underwood," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to respondents' products;

(d) Representing as the customary prices of respondent's products prices which are in excess of the prices at which such products are regularly and customarily sold in the normal course of business;

(e) Representing that the prices at which respondents' products are offered for sale are special or reduced prices or are applicable for a limited period of time only, when such prices are in fact the regular and customary prices at which such products are offered for sale in the normal course of business;

(f) Representing, through the issuance of purported "guarantee certificates" or otherwise, that respondents' products are guaranteed against defective workmanship and materials, unless respondents do in fact repair in accordance with the terms of such guarantee products found to be defective in such respects.

6. *It is further ordered*, That respondents Elgin Razor Corp., Underwood Laboratories, Inc., Underwood Industries, Inc., the Monarch Manufacturing Co., the American Camera Corp., and Electric Clock Corp. of America, corporations, and Henry T. Schiff, Frances R. Schiff, Benjamin A. Schiff, Jack Galter, individually and

1343

Order

and as former president of Match King, Inc., a dissolved corporation, Dora M. Galter, William Galter, Harry C. Feinberg, Robert D. Schoenbrod, Arnold F. Shapiro, individually and as former president of American Supercraft Corp., a dissolved corporation, Albert I. Leight, and Ed Cohan shall, within 90 days after the entry of the aforesaid decree by the United States Court of Appeals for the Seventh Circuit, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Order

47 F. T. C.

IN THE MATTER OF
CARTER PRODUCTS, INC., AND SMALL AND SEIFFER, INC.

MODIFIED ORDER TO CEASE AND DESIST

Docket 4960. Order May 24, 1951

Order modifying prior order of Commission, in accordance with the opinion and decision of the Court of Appeals for the Seventh Circuit on February 2, 1951, in *Carter Products, Inc., et al. v. Federal Trade Commission*, 186 F. (2d) 821, and the court's final decree in said matter (which modified and affirmed, as modified, the Commission's said cease and desist order in *Carter Products, Inc., et al.*, July 14, 1949, 46 F. T. C. 64) ;

So as to require respondents to cease and desist from advertising falsely or misleadingly the effectiveness of the preparation "Arrid" with respect to stopping perspiration and as a deodorant, etc., as in said order below set out.

Before *Mr. Everett F. Haycraft*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Breed, Abbott & Morgan, of New York City, for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence in support of the complaint and in opposition thereto, taken before a trial examiner of the Commission theretofore duly designated by it, the recommended decision of the trial examiner and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel ; and the Commission, having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on July 14, 1949 ; and

Respondents having filed in the United States Court of Appeals for the Seventh Circuit their petition to review and set aside the order to cease and desist issued herein, and that court having heard the matter on briefs and oral argument, fully considered the matter, and, on February 20, 1951, entered its final decree modifying and affirming, as modified, the aforesaid order to cease and desist pursuant to its opinion announced on February 2, 1951 :

NOW THEREFORE, *It is hereby ordered*, That respondents, Carter Products, Inc., a corporation, and Small & Seiffer, Inc., a corporation, and their respective agents, representatives and employees, directly or

1348

Order

through any corporate or other device in connection with the offering for sale, sale or distribution of a cosmetic preparation designated "Arrid," or any other product of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from:

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;

(a) That the application of said preparation stops underarm perspiration; provided, however, that nothing herein shall prevent the respondents from representing that the use of Arrid will prevent the appearance of perspiration when used as directed, namely, "daily" or "as frequently as you find necessary."

(b) That said preparation will keep the armpits dry or odorless, provided that nothing herein shall prevent respondents from representing that the use of Arrid will keep the armpits dry or odorless when used as directed, namely, "daily" or "as frequently as you find necessary."

(c) That the use of said preparation immediately after shaving will not irritate the skin.

(d) That said preparation will prevent the accumulation of odor-creating secretions or excretions in the armpits, provided that nothing herein shall prevent respondents from representing that the use of Arrid will prevent the accumulation of odor-creating body secretions or excretions in the armpits when used as directed, namely, "daily" or "as frequently as you find necessary."

(e) That said preparation is safe or harmless to use, without disclosing that it may cause irritation of sensitive skin.

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 of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1 hereof.

It is further ordered, That the respondents shall, within 90 days after the entry of the aforesaid decree by the United States Court of Appeals for the Seventh Circuit, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
NEW STANDARD PUBLISHING COMPANY, 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

Docket 4697. Complaint, Feb. 4, 1942—Decision, May 25, 1951

Where a corporation engaged in the interstate sale and distribution of sets of "Doubleday's Encyclopedia", and annual supplements or yearbooks therefor, and other publications such as the "New Century Dictionary", "Funk & Wagnalls Practical Standard Dictionary", the "Nature Library", sets of classics, and some other items such as bookcases and pencils; acting under the direction and control of its president who was also its principal stockholder;

In selling its said encyclopedia and supplements or yearbooks on a commission basis through salesmen who were provided with advertising literature furnished by the publisher, and other material including contract forms furnished by said corporation in which was set forth the price to be paid for the encyclopedia and other items included therewith, and also an order for the annual supplements or yearbooks, price of which, however, were not included in the figures stated, but was taken cognizance of in the small type statements "As provided in certificate", or "As provided below", beneath the words "Bound Annual Yearbooks"—

- (a) Falsely represented that the books were offered at a special low price for a limited time only, after which they would be considerably higher;
- (b) Falsely represented that the books were given away as an advertising plan to a limited number of persons selected because of their prominence, and that the only return requested was a recommendation which could be shown to other prospective customers;
- (c) Represented that the price of the books as shown in the body of the contract was the total price to be paid by the purchaser, including the cost of the annual supplements or yearbooks, that transportation charges would be paid by the corporation, and that the sum of \$1.85 or \$1.95, to be paid yearly for the annual supplements or yearbooks, was a handling charge only;

The facts being that said encyclopedia was a part of a combination sale; said total price represented as that of the yearbooks alone, was one of the prices at which such combination was regularly offered and sold; and the price of the books as shown in the body of the contract was not the total to be paid by the purchaser, including the cost of the annual supplements or yearbooks, for which the customer was required to pay the aforesaid \$1.85 or \$1.95, each, plus mailing charges, through the forwarding of certificates with which he was not provided until after the signing of the contract;

- (d) Falsely represented that salesmen of the corporation were salesmen of the publisher of said encyclopedia, and that the corporation was a subsidiary organization of said publisher for distribution of encyclopedias in the Southern States;