

Complaint

IN THE MATTER OF

PHILIP KREMER AND HARRY MONOKER TRADING AS
THE MURD COMPANY

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

Docket 5968. Complaint, Mar. 17, 1952—Decision, May 8, 1952

Where two individuals engaged in the manufacture and interstate sale and distribution of a rodenticide preparation designed by them as "Zurd"; in statements in advertisements concerning their product, directly and by implication—

- (1) Represented falsely that said rodenticide preparation was 100% efficient in that it would kill all rats and mice on the premises; would achieve complete control of any rat or mouse problem and would prevent reinfestation by such rodents;
- (2) Represented falsely that according to Department of Interior reports the ingredient Warfarin has been proven to eliminate all rats and mice on the premises; and
- (3) Represented that Zurd was safe and would not be harmful to humans, pets or domestic animals; when in fact it contained a poison and, if ingested, might cause illness and even the death of any warm blooded animal;

With tendency and capacity to mislead a substantial portion of the purchasing public into the mistaken belief that such representations were true and to induce it, because of such erroneous belief, to purchase said preparation; whereby substantial trade was unfairly diverted to them from their competitors, and substantial injury was done to competition in commerce:

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

Before *Mr. John Lewis*, hearing examiner.

Mr. Edward F. Downs for the Commission.

Einhorn & Schachtel, of Philadelphia, Pa., 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 Philip Kremer and Harry Monoker, individuals and co-partners, trading as The Murd Company, 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:

Complaint

48 F. T. C.

PARAGRAPH 1. Respondents, Philip Kremer and Harry Monoker, are individuals and as copartners trade as The Murd Company with their principal place of business located at 122 Cuthbert Street, Philadelphia, Pennsylvania.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the manufacture, sale and distribution of a rodenticide preparation designated by them as "Zurd," with the formula and directions for use thereof as follows:

Formula: Active Ingredients:		Percent
Warfarin (3-(<i>a</i> -acetylbenzyl)-4-hydroxycoumarin).....		0.025
Inert Ingredients.....		99.975

Directions:

SUGGESTED USE: Place 2 ounces to 1 pound of contents of this package in locations frequented by rats and mice and protect from children, dogs, cats and livestock by means of bait boxes or cages where necessary. ZURD should be replaced as consumed.

Where a continuous source of infestation prevails from nearby dumps or fields, permanent bait stations should be used and ZURD replenished as needed.

IMPORTANT NOTICE: Baiting should continue until complete lack of feeding is noted. This should be from five to fourteen days.

Be sure that sufficient ZURD is at hand to complete a continuous 14-day feeding program. If ZURD is exhausted before rats or mice have been completely eliminated, it is important to obtain additional ZURD promptly and avoid a delay of more than 1 or 2 days in the feeding program. Continuous, uninterrupted feeding is what gives you control.

MICE: For controlling mice follow the same general directions as for rats except bait placements may be smaller and more placements should be made. Mice are more difficult to control than rats and complete control may take a longer period of baiting.

CAUTION: ZURD contains as its active ingredients an anticoagulant chemical which if taken accidentally by humans, domestic animals, or pets may reduce the clotting ability of the blood and serious hemorrhage may result. In case baits are accidentally eaten, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Call a physician immediately.

NOTE FOR PHYSICIANS: When a human has been known to have accidentally ingested ZURD, blood transfusions combined with intravenous injections and oral doses of Vitamin K are indicated as in the case of hemorrhage caused by overdoses of DICUMAROL.

Respondents cause said preparation when sold to be transported from their place of business in the State of Pennsylvania to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia. Their volume of trade in said commerce has been and is substantial.

PAR. 3. In the course and conduct of their business as aforesaid and for the purpose of inducing the purchase of their said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondents have disseminated and caused the dissemination of certain advertisements, concerning their product, containing but not limited to the following statements and representations:

At last A 100% Efficient Scientific Method to KILL RATS and MICE with ZURD. New, Revolutionary Rodenticide, Made with Warfarin, Rids Farms, Stores, Homes of the Most Destructive Animals in the World and Prevents Reinfestation.

Complete Control Achieved.

U. S. Department of Interior reports prove complete elimination of rats and mice with Warfarin bait where the use of other poisons was not successful.

ZURD is harmless to humans, pets and domestic animals.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto but not specifically set out herein, respondents have represented, directly or by implication, as follows:

(a) That Zurd is 100% efficient in that it will kill all rats and mice on the premises; that it will achieve complete control of any rat or mouse problem and will prevent reinfestation by such rodents.

(b) That according to U. S. Department of Interior reports the ingredient Warfarin has been proven to eliminate all rats and mice on the premises.

(c) That Zurd is safe and will not be harmful to humans, pet or domestic animals.

PAR. 5. The statements and representations used and disseminated by respondents in the manner above described are false, misleading and deceptive. In truth and in fact:

(a) Respondents' preparation Zurd is not 100% efficient in that it will not kill all rats and mice on the premises, nor achieve complete control of any rat or mouse problem or prevent reinfestation by such rodents.

(b) U. S. Department of Interior reports have not proven nor indicated that the ingredient Warfarin will eliminate all rats and mice on the premises.

(c) Respondents' preparation Zurd contains a poison and if ingested may cause illness and even the death of any warm-blooded mammal.

PAR. 6. Respondents, in the course and conduct of their business, as aforesaid, have been and are engaged in substantial competition in commerce with other individuals, and with firms and corporations in the sale of rodenticide preparations.

Consent Settlement

48 F. T. C.

PAR. 7. The use by respondents of the foregoing false, misleading and deceptive statements and representations has had and now has the tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements are true, and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase the preparation sold by respondents. As a result thereof substantial trade has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done by respondents to competition in commerce.

PAR. 8. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

CONSENT AND SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on March 17, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in violation of the provisions of said Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of answer to said complaint, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.
2. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion,

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on May 8, 1952, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

3. Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondent consents may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, Philip Kremer and Harry Monoker, are individuals and as copartners trade as The Murd Company with their principal place of business located at 122 Cuthbert Street, Philadelphia, Pennsylvania.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the manufacture, sale and distribution of a rodenticide preparation designated by them as "Zurd," with the formula and directions for use thereof as follows:

Formula: Active Ingredients:

Warfarin (3-(α -acetonylbenzyl)	
-4-hydroxycoumarin) -----	0.025%
Inert Ingredients -----	99.975%

Directions:

SUGGESTED USE: Place 2 ounces to 1 pound of contents of this package in locations frequented by rats and mice and protect from children, dogs, cats and livestock by means of bait boxes or cages where necessary. ZURD should be replaced as consumed.

Where a continuous source of infestation prevails from nearby dumps or fields, permanent bait stations should be used and ZURD replenished as needed.

IMPORTANT NOTICE: Baiting should continue until complete lack of feeding is noted. This should be from five to fourteen days.

Be sure that sufficient ZURD is at hand to complete a continuous 14-day feeding program. If ZURD is exhausted before rats or mice have been completely eliminated, it is important to obtain additional ZURD promptly and avoid a delay of more than 1 or 2 days in the feeding program. Continuous, uninterrupted feeding is what gives you control.

MICE: For controlling mice follow the same general directions as for rats except bait placements may be smaller and more placements should be made. Mice are more difficult to control than rats and complete control may take a longer period of baiting.

CAUTION: ZURD contains as its active ingredients an anticoagulant chemical which if taken accidentally by humans, domestic animals, or pets may reduce the clotting ability of the blood and serious hemorrhage may result. In case

Findings

48 F. T. C.

baits are accidentally eaten, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Call a physician immediately.

NOTE FOR PHYSICIANS: When a human has been known to have accidentally ingested ZURD, blood transfusions combined with intravenous injections and oral doses of Vitamin K are indicated as in the case of hemorrhage caused by overdoses of DICUMAROL.

Respondents cause said preparation when sold to be transported from their place of business in the State of Pennsylvania to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia. Their volume of trade in said commerce has been and is substantial.

PAR. 3. In the course and conduct of their business as aforesaid and for the purpose of inducing the purchase of their said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondents have disseminated and caused the dissemination of certain advertisements, concerning their product, containing but not limited to the following statements and representations:

At last A 100% Efficient Scientific Method to KILL RATS and MICE with ZURD. New, Revolutionary Rodenticide, Made with Warfarin, Rids Farms, Stores, Homes of the Most Destructive Animals in the World and Prevents Reinfestation.

Complete Control Achieved.

U. S. Department of Interior reports prove complete elimination of rats and mice with Warfarin bait where the use of other poisons was not successful.

ZURD is harmless to humans, pets and domestic animals.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto but not specifically set out herein, respondents have represented, directly or by implication, as follows:

(a) That Zurd is 100% efficient in that it will kill all rats and mice on the premises; that it will achieve complete control of any rat or mouse problem and will prevent reinfestation by such rodents.

(b) That according to U. S. Department of Interior reports the ingredient Warfarin has been proven to eliminate all rats and mice on the premises.

(c) That Zurd is safe and will not be harmful to humans, pet or domestic animals.

PAR. 5. The statements and representations used and disseminated by respondents in the manner above described are false, misleading and deceptive. In truth and in fact:

(a) Respondents' preparation Zurd is not 100% efficient in that it will not kill all rats and mice on the premises, nor achieve complete

1323

Order

control of any rat or mouse problem or prevent reinfestation by such rodents.

(b) U. S. Department of Interior reports have not proven nor indicated that the ingredient Warfarin will eliminate all rats and mice on the premises.

(c) Respondents' preparation Zurd contains a poison and if ingested may cause illness and even the death of any warm blooded mammal.

PAR. 6. Respondents, in the course and conduct of their business, as aforesaid, have been and are engaged in substantial competition in commerce with other individuals, and with firms and corporations in the sale of rodenticide preparations.

PAR. 7. The use by respondents of the foregoing false, misleading and deceptive statements and representations has had and now has the tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements are true, and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase the preparation sold by respondents. As a result thereof substantial trade has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done by respondents to competition in commerce.

CONCLUSION

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

ORDER TO CEASE AND DESIST

It is ordered, That respondents Philip Kremer and Harry Monoker, individually and as co-partners trading as The Murd Company, or under any other name or names, their agents, representatives and employees, jointly or severally, 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 a rodenticide preparation designated "Zurd" or any other rodenticide preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from representing directly or by implication:

Order

48 F. T. C.

1. That said rodenticide preparation is 100% efficient, that it will kill all rats or all mice on the premises, or that it will achieve complete control of any rat or mouse problem or will prevent reinfestation by such rodents.

2. That according to the U. S. Department of the Interior reports the ingredient Warfarin has been proven to eliminate all rats or all mice on the premises.

3. That respondents' said preparation is safe and will not be harmful to humans, pets or domestic animals.

It is further ordered, That the respondents shall, within 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.

(s) *Murd Company,*
MURD COMPANY.

(s) *Philip Kremer,*
PHILIP KREMER.

(s) *Harry Monoker,*
HARRY MONOKER.

April 28, 1952.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 8th day of May 1952.

Complaint

IN THE MATTER OF
DOESKIN PRODUCTS, INC.

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

Docket 5800. Complaint, Aug. 14, 1950—Decision, May 15, 1952

Where a corporation engaged in the manufacture and interstate sale of its "Sanapak" sanitary napkins; in statements on cartons in which it packaged its product, in a full page advertisement in an issue of a Chicago newspaper of wide interstate circulation, and through a large broadside or circular distributed widely among its dealers—

- (a) Represented that tests conducted by Consumers Union showed its said product to be the safest and most absorbent of all sanitary napkins tested; facts being that all that the tests, as reported by Consumers Union, had shown was that respondent's napkins were among the first three in absorbency, and the actual ratings on absorbency—disclosed by the evidence but not included in the report—showed that according to the tests, respondent's napkin was the third or last in the group;
- (b) Stated in said newspaper advertisement, which also carried the picture of a young woman, that its product had been endorsed or approved by a "famous New York stylist"; when in fact the person so referred to was a young lady who was employed by respondent as secretary to one of its officers and made no claim to being a stylist, and the picture in the advertisement was of a professional model;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's product and to cause it to purchase such product as a result of the mistaken belief so engendered:

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.

Before *Mr. William L. Pack*, hearing examiner.

Mr. B. G. Wilson for the Commission.

Cravath, Swaine & Moore, of New York City, and *Wilmer & Brown*, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Doeskin Products, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows: