

## Syllabus

## IN THE MATTER OF

## C. G. WHITLOCK CHEMICAL COMPANY

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5823. Complaint, Nov. 1, 1950—Decision, Nov. 20, 1952*

Solutions generally known as "anti-freeze" for the protection of gasoline engines have been on the market and sold to the purchasing public throughout the United States for many years and have proved dependable in protecting the engines from the effect of cold without themselves causing damage, so that when such a product is thus designated a substantial portion of said public believes that it may be used without harm.

Where a corporation engaged in the manufacture and interstate sale and distribution of its "Frigid-O-BG" product to protect the cooling system of gasoline engines from freezing—

Represented in advertising and through labels attached to the container that its product was an anti-freeze preparation which prevented freezing without harm to the engine or cooling system, that it contained an effective rust inhibitor and would prevent rust or corrosion of all parts of the engine it contacted, and particularly the cooling system; that it would maintain a water level in the radiator to the extent that the engine would not overheat; and that it was a permanent type anti-freeze;

The facts being that it would cause serious corrosion of the cylinder block, water pump, radiator, and especially aluminum parts; through such corrosion would cause partial or complete stoppage of the water passages in the radiator with consequent overheating; would expand and create foam with resulting leakage and loss of the material and impairment of circulation; would not maintain a water level and so would result in overheating; and was not a permanent anti-freeze;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with effect of inducing it to purchase substantial quantities of said product thereby:

*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 respects the fact that it appeared that respondent in July 1950 filed a petition in the District Court of Illinois for reorganization under the Bankruptcy Act and that an amended petition was thereafter filed and approved, and the assets, with certain exceptions, sold to a purchaser who agreed to sell those pledged and remit the proceeds to the court: it further appeared that the purchaser had continued to use the corporate name and was continuing the business in which the corporation was engaged before such reorganization.

## Complaint

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Before *Mr. Henry P. Alden* and *Mr. Webster Ballinger*, hearing examiners.

*Mr. Jesse D. Kash* for the Commission.

*Griffin, Winning, Lindner & Newkirk*, of Springfield, Ill., 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 C. G. Whitlock Chemical Company, a corporation, 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. C. G. Whitlock Chemical Company is a corporation organized under and by virtue of the laws of the State of Illinois, with its office and principal place of business located in Springfield, Illinois.

PAR. 2. The respondent is now and for more than one year last past has been engaged in the manufacture, sale and distribution of a solution called "Frigid-O," intended to protect gasoline engines from damage that might be caused by the freezing of the cooling systems of such engines during cold weather.

In the course and conduct of such business respondent causes its said product when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States and maintains and at all times mentioned herein has maintained a course of trade in said product in commerce among and between the various States of the United States. Its volume of business in such commerce is substantial.

PAR. 3. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said anti-freeze product, respondent has made certain representations concerning the nature of its said product and the results to be obtained from its use, by means of statements made in advertising matter and on the labels attached to the containers of said product. Typical of such statements and representations circulated as aforesaid are the following:

*Representations in Advertising Matter*

Be Wise \* \* \* Winterize with Frigid-O-BG.  
SAFE STURDY EFFICIENT ECONOMICAL.  
MEETS THE REQUIREMENTS FOR STATES LICENSING AND  
APPROVAL.

Whitlock's FRIGID-O-BG Formula. Blended Glycol. One U. S. Gallon. PERMANENT ANTI-FREEZE. Non-Evaporating Variety. C. G. WHITLOCK CHEMICAL CO., Springfield, Illinois.

*Representations Made on the Labels*

FRIGID-O-BG cooling capacity in solution is equal to water. FRIGID-O-BG will not expand and be lost through overflow pipes in normal operation. FRIGID-O-BG is permanent type. Once installed, you usually maintain water level in radiator for complete protection. FRIGID-O-BG contains Blended Glycol, Rust Inhibitor and artificial color. From the results of our experiences, tests, practical application and reports of Independent Laboratories, FRIGID-O-BG is offered as a permanent type anti-freeze to be used only in the cooling systems of water cooled engines. Following the usual practice of the Chemical Industry, FRIGID-O-BG is sold without warranty or other liability of any kind. No Chloride Salt such as calcium chloride, sodium chloride or magnesium chloride is used as an ingredient in the manufacture of FRIGID-O-BG. BE WISE AND WINTERIZE with FRIGID-O-BG.

WHITLOCK'S FRIGID-O Brand BG FORMULA. BLENDED GLYCOL-NON-ACETATE. ONE U. S. GALLON. PERMANENT TYPE ANTIFREEZE. NON-EVAPORATING VARIETY. C. G. WHITLOCK CHEMICAL CO., SPRINGFIELD, ILL.

PAR. 4. Through the use of the statements and representations above set forth and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that its product "Frigid-O" prevents freezing in the cooling systems of gasoline engines without harm to the engine or the cooling system thereof; that it contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact and particularly the cooling system; that it will not expand, overflow or be lost in normal operation; that it will maintain a water level in the radiator to the extent that the engine will not overheat; and that it is a permanent type anti-freeze.

PAR. 5. The foregoing representations are false, deceptive and misleading. Respondent's product is not harmless to gasoline engines or to the cooling systems thereof. It will not prevent rust or corrosion in any part of the engine or cooling system. In truth and in fact, respondent's product has highly injurious effects on the cooling systems of gasoline engines in that it will cause serious corrosion of the cylinder block, water pump, radiator, and especially of any aluminum parts. The corrosion resulting from the use of such solution will cause partial or complete stoppage of the water passages in the radiator with consequent overheating. Said product does expand and creates foam resulting in leakage and loss of the material to a point where circulation in the engine and radiator is impaired. It will not maintain a water level in the radiator so that the engine will not overheat and consequently it is not a permanent type anti-freeze.

PAR. 6. For many years solutions have been on the market and sold to the purchasing public throughout the United States for the protection of gasoline engines from damage that might be caused by the freezing of the contents of the cooling systems of such engines. These solutions are generally known as "anti-freeze" and have proven dependable in protecting the engines from the effect of cold without themselves causing damage. As a consequence, when such a product is so designated, a substantial portion of the purchasing public believes that it may be used without harm to the engine or cooling system thereof. Respondent's product will cause damage to the engine and cooling system and the designation of its product as an "anti-freeze" is, consequently, misleading.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading representations has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and induces and has induced members of the purchasing public to purchase substantial quantities of respondent's product as a result of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices 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.

#### DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated November 20, 1952, the initial decision in the instant matter of hearing examiner Webster Ballinger, as set out as follows, became on that date the decision of the Commission.

#### INITIAL DECISION BY WEBSTER BALLINGER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 1, 1950, issued and subsequently served its complaint in this proceeding upon respondent, C. G. Whitlock Chemical Company, a corporation, charging it with the use of unfair and deceptive acts or practices in commerce in violation of the provisions of said Act. Respondent answered, and thereafter hearings were held at which testimony and other evidence in support of the allegations of the complaint were introduced before Henry P. Alden, Esq., a hearing examiner theretofore duly designated

by the Commission, counsel for respondent being present. Upon the retirement from the service of said hearing examiner, the above-named hearing examiner was duly designated and appointed in the place and stead of the said Henry P. Alden. A hearing was thereafter held at which evidence was introduced by counsel for the complaint for and on behalf of the respondent before the above-named hearing examiner, the respondent failing to appear. After due notice the hearings were closed and the testimony and other evidence duly filed and recorded in the office of the Commission.

Thereafter, the proceeding regularly came on for final consideration by the above-named hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusion drawn therefrom submitted by counsel for the complaint (none having been filed by counsel for respondent), oral argument not having been requested; and said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. C. G. Whitlock Chemical Company is a corporation organized under and by virtue of the laws of the State of Illinois with its office and principal place of business located in Springfield, Illinois.

PAR. 2. The respondent, prior to December 31, 1948, was engaged in the manufacture, sale and distribution of a product called "Frigid-O" intended to protect gasoline engines from damage that might be caused by the freezing of the cooling systems of gasoline engines during cold weather. Subsequent to December 31, 1948, respondent has been engaged in the manufacture, sale, and distribution of a product called "FRIGID-O-BG" under a different formula.

In the course and conduct of such business respondent caused its said product "Frigid-O-BG" when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various part of the United States and maintains, and at all times mentioned herein has maintained, a course of trade in said product in commerce among and between the various States of the United States. Its volume of business in such commerce is substantial.

PAR. 3. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said anti-freeze product respondent has made certain representations concerning the nature of its said product "Frigid-O-BG" and the results to be obtained from its use by means of statements made in advertisting matter and on the labels attached to the containers of said product. Typical of such

statements and representations circulated as aforesaid are the following:

*Representations in Advertising Matter*

Be Wise \* \* \* Winterize with Frigid-O-BG.  
SAFE STURDY EFFICIENT ECONOMICAL.  
MEETS THE REQUIREMENTS FOR STATES LICENSING AND APPROVAL.  
Whitlock's FRIGID-O-BG Formula. Blended Glycol. One U. S. Gallon  
PERMANENT ANTI-FREEZE, Non-Evaporating Variety. C. G. WHITLOCK  
CHEMICAL CO., Springfield, Illinois.

*Representations Made on the Labels*

FRIGID-O-BG cooling capacity in solution is equal to water. FRIGID-O-BG will not expand and be lost through overflow pipes in normal operation. FRIGID-O-BG is permanent type. Once installed, you usually maintain water level in radiator for complete protection. FRIGID-O-BG contains Blended Glycol, Rust Inhibitor and artificial color. From the results of our experiences, tests, practical application and reports of Independent Laboratories, FRIGID-O-BG is offered as a permanent type anti-freeze to be used only in the cooling systems of water cooled engines. Following the usual practice of the Chemical Industry, FRIGID-O-BG is sold without warranty or other liability of any kind. No Chloride Salt such as calcium chloride, sodium chloride or magnesium chloride is used as an ingredient in the manufacture of FRIGID-O-BG. BE WISE AND WINTERIZE with FRIGID-O-BG.

WHITLOCK'S FRIGID-O Brand BG FORMULA. BLENDED GLYCOL  
NON-ACETATE. ONE U. S. GALLON. PERMANENT TYPE ANTIFREEZE.  
NON-EVAPORATING VARIETY. C. G. WHITLOCK CHEMICAL CO.,  
SPRINGFIELD, ILL.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that its product "FRIGID-O-BG" prevents freezing in the cooling systems of gasoline engines without harm to the engine or to the cooling system thereof; that it contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact, and particularly the cooling system; that it will maintain a water level in the radiator to the extent that the engine will not overheat; and that it is a permanent type anti-freeze.

PAR. 5. The foregoing representations are false, deceptive and misleading. Respondent's product is not harmless to gasoline engines or to the cooling systems thereof. It will not prevent rust or corrosion in any part of the engine or cooling system. Respondent's product has highly injurious effects on the cooling systems of gasoline engines in that it will cause serious corrosion of the cylinder block, water pump, radiator, and especially of any aluminum parts. The corrosion resulting from the use of such solution will cause partial or complete

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stoppage of the water passages in the radiator with consequent overheating. Said product does expand and creates foam resulting in leakage and loss of the material to a point where circulation in the engine and radiator is impaired. It will not maintain a water level in the radiator so that the engine will not overheat, and is not a permanent type anti-freeze.

PAR. 6. For many years solutions have been on the market and sold to the purchasing public throughout the United States for the protection of gasoline engines from damage that might be caused by the freezing of the contents of the cooling systems of such engines. These solutions are generally known as "anti-freeze" and have proved dependable in protecting the engines from the effect of cold without themselves causing damage. As a consequence, when such a product is so designated, a substantial portion of the purchasing public believes that it may be used without harm to the engine or cooling system thereof.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading representations has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and induces, and has induced, members of the purchasing public to purchase substantial quantities of respondent's product as a result of such erroneous and mistaken belief.

PAR. 8. It appears from unauthenticated papers included in the record that on July 17, 1950, respondent filed in the District Court for the Southern District of Illinois a petition for reorganization under Chapter 10 of the Bankruptcy Act; that an amended petition was thereafter filed, approved and all the assets of the corporation, with the exception of certain assets therefore pledged, were sold to a purchaser, who agreed to sell the pledged assets and remit the proceeds thereof to the court; that the purchaser has continued to use the corporate name and is continuing the business in which the corporation was engaged before the reorganization.

## CONCLUSION

The aforesaid acts and practices 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 C. G. Whitlock Chemical Company, a corporation, its successors or assigns, officers, agents, representatives and

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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 an anti-freeze solution designated "FRIGID-O-BG" do forthwith cease and desist from:

1. Representing that its product "FRIGID-O-BG," or any other product of substantially similar composition, is an anti-freeze preparation for use in cooling systems of internal combustion engines, without affirmatively stating in a clear and conspicuous manner in immediate conjunction with such representation, that said preparation will rust and corrode the cooling system of such an engine and clog the passages in such cooling system and otherwise damage such engine.
2. Representing that its product "FRIGID-O-BG" contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact, and particularly the cooling system.
3. Representing that its product "FRIGID-O-BG" will not expand, overflow or be lost in normal operation.
4. Representing that its product "FRIGID-O-BG" will maintain a water level in the radiator to the extent that the engine will not overheat, or that it is a permanent type anti-freeze.

## ORDER TO FILE REPORT OF COMPLIANCE

*It is ordered,* That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of November 20, 1952].

## Syllabus

## IN THE MATTER OF

HARRY H. AND ETHEL P. HEYMAN TRADING AS SUNWAY  
VITAMIN COMPANY

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

*Docket 5224. Complaint Dec. 20, 1946<sup>1</sup>—Decision, Dec. 1, 1952*

Where a surviving partner engaged through a corporate instrumentality in the interstate sale and distribution of a medicinal preparation containing various components of the Vitamin B complex and designated as "Sunway Vitamin Capsules"; in advertising through letters, circulars, pamphlets, booklets, and other advertising literature, and radio continuities—

- (a) Falsely represented that said preparation would relieve and eliminate low resistance to disease, coughs and colds; when in fact such low resistance is not caused by a deficiency of any of the components of its said product;
- (b) Falsely represented that it would relieve and eliminate nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells, and general poor health, due to any vitamin deficiency; when it was of no value in doing so except in that minority of such conditions caused by a deficiency of Vitamin B<sub>1</sub>, Vitamin B<sub>2</sub>, or niacinamide; and it had not been scientifically determined that a deficiency of Vitamin B<sub>3</sub> or calcium pantothenate, the only other active ingredient, could result in any of the aforesaid disorders;
- (c) Falsely represented that the use of such preparation as directed was effective in relieving conditions arising from substantial deficiencies in one or more components of the Vitamin B complex; when in fact it was thus effective only in cases arising from a substantial deficiency of vitamin B<sub>1</sub>, as to which it provided what is currently regarded as a therapeutic dose; while it contained approximately the daily minimum requirements of Vitamin B<sub>2</sub> and niacinamide, it did not provide a recognized therapeutic dosage thereof; and while it would be effective in relieving ailments caused solely by deficiencies of Vitamin B<sub>1</sub>, and, when taken regularly over a long period of time, would tend to relieve such conditions resulting from mild deficiencies of Vitamin B<sub>2</sub> and niacinamide, it would be of no value in cases of substantial deficiencies of said last two;
- (d) Represented that said capsules contained all of the vitamins that are beneficial in promoting or maintaining good health in individuals generally, and that the most carefully selected foods, cooked in the tastiest ways, fail to supply the vitamins necessary for health, and that individuals generally require a fresh supply of vitamins daily through the administration of respondent's vitamin capsules or like products;

When in fact it did not contain Vitamins A, C and D; and it is entirely possible to secure the vitamins necessary for health through the ingestion of foods properly selected and appropriately cooked, and individuals generally do not

<sup>1</sup> Amended.