

Complaint

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IN THE MATTER OF

MILNER PRODUCTS COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6268. Complaint, Dec. 22, 1954—Decision, Jan. 11, 1956*

Consent order requiring manufacturers in Jackson, Miss., to cease advertising falsely in newspapers and magazines and by radio and television that their disinfectant "Pine-Sol" was more concentrated and contained more active ingredients than any other pine oil product, that a few drops would sanitize garbage cans and keep them sweet smelling, and that the product was not a soap or detergent.

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

Mr. Edward F. Downs for the Commission.

Mr. Richard L. Underwood, 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 Milner Products Company, a corporation, and R. E. Dumas Milner, Howard S. Cohoon and Thurman L. Pitts, individually and as officers of said corporation, hereinafter referred to as respondents, have 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:

PARAGRAPH 1. Respondent Milner Products Company is a corporation organized and existing under and by virtue of the laws of the State of Mississippi, with its office and principal place of business located at 4349 N. View Drive, Jackson, Mississippi.

Respondents R. E. Dumas Milner, Howard S. Cohoon and Thurman L. Pitts are officers of corporate respondent. These individuals formulate, direct and control the policies, acts and practices of corporate respondent. Their address is the same as that of the corporate respondent.

PAR. 2. The respondents are now and for more than one year last past have been engaged in the manufacture, sale and distribution of a disinfectant designated by them as "Pine-Sol," the formula of which is:

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Steam Distilled Pine Oil -----	77.2%
Soap -----	10 %
Isopropyl Alcohol -----	2 %
Inert ingredients: Water and Coumarin Derivative	
Optical Bleach -----	10 %

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

Respondents are now and at all times hereinafter mentioned have been in substantial competition with other corporations and with individuals, partnerships and firms engaged in the sale of disinfectants in commerce.

PAR. 3. In the course and conduct of their said business and for the purpose of inducing the purchase of their said product in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondents, by means of advertisements inserted in newspapers and magazines and by radio and television commercial announcements, have made certain claims and representations with respect to their said product. Among and typical, but not all inclusive, of such claims and representations are the following:

PINE-SOL contains up to 4½ TIMES AS MUCH ACTIVE INGREDIENTS.

CONCENTRATED Pine-Sol gives you the best results per ounce.

— — — *concentrated* * * * it is 90% active ingredients.

Pine-Sol gives you more for your money—a full 16 ounce bottle.

Amazing Pine-Sol has more active ingredients than any other pine oil product.

Few drops keeps garbage can sweet smelling. Sanitizer.

Repels Flies.

Not a soap * * * or detergent.

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

1. That Pine-Sol is more concentrated and contains more or a greater percentage of active ingredients than any other pine oil product.

2. That Pine-Sol is so strong that only a few drops are required to sanitize and prevent odors in garbage cans.

3. That Pine-Sol will repel flies.

4. That Pine-Sol is not a soap or detergent.

PAR. 5. The aforesaid statements and representations used by respondents are false, misleading and deceptive. In truth and in fact:

1. Pine-Sol is not more concentrated and does not contain a higher percentage of active ingredients than many other pine oil disinfectants on the market.

2. A "few" drops of Pine-Sol would be insufficient to sanitize, nor would such amount prevent odors in, garbage cans.

3. Pine-Sol is not a fly repellent.

4. Pine-Sol is a soap as it contains 10% of soap and since it contains both soap and a solvent it is a detergent.

PAR. 6. The use by respondents of the foregoing false, misleading and deceptive statements and representations, and others similar thereto, has the tendency and capacity to mislead 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 mistaken and erroneous belief, to purchase respondents' said product. As a direct result of the practices of respondents, as aforesaid, substantial trade in commerce is and has been diverted to respondents from their competitors and injury has been and is being done to competition in commerce between and among the various States of the United States.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of the competitors of respondents and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges respondents with misrepresenting a disinfectant sold by them, in violation of the Federal Trade Commission Act. After the filing of respondents' answer to the complaint, hearings were held at which evidence in support of the complaint was received, at the conclusion of which respondents moved for dismissal of the complaint for failure of proof. The hearing examiner denied the motion except as to one issue, that as to whether respondents' product is a fly repellent. As to this issue, the examiner was of the view that a prima facie case in support of the complaint had not been established and he announced his

intention of dismissing the complaint as to this issue, upon final consideration of the case. An agreement for a consent order has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all the jurisdictional allegations in the complaint; that respondents' answer to the complaint shall be considered as having been withdrawn, and that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission to which respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if made after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided by statute for orders of the Commission; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order (which covers all of the charges in the complaint except the one referred to above), and being of the opinion that they provide an adequate basis for an appropriate settlement and disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Milner Products Company is a corporation existing and doing business under and by virtue of the laws of the State of Mississippi, with its office and principal place of business located at 4349 North View Drive, Jackson, Mississippi. Respondents R. E. Dumas Milner, Howard S. Cohoon and Thurman L. Pitts are officers of the corporation, their respective addresses being the same as that of the corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Milner Products Company, a corporation, and its officers, and respondents R. E. Dumas Milner, Howard S. Cohoon and Thurman L. Pitts, individually and as offi-

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cers of said corporation, and respondents' representatives, agents 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 the pine oil disinfectant designated "Pine-Sol," or any other disinfectant 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:

1. That said product is more concentrated or contains more or a greater percentage of active ingredients than any or all other pine oil products, unless such is the fact.
2. That any specified amount of said product will sanitize or be of any other benefit unless such is the fact.
3. That said product is not a soap or detergent.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 11th day of January, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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 the order to cease and desist.

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IN THE MATTER OF
FOOD TOWN, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6424. Complaint, Oct. 3, 1955—Decision, Jan. 11, 1956*

Consent order requiring a corporation operating a chain of supermarkets in Washington, D. C., to cease suggesting that the oleomargarine it sold was a dairy product through intermixing advertisements thereof among such items as cheese under the heading "DAIRY FOODS" in newspapers.

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

Mr. Morton Nesmith for the Commission.

Reasoner & Davis, of Washington, D. C., for respondent.

COMPLAINT ¹

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 Food Town, 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:

PARAGRAPH 1. Respondent, Food Town, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business located at 1400 S. Capitol Street in the city of Washington, District of Columbia.

PAR. 2. Respondent Food Town, Inc., is now and for more than one year last past has been engaged, among other things, in the distribution and sale of oleomargarine, a food. Respondent, or its subsidiaries, causes said oleomargarine, when sold, to be transported from a warehouse located in the District of Columbia to purchasers thereof located in various States of the United States and in the District of Columbia. Respondent, or its subsidiaries, maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product in commerce in the District of Columbia and among and between the various States of the United States.

¹ Complaint is published as amended by order of hearing examiner granting motion to amend complaint dated November 8, 1955.