

Complaint

IN THE MATTER OF

GEORGE HORWITZ ET AL. DOING BUSINESS AS
NORTH BERGEN QUILTING COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-214. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring manufacturers of sleeping bags and cot pads in North Bergen, N.J., to cease confusing purchasers as to the finished size of their products by listing the "cut size" in their circulars and other advertising and promotional material and on attached tags or labels, when the actual size was smaller than the cut size.

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 George Horwitz and Milton Horwitz, individually and as copartners doing business as North Bergen Quilting Company, 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. Respondents George Horwitz and Milton Horwitz are individuals and copartners doing business as North Bergen Quilting Company, with their office and principal place of business located at 6035 Hudson Boulevard, North Bergen, N.J.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of sleeping bags and cot pads to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New Jersey to retailers 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 substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of listing in their circu-

lars, and other advertising and promotional material and by tags, tickets or labels attached to said products listing the "cut size" thereof, which is almost invariably larger than the actual size of the products in question. The term "cut size", when used in the manner as alleged above, is confusing and tends to indicate that such a description is the actual size of the finished products. In truth and in fact, this is almost never the case, as the actual size of the finished products is smaller than the sizes set out on the labels.

Therefore the statements and representations set forth above were, and are, false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices respondents place in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the size of said products.

PAR. 6. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by

respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents George Horwitz and Milton Horwitz are individuals and copartners doing business as North Bergen Quilting Company, with their office and principal place of business located at 6035 Hudson Boulevard, North Bergen, N.J.

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 respondents George Horwitz and Milton Horwitz, individually and as copartners doing business as North Bergen Quilting Company or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution, in commerce as "commerce" is defined in the Federal Trade Commission Act, of sleeping bags, cot pads or other similar merchandise, do forthwith cease and desist from:

1. Advertising, labeling, representing in circulars, catalogs or otherwise representing the "cut size" or dimensions of material used in their construction unless such representations are accompanied by descriptions of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such product on labels or in any other manner;

3. Furnishing to others any means or instrumentality by or through which the public may be misled as to the finished or actual size of their finished products.

It is further 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 this order.

Complaint

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IN THE MATTER OF

ROBIN PHARMACAL CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-215. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962

Consent order requiring New York City distributors of drug preparations to wholesale and retail druggists and pharmacists to cease advertising falsely in periodicals, letters, etc., that they had "unvarying quality controls" and exercised "constant checkups" which assured "uniform, quality production".

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 Robin Pharmacal Corporation, Sidney Rich, individually and Sidney Rich and Charlotte Rich, 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 Robin Pharmacal Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 30-30 Northern Boulevard, Long Island City, in the city of New York, State of New York.

Respondent Robin Pharmacal Corporation is a closed corporation, the entire stock of which is owned by Sidney Rich and Charlotte Rich, his wife. Respondents Sidney Rich and Charlotte Rich are sole officers of the corporate respondent and comprise all the members of the board of directors. Sidney Rich formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution to retail druggists and pharmacists, and drug wholesalers and distributors, of preparations containing ingredients which come within the classification of drugs and foods as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

Among, but not all inclusive of, the said preparations are those designated as follows: