

Complaint

61 F.T.C.

IN THE MATTER OF

HELENE CURTIS INDUSTRIES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-227. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring Chicago manufacturers of equipment for use by beauty shop operators, to cease representing falsely in brochures, pamphlets, circulars, and other advertising literature that their "Tahitian South Seas" and "Magic-Aire Gold Star" hair dryers employed a new method of hair drying, were "air-conditioned", had a wider temperature range than was the fact, and were "Fully Guaranteed".

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 Helene Curtis Industries, Inc., a corporation, and Central Beauty Equipment Company, Inc., a corporation, and Willard Gidwitz and Gerald Gidwitz, individually and as officers of said corporations, 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. Corporate respondents Helene Curtis Industries, Inc., and Central Beauty Equipment Company, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois, with their offices and principal places of business located at 4401 West North Avenue, Chicago, Ill. Corporate respondent Central Beauty Equipment Company, Inc., is a wholly owned subsidiary of corporate respondent Helene Curtis Industries, Inc.

Willard Gidwitz and Gerald Gidwitz are officers of the respondent corporations. They formulate, direct and control the policies, acts and practices of the said corporate respondents. Their address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, sale and distribution of equipment, for use by beauty shop operators, including electric hair dryers. The said hair dryers, under various brand names including "Magic-Aire Gold Star" and "Tahitian South Seas", are sold to beauty shop operators and to distributors for resale to beauty shop operators.

PAR. 3. In the course and conduct of their business respondents cause, and have caused, their products, when sold, to be transported from their place of business in the State of Illinois to purchasers and distributors 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 substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents at all times mentioned herein have been, and now are, in substantial competition with corporations, firms and individuals engaged in the sale of hair dryers of the same general kind and nature as those sold by respondents.

PAR. 5. Respondents in the course and conduct of their said business, and for the purpose of inducing the purchase of their products, advertise the same by means of brochures, pamphlets, circulars and other advertising literature. The following are among and typical of the statements made in said advertising:

A new air-conditioned dryer that sells at conventional dryer prices

* * * * *

The South Seas Tahitian never needs reactivation

* * * * *

At last an entirely new concept in hair drying

* * * * *

Now you can give every patron the cool comfort, sheer luxury of air conditioned drying at the price you would expect to pay for a conventional hot air dryer

* * * * *

Automatic temperature control . . . permits operator to select the perfect temperature—from room temperature to 130°

* * * * *

Fully guaranteed—including a service warranty.

PAR. 6. Through the use of said advertisements and others similar thereto, not specifically set out herein, respondents have represented and are now representing directly and by implication:

1. That the "Tahitian South Seas" hair dryer:

(a) Employs a new method of hair drying;

(b) Is "air-conditioned", that is, that it furnishes cool dry air rather than hot humid air to the user's hair and that it removes moisture from the air;

(c) Under normal operating conditions furnishes hot air within a temperature range from room temperature to 130°.

2. By the use of the words "Fully guaranteed" in the advertising of their said product, that the entire product is guaranteed by them in every respect.

Complaint

61 F.T.C.

PAR. 7. Through the use of said advertisements and others similar thereto, not specifically set out herein, respondents Helene Curtis Industries, Inc., and Willard Gidwitz and Gerald Gidwitz individually and as officers of said corporate respondent, have represented and are now representing directly and by implication:

1. That the "Magic-Aire Gold Star" hair dryer:
 - (a) Employs a new method of hair drying;
 - (b) Is "air-conditioned", that is, that it furnishes cool dry air rather than hot humid air to the user's hair and that it removes moisture from the air;
 - (c) Under normal operating conditions furnishes hot air within a temperature range from room temperature to 130°.

2. By the use of the words "Fully Guaranteed" in the advertising of their said product, that the entire product is guaranteed by them in every respect.

PAR. 8. In truth and in fact:

1. The Tahitian South Seas and Magic-Aire Gold Star hair dryers:
 - (a) Are not a new type of hair dryer nor do they employ a new concept in hair drying, nor do they constitute a new discovery in hair drying;
 - (b) Are not "air-conditioned", do not furnish cool dry air to the user's hair, and do not remove moisture from the air;
 - (c) Do not permit operation from room temperature to 130°. The temperature control thermostat employed in each of these hair dryers is only calibrated from 91° through 128°.

2. The guarantees provided with the "Tahitian South Seas" and the "Magic-Aire Gold Star" hair dryers do not guarantee the entire product in every respect, but are limited both as to time and extent. Moreover, service charges and transportation charges are made for repairs or adjustments, which fact is not disclosed in respondents' advertisements.

For the foregoing reasons, the statements and representations set forth in paragraphs 6 and 7 are false, misleading and deceptive.

PAR. 9. The use by the respondents of the foregoing false, misleading and deceptive statements has had, and now has, the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements were, and are, true and into the purchase of substantial quantities of respondents' hair dryers by reason thereof.

PAR. 10. 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,

510

Decision and Order

unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 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, Helene Curtis Industries, Inc., and Central Beauty Equipment Company, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of Illinois, with their offices and principal places of business located at 4401 West North Avenue, Chicago, Ill. Corporate respondent Central Beauty Equipment Company, Inc., is a wholly owned subsidiary of corporate respondent Helene Curtis Industries, Inc.

Respondents Willard Gidwitz and Gerald Gidwitz are officers of said corporations and their address is the same as that of said corporations.

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 Helene Curtis Industries, Inc., a corporation, and its officers, Central Beauty Equipment Company, Inc., a corporation and its officers and Willard Gidwitz and Gerald Gidwitz, individually and as officers of said corporations, and respondents' repre-

sentatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hair dryers in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That said hair dryers are so equipped that they can remove moisture from the air they furnish to the user, unless specifically limited to models of said hair dryers which are in fact equipped to remove moisture from the air;

(b) That said hair dryers furnish cooled or dried air to the user's hair, unless specifically limited to models of said hair dryers which do in fact furnish cooled or dried air to the user's hair;

(c) That said hair dryers will furnish hot air to the user at any temperature outside the range actually afforded by their heat control thermostat.

2. Using the term "air-conditioned" to describe said hair dryers or representing in any other manner that said hair dryers are air conditioned, unless specifically limited to models of said hair dryers which furnish cool, dried air to the user's hair.

3. Representing directly or by implication that any operating principle of any of respondents' hair dryers, or any component of such hair dryers, which is not new or based on a new discovery or a new application to hair dryers of a known principle is new or based on a new discovery or application.

It is further ordered, That respondents, Helene Curtis Industries, Inc., a corporation, and its officers, Central Beauty Equipment Company, Inc., a corporation, and its officers and Willard Gidwitz and Gerald Gidwitz, individually and as officers of said corporations and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hair dryers or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication that any product is guaranteed unless all of the terms and conditions of such guarantee and the manner and form in which the guarantor will perform are clearly and conspicuously set forth.

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

IN THE MATTER OF
JOHN H. GINSBACH DOING BUSINESS AS
ALAMO FRUIT DISTRIBUTORS, LTD.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(c)
OF THE CLAYTON ACT

Docket C-228. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962

Consent order requiring a Texas fruit packer to cease violating Sec. 2(c) of the Clayton Act by paying commissions or discounts on a large number of purchases of citrus fruit by brokers and direct buyers for their own accounts for resale.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly described, has been and is now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent John H. Ginsbach is an individual doing business as Alamo Fruit Distributors, Ltd., with his office and principal place of business located in Alamo, Texas, with mailing address as P. O. Box 1025, Alamo, Texas.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter referred to as citrus fruit or fruit products. Respondent sells and distributes his citrus fruit through company salesmen, brokers and wholesalers, as well as direct to customers located in many sections of the United States. When brokers are utilized in making sales for him, respondent pays them for their services a brokerage or commission, usually at the rate of 5 cents per carton or 10 cents per $1\frac{3}{5}$ bushel box, or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of his business over the past several years, respondent has sold and distributed and is now selling and distributing his citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Texas in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from his place of business or packing plant in the State of Texas, or from other places within the