

## Complaint

## IN THE MATTER OF

## COLGATE-PALMOLIVE COMPANY, ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-1692. Complaint, Feb. 24, 1970—Decision, Feb. 24, 1970*

Consent order requiring a New York City corporation engaged in the manufacture and distribution of plastic bag wraps described as "Baggies" and its advertising agency to cease the deceptive use of any test, experiment or demonstration in advertising respondent's plastic bags.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Colgate-Palmolive Company, a corporation, and Masius, Wynne-Williams, Street & Finney, Inc., a 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 Colgate-Palmolive Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal office and place of business located at 300 Park Avenue, in the city of New York, State of New York.

Respondent Masius, Wynne-Williams, Street & Finney, Inc., 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 535 Fifth Avenue, in the city of New York, State of New York.

PAR. 2. Respondent Colgate-Palmolive Company now, and for some time past, has been engaged in the sale and distribution of a plastic bag wrap described as "Baggies," which, when sold is shipped to purchasers located in various States of the United States. Thus respondent maintains and at all times mentioned herein has maintained, a substantial course of trade in bag wrap in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondent Masius, Wynne-Williams, Street & Finney, Inc., is now and for some time last past has been, an advertising agency of

Colgate-Palmolive Company, and now prepares and places, and for some time last past has prepared and placed, advertising material, including but not limited to the advertising referred to herein, to promote the sale in commerce of Baggies and other products.

PAR. 3. Respondent Colgate-Palmolive Company, at all times mentioned herein has been and now is in substantial competition in commerce with individuals, firms and corporations engaged in the sale and distribution of bag wraps.

PAR. 4. In the course and conduct of its business and for the purpose of inducing the sale of Baggies, respondents have advertised said Baggies by means of a demonstration and various statements used in connection therewith in television broadcasts transmitted by television stations located in various States of the United States and in the District of Columbia having sufficient power to carry such broadcasts across State lines.

Said demonstration and the statements used in connection therewith is contained in the following commercial:

Title: "Sink"

1. Friend: (Testily) Baggies Schmaggies. They're no better than my sandwich bag.
2. Woman: Oh no? Run some water.
3. (SFX: Running Water) Woman: I'll prove Baggies seal tighter with Twister Seals. Friend: But Helen.
4. Woman: Here's my sandwich in Baggies, and yours in the other kind.
5. Friend: (under) don't! Woman: I'll dunk them both. Watch.
6. Woman: Baggies seal tight but your bag leaks. My sandwich is still fresh.
7. Now what do you say.
8. Okay, you proved Baggies with Twister Seals are better.
9. But did you have to ruin my sandwich?

PAR. 5. Through the use of the aforesaid demonstration and the statements used in connection therewith, respondents represent, directly or by implication, that such demonstration is proof of how Baggies keep food fresh, and that such demonstration is proof of the superiority of Baggies over competitive wraps for keeping food fresh when stored under ordinary conditions of use.

PAR. 6. In truth and in fact, the said demonstration, including the statements and representations used in connection therewith, is not proof of the ability of Baggies to keep food fresh and is not proof of the superiority of Baggies over other competitive wraps for keeping food fresh under ordinary conditions of use, for a myriad of factors, including micro flora, temperature, air, moisture, storage and the type of food stored, all have an interrelated part in the prevention of food spoilage. Dunking the sealed bags in a sink of water

and swishing them vigorously for three to five seconds during which time the closure of the competitive bag allows water to enter while no water enters the "Baggies" is not proof of the comparative abilities of the two bags to prevent food spoilage under ordinary conditions of use.

Therefore, the said demonstration, including the statements and representations used in connection therewith, is false, misleading and deceptive.

PAR. 7. The use by the respondents of the aforesaid demonstration and the statements and representations used in connection therewith 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 said demonstration including the statements and representations used in connection therewith did and does constitute proof of the food storage capabilities of Baggies, and into the purchase of a substantial quantity of Colgate-Palmolive's bag wrap because of such 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 constituted, and now constitute, unfair and deceptive acts and practices, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and;

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating

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its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Colgate-Palmolive Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 300 Park Avenue, in the city of New York, State of New York.

Respondent Masius, Wynne-Williams, Street & Finney, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 535 Fifth Avenue, in the city of New York, State of New York.

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

## I

*It is ordered,* That respondent Colgate-Palmolive Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of Baggies or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising any such product by presenting a test, experiment or demonstration or part thereof that is presented as actual proof of any fact or product feature that is material to inducing the sale of the product, but which does not actually prove such fact or product feature.

## II

*It is further ordered,* That respondent Masius, Wynne-Williams, Street & Finney, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporation or other device, in connection with the advertising, offering for sale, sale or distribution of Baggies or any bag wrap or similar product or any Colgate-Palmolive Company product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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Advertising any such product by presenting a test, experiment or demonstration or part thereof that is presented as actual proof of any fact or product feature that is material to inducing the sale of the product, but which does not actually prove such fact or product feature.

*It is further ordered,* That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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IN THE MATTER OF

HURLEY CHINCHILLA RANCH, INC., ET AL.