

Fifth Circuit, October 14, 1969, 418 F.2d 489 (8 S.&D. 1041), and judg-

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Final Order

ment dated November 21, 1969, a cease and desist order dated June 13, 1967, 71 F.T.C. 822, by allowing a manufacturing drug firm to state that its products would temporarily relieve pain and itching and help to reduce swelling associated with hemorrhoids in many cases.

FINAL ORDER

The Commission having issued its original order to cease and desist in this matter on June 13, 1967 [71 F.T.C. 822], and the respondent having appealed from the Commission's decision; and

The matter having been remanded to the Commission for further proceedings by the United States Court of Appeals for the Fifth Circuit by its opinion issued October 14, 1969 [8 S.&D. 1041], and judgment dated November 21, 1969; and

The time for filing a petition for certiorari having expired without any such petition having been filed,

It is ordered, That the previously issued cease and desist order of the Commission be, and it hereby is, modified to read as follows:

ORDER

I. *It is ordered*, That respondent Bristol-Myers Company, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing the dissemination of any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, in connection with the offering for sale, sale or distribution of The Pazo Formula Ointment and The Pazo Formula Hemorrhoid Suppositories, or any other non-prescription drug products offered for sale for the treatment or relief of hemorrhoids or piles or any of its symptoms, which:

A. Represents directly or by implication that the use of such products will:

(1) Reduce, shrink, or afford any relief of hemorrhoidal veins themselves: *Provided, however*, That nothing contained herein shall be construed to prohibit the dissemination of any advertisement which represents that the use of such products will help reduce swelling of hemorrhoidal tissue caused by edema, infection, or inflammation, or that the use of such products will help reduce swelling of hemorrhoidal tissue by lubricating the affected area;

(2) Avoid the need for surgery as a treatment for hemorrhoids or hemorrhoidal symptoms;

(3) Heal, cure, or remove hemorrhoids, or eliminate the problem of hemorrhoids;

(4) Afford any relief from pain or itching associated with hemorrhoids in excess of affording temporary relief of pain and itching of hemorrhoidal tissue in many cases;

(5) Afford any other type of relief, or have any other effect on, hemorrhoids or hemorrhoidal symptoms.

B. Contains any reference to any ingredient or ingredients either singly or in combination unless each such ingredient is effective in the treatment or relief of hemorrhoids or any of its symptoms and unless the specific effect thereof is expressly and truthfully set forth.

II. *It is further ordered*, That respondent and its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of The Pazo Formula Ointment and The Pazo Formula Hemorrhoid Suppositories, or any other non-prescription drug product offered for sale for the treatment or relief of hemorrhoids or any of its symptoms, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph I hereof.

III. In the event that respondent at any time in the future markets any non-prescription drug preparation for the treatment or relief of hemorrhoids or any of its symptoms for which it desires to make any of the representations now prohibited under Paragraph I of this order, it may petition the Commission for a modification of the order. Such petition shall be accompanied by a showing that the representation is not false or misleading within the meaning of the Federal Trade Commission Act, and, if such has been the case, that the specific representation has been accepted as part of the labeling for such product by the Secretary of the Department of Health, Education and Welfare under the provisions of the Federal Food, Drug and Cosmetic Act as it is presently constituted or as it may hereafter be amended.

It is further ordered, That respondent 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 this order to cease and desist.

Complaint

IN THE MATTER OF

THE BENDIX CORPORATION, ET AL.

ORDER, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7
OF THE CLAYTON ACT AND THE FEDERAL TRADE COMMISSION ACT

*Docket 8739. Complaint, June 29, 1967 *—Decision, June 18, 1970*

Order requiring a major manufacturer of mechanical components and assemblies for the automotive, aerospace and other industries with headquarters in Detroit, Mich., to divest within one year all assets and properties of the Fram Corporation, one of the largest manufacturers of automotive and aerospace filters and liquid separators, located in Providence, R.I., any play of divestiture to be approved in advance by the Federal Trade Commission. It is further ordered that pending divestiture the property acquired from Fram be operated as a separate entity, that no Fram assets be disposed of without Federal Trade Commission consent, that the separate Fram Corporation be operated in a manner to maintain its competitive position in the filter industry, that Bendix hire no Fram employee for three years, that Bendix not acquire any filter and water separator manufacturer for 10 years without Federal Trade Commission consent, and that Bendix submit every 90 days a progress report on the steps it has taken toward complete divestiture.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Bendix Corporation and Fram Corporation have violated the provisions of Section 7 of the Clayton Act, as amended, 15 U.S.C. Sec. 18, and the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. Sec. 45(a)(1), through an agreement by which The Bendix Corporation is to acquire substantially all of the assets and business of Fram Corporation, issues its complaint charging as follows:

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DEFINITIONS

1. For the purposes of this complaint, the following definitions shall apply:

(a) Filters: Mechanical devices, including complete filter units and elements, for the removal of contaminants from gaseous and liquid substances.

*Reported as amended by hearing examiner's order of December 19, 1967, by adding Count III and Paragraph Nos. 33 and 34.