

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.

IN THE MATTER OF

STANDARD BRANDS, INC., ET AL.

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

Docket C-2377. Complaint, April 9, 1973—Decision, April 9, 1973.

Consent order requiring a New York City manufacturer, seller and distributor of margarine, including "Fleischmann's," and its advertising agency, among other things to cease disseminating any advertisements which represent (1) that children incur the same risks of heart and artery disease induced by blood cholesterol as middle-aged men; (2) that scientific tests establish evidence that childhood diet is causally related to premature heart and artery disease in adult life; (3) corn oil is higher in polyunsaturates or lower in saturates than other oils; and (4) use of "Fleischmann's Margarine" prevent or mitigate heart and artery disease.

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 Standard Brands, Inc., a corporation and Ted Bates & Company, 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 Standard Brands, Inc., 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 625 Madison Avenue, New York, New York.

PAR. 2. Respondent Ted Bates & Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 666 Fifth Avenue, New York, New York.

PAR. 3. Respondent Standard Brands, Inc., is now, and for some time past has been, engaged in the manufacture, sale and distribution of margarines, including several margarines sold under the trade name "Fleischmann's," which come within the classification of a "food" as said term is defined in the Federal Trade Commission Act.

PAR. 4. Respondent Ted Bates & Company, Inc., is now, and for some time past has been, an advertising agency of respondent Standard Brands, Inc., and now for some time past has prepared and placed for publication, and has caused the dissemination of, advertising material including, but not limited to, the advertising referred to herein, to promote the sale of respondent Standard Brands, Inc.'s "Fleischmann's Margarines" products.

PAR. 5. Respondent Standard Brands, Inc., caused the aforesaid products, when sold, to be transported from its place of business in one State of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent Standard Brands, Inc., maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 6. In the course and conduct of their said businesses, respondents have disseminated and have caused the dissemination of certain advertisements concerning the said products by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of the aforesaid products, and have disseminated and have caused the dissemination of advertisements concerning the said products by the United States mails and by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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PAR. 7. Typical of the statements and representations in said advertisements, disseminated as aforesaid, but not all inclusive thereof, are the following:

EAT TO YOUR HEART'S CONTENT.

What we eat depends on why we eat, Whether it be for pleasure, for nourishment, or just to keep trim. But how many of us eat for our heart's benefit? ...According to latest medical opinion, a low-saturated-fat, low-cholesterol diet is still one of the best ways to a man's heart... Such diets invariably include a vegetable oil margarine—like Fleischmann's. Why? Because Fleischmann's is made from 100% corn oil, and *no vegetable oil lowers serum cholesterol better than corn oil*. No margarine tastes better, either. Fleischmann's has that light, distinctive flavor that has helped make it America's favorite premium margarine... Strike a blow for better diets. Invite Fleischmann's to dinner. And breakfast. And lunch. It might do your heart good. *P.S.* If you're interested in the variety of service material Fleischmann's offers doctors and their patients, write Fleischmann's Margarines, Box 46F, Mount Vernon, N.Y. 10559. No other margarine manufacturer is better equipped to serve you in this field... Fleischmann's Margarines... made from 100% corn oil Fleischmann's comes *Lightly Salted*, *Unsalted*, and *Soft*. And for half the calories, half the fat of regular margarines, try delicious *Diet Fleischmann's*.

HAPPY BIRTHDAY, JIMMY. TODAY YOU'RE 38 YEARS OLD.

Not a trace of gray hair. You're in the 4th grade. And there are 10 candles on your cake... But your body is feeling some of the strains of middle age. And it's upsetting... Like millions of middle-aged men, your cholesterol level may be too high. How come? The foods you eat are loaded with saturated fats. Those mountains of ice cream. 13 cent hamburgers. Butter... There are other problems, too. Like exercise. Six hours in front of the TV set doesn't do much for your muscles... Yes, Jimmy, you're a very young 38... Right now, you don't worry about coronary disease or a high cholesterol level. But your doctor does. And so should your mother... One thing she can do to help is to improve your dietary habits. Start you eating more foods that are low in saturated fats. This involves substituting vegetable oils for animal fats wherever possible... One substitution you'll like, Jimmy, is Fleischmann's Margarine. It's made from 100% corn oil. And *no oil is more effective in lowering your cholesterol level*. Check your doctor. Chances are he knows all about Fleischmann's. And how it can help you enjoy a low-saturated fat diet... Then check your taste buds... You'll see why Fleischmann's rich corn oil flavor has made it a favorite in homes all across the country... Eat the right foods. Get the right kind of exercise. So when your next birthday rolls around, your body won't be like 38 anymore. Just a very healthy 11. Many happy returns, Jimmy... from Fleischmann's... the premium margarine doctors name most... and people like best. Fleischmann's Margarines

Cholesterol can build up from childhood on. Up and up until it may become a real health risk... More and more people are getting concerned about it. But that's not enough. You've got to take action... Many doctors advise everyone in your family to start eating foods that help lower cholesterol levels... Like Fleischmann's Margarine... Made from 100% corn oil, and it's low in saturated fats... In fact, there's no better oil to help lower cholesterol levels... And there's no better tasting margarine than Fleischmann's... Fleischmann's. the corn oil margarine doctors name most and people like best.

SHOULD AN 8-YEAR-OLD WORRY ABOUT CHOLESTEROL?

He can't worry about something he doesn't know about. But *you* should Cholesterol can start building up in a kid. Up and up until he grows up with a real health risk Heart specialists recommend reducing one important risk of coronary disease tomorrow by starting your family on low cholesterol meals today Foods low in saturated fats, high in polyunsaturates to help reduce serum cholesterol. Foods like Fleischmann's Margarine. It's made from 100% corn oil. And there's no better oil to help lower cholesterol levels And no better tasting margarine. Fleischmann's—the corn oil margarine doctors name most . . . and people like best.

IS THERE A HEART ATTACK IN HIS FUTURE?

More and more doctors are coming to the conclusion that the best time to deal with coronary disease is thirty or forty years before it is likely to occur. . . . That is why they are recommending good dietary habits, especially the low-saturated-fat diet—not only for the heart patient, but for people of *all age groups*—as a means of controlling blood cholesterol and to reduce the risk of coronary disease later on. . . . Such a regimen, of course, involves the substitution of vegetable oils for animal fats wherever possible. But which vegetable oil? Actually, *none has been found more effective than corn oil in lowering serum cholesterol.*¹⁵ This makes Fleischmann's Margarine a logical choice for inclusion in the diet since it is *made from 100% corn oil*, over half of which is in liquid form. . . . And don't forget . . . Fleischmann's delicious flavor has made it America's favorite premium margarine. That makes it easier for your patients to stay with the low-saturated-fat diets you recommend.

References: 1. Grande, F., *et al.*; Proc. Soc. Exp. Biol. Med. 98:436, June 1958. 2. Armstrong, W.D., *et al.*; Proc. Soc. Exp. Biol. Med. 96:302, Nov. 1957. 3. Beveridge, J.M.R., *et al.*; J. Nutr. 83:119, June 1964. 4. Perkins, R., *et al.*; JAMA 169:1731, Apr. 11, 1959. 5. Ahrens, A.H., Jr., *et al.*; Lancet 1(272):943, May 11, 1957.

Fleischmann's Margarines the only 100% corn-oil margarines available nationally in *Lightly Salted*, *Unsalted*, and *Soft* forms.

Diet Fleischmann's . . . All the advantages of corn oil, but with one-half the calories, one-half the fat of regular margarine.

PAR. 8. As used herein, the terms "polyunsaturates" and "polyunsaturated fat" shall refer to polyunsaturated fatty acids.

PAR. 9. Through the use of said advertisements and others similar thereto and not specifically set out herein, disseminated as aforesaid, respondents have represented, and are now representing, directly or by implication, that: (a) Children generally incur the same risks of premature heart and artery diseases as middle-aged men;

(b) Competent and reliable scientific evidence has established that premature heart and artery disease during adult life is causally related to diet during childhood;

(c) Corn oil is higher in polyunsaturates and lower in saturates than any other oil available for use in or used in margarines or similar food oil products;

(d) The use of Fleischmann's Margarines will prevent or mitigate heart and artery disease.

PAR. 10. In truth and in fact:

(a) Children generally do not incur the same risks of premature heart and artery diseases as middle-aged men;

(b) It has not been established by competent and reliable scientific evidence that premature heart and artery disease during adult life is causally related to diet during childhood. To the extent that any substantial connection between the two is generally recognized to exist, that connection is in the nature of a recognition that personal dietary habits or preferences are often established during childhood and last into adult life, and at that later time may influence an adult's risks of heart and artery disease that occur in connection with diet;

(c) Corn oil is not higher in polyunsaturates and lower in saturates than all other oils available for use in or used in margarines or similar food oil products;

(d) The use of Fleischmann's Margarines will not prevent or mitigate heart and artery disease. Any contribution to that effect that may be made by Fleischmann's Margarines depends on their use as a part of a low saturated fat diet.

Therefore, the advertisements referred to in Paragraphs Seven and Nine were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act, and the statements and representations set forth in Paragraphs Seven and Nine were, and are, false, misleading and deceptive.

PAR. 11. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Standard Brands, Inc., has been, and now is, in substantial competition with corporations, firms and individuals in the sale in commerce of food products of the same general kind and nature as that sold by respondents.

PAR. 12. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Ted Bates & Company, Inc., has been and now is in substantial competition in commerce with other advertising agencies.

PAR. 13. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and the dissemination of the aforesaid "false advertisements" has had, and now has, the capacity and tendency to mislead members of the consuming public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent Stan-

dard Brands, Inc.'s products by reason of said erroneous and mistaken belief.

PAR. 14. The aforesaid acts and practices of respondents, including the dissemination of "false advertisements," 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 and deceptive acts and practices in commerce and unfair methods of competition in commerce in violation of Sections 5 and 12 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 Consumer Protection 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 Paragraph Six of 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 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, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Standard Brands, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 625 Madison Avenue, New York.

Respondent Ted Bates & Company, Inc., is a corporation

organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1515 Broadway, New York, 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

It is ordered, That respondent Standard Brands, Inc., a corporation, and respondent Ted Bates & Company, Inc., a corporation, and their 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 Fleischmann's Margarines or any other margarine or any other food fat or food oil, as "food" is defined in the Federal Trade Commission Act, forthwith cease and desist from directly or indirectly:

A. Disseminating, or causing the dissemination of any advertisement by means of the United States mails or by means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which:

(1) Represents, directly or by implication, that children generally incur the same risks of heart and artery diseases as middle-aged men, or that children incur risks of heart and artery diseases induced by blood cholesterol, or that such risks require of children the same steps of prevention or treatment required of middle-aged men.

(2) Represents, directly or by implication, that competent and reliable scientific evidence has established that premature heart and artery disease during adult life is causally related to diet during childhood, or represents that premature heart and artery disease is causally or otherwise related to, or in any manner may originate in, diet during childhood; unless respondents clearly and conspicuously disclose, if such is the case, that such causal relationship is an open question recognized by qualified experts, and that the existence of such a relationship has not been established by competent and reliable scientific evidence.

Provided, That this paragraph shall not prohibit representations that dietary habits or preferences established during childhood may last into adult life.

(3) Represents, directly or by implication, that corn oil is higher in polyunsaturates or lower in saturates than another oil or oils available for use or used in margarines or similar food oil products, unless such is the case.

(4) Represents that the use of Fleischmann's Margarines or other food fats or food oils will prevent or mitigate heart and artery disease.

Provided, That nothing in this paragraph shall prevent representations that Fleischmann's Margarines can be used as part of a diet to reduce serum cholesterol which can contribute to such effect.

B. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such food, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations or misrepresentations prohibited in Part A hereof.

It is further ordered, That respondents 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.

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.

IN THE MATTER OF

ITT CONTINENTAL BAKING COMPANY, INC., ET AL.

Docket 8860. Order, April 11, 1973.