

IN THE MATTER OF
HUGH MOONEY T/A ORGANIC MASQUE CO.

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

Docket C-2645. Complaint, Mar. 6, 1975 - Decision, Mar. 6, 1975

Consent order requiring a Greenwich, Conn., seller and distributor of a skin preparation known as Organic Masque, among other things to cease making false performance and effectiveness claims and misrepresenting the extent to which the product has been tested or the results of its use demonstrated.

Appearances

For the Commission: *Jean F. Greene* and *Mark A. Heller*.

For the respondent: *Charles B. Chernofsky*, Pearl River, N.Y.

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 Hugh Mooney, individually and doing business as Organic Masque Co., hereinafter

referred to as respondent, has 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 this complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Hugh Mooney is an individual trading and doing business as Organic Masque Co., with his principal place of business at 283 Greenwich Ave., Greenwich, Conn.

PAR. 2. Respondent is now, and for some time past has been, engaged in the advertising, offering for sale, sale and distribution of a skin preparation known as Organic Masque.

PAR. 3. In the course and conduct of his aforesaid business, respondent now causes, and for some time last past has caused his said skin preparation, when sold, to be shipped from his place of business in the State of Connecticut to purchasers thereof located in various other States of the United States, and maintains and at all times mentioned herein, has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his aforesaid business, respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning the said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertising concerning the said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of the said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of his aforesaid business, respondent has made, and is now making, numerous statements and representations in magazines, and elsewhere with respect to the ability of the said product to cleanse and cure blemished skin. Typical and illustrative of the statements and representations contained in said advertising and promotional material, but not all inclusive thereof, is the following:

The most fabulous new cosmetic development in years! An incredible new organic face mask that really works * * * that really draws blackheads, hardened oils, tiny facial hairs and imbedded dirt right out of your pores safely, quickly, easily, at once, right before your eyes! * * * in about fifteen minutes or so Organic Masque becomes firm and dry to the touch * * * look closely and you'll see blackheads, bits of hardened oil, imbedded dirt, old make-up, even facial hairs glued firmly to that mask * * *!

* * * * *

This has to be the most fantastic cosmetic product you ever used in your life because you see it work immediately.

PAR. 6. By and through the use of said statements and representations made by respondent in his advertising and promotional materials, respondent is representing and has represented, directly or by implication, that:

1. Organic Masque is a revolutionary development in facial masks;
2. The use of Organic Masque will immediately remove all blackheads and unclog all pores for each individual who uses the product;
3. Organic Masque will produce blemish-free skin on every individual who uses it;
4. Tests or demonstrations which prove the representations numbered 1, 2, and 3 above have been conducted.

PAR. 7. In truth and in fact:

1. Organic Masque is not a revolutionary development in facial masks;
2. The use of Organic Masque will not immediately remove all blackheads and unclog all pores for each individual who uses the product;
3. Organic Masque will not produce blemish-free skin on every individual who uses it;
4. Tests or demonstrations which prove the representations numbered 1, 2, and 3 above have not been conducted.

PAR. 8. In the course and conduct of his business as aforesaid, and at all times mentioned herein, respondent has been in substantial competition in commerce with corporations, firms, and individuals in the sale of skin preparations.

PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity 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 respondent's skin preparation by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of the respondent, as herein alleged, were and are to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of such agreement is for settlement purposes only and does not constitute an admission by respondent 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 respondent has 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hugh Mooney is an individual, trading and doing business as Organic Masque Co., with principal place of business at 283 Greenwich Ave., Greenwich, Conn.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Hugh Mooney, individually and trading and doing business under the name Organic Masque Co., or under any other name, and his successors, assigns, representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of skin preparations or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- A. Representing, directly or by implication that:

1. Any such product is a new or revolutionary development;
2. Any such product removes blackheads or will unclog pores, or that the use of any such product produces or helps to produce clear or blemish-free skin;
3. Has any quality, characteristics, or capacity, or will have any result, or will perform in any given manner, or is effective for any purpose, unless each such quality, characteristic, capacity, result, manner of performance, or effectiveness has been fully substantiated by competent and reliable scientific testing.

B. Disseminating or causing the dissemination of any advertising by United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which misrepresents, directly or by implication:

1. The performance, efficacy, capacity, or usefulness, or any characteristic, property, quality, or the result of use of any such product.
2. The extent to which any such product has been tested, or the results of its use demonstrated.

C. 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 product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations, acts or practices prohibited in Paragraphs A or B above.

It is further ordered, That the respondent promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent shall within sixty (60) days and at the end of six (6) months after the effective date of the order served upon him file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of his compliance with the order to cease and desist.

Complaint

85 F.T.C.

IN THE MATTER OF
TAX CORPORATION OF AMERICA (MARYLAND), ET
AL.

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

Docket C-2649. Complaint, Mar. 6, 1975 - Decision, Mar. 6, 1975

Consent order requiring a Montrose, Calif., firm engaged in the sale of personal income tax preparation services, mutual funds, lines of insurance, and individual budgeting and bill paying services, among other things to cease misrepresenting their income tax preparation services, and using tax return information for other purposes without the customer's prior consent.

Appearances

For the Commission: *Louis Rosenman.*

For the respondents: *Lawrence G. Meyer, Patton, Boggs & Blow,*
Wash., D.C.

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 Tax Corporation of America (Maryland) and Tax Corporation of America (Delaware), 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. Respondent Tax Corporation of America (Maryland) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2441 Honolulu St., Montrose, Calif.

Respondent Tax Corporation of America (Delaware) 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 2441 Honolulu St., Montrose, Calif. It is a wholly-owned subsidiary of, and is managed, directed and controlled by, respondent Tax Corporation of America (Maryland).

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, and sale of personal income tax preparation services, mutual funds, lines of insurance, individual budgeting and bill paying services to the general public.