

FINAL ORDERS*

These matters have been heard on appeal (by complaint counsel and respondent in No. 7717, and by complaint counsel in No. 7721) from initial decisions of the hearing examiner. For the reasons stated in the accompanying opinion, the Commission, without adjudicating any of the issues raised by these appeals, has determined that the public interest would not be served by entry of cease-and-desist orders in these proceedings and that the complaints in these matters should be dismissed. Accordingly,

It is ordered, That the initial decisions be, and they hereby are, vacated and set aside.

It is further ordered, That the complaints against respondents be, and they hereby are, dismissed.

Commissioner MacIntyre not concurring in the result.

IN THE MATTER OF
CHESEBROUGH-PONDS, INC.**

ORDERS, OPINION, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT

Dockets 8491-8500, 8502-8508. Complaints, June 13, 1962—Decisions, July 27, 1964

Orders setting aside initial decisions—respondents having ceased making the alleged discriminatory payments—and opinion setting forth declaratory findings defining the requirements of the law as a binding guide for future conduct in cases in which complaints charged 17 manufacturers of drugs, cosmetics and sundries with violating Sec. 2(d) of the Clayton Act by making payments for advertising in customer-owned publications including (1) wholesalers' catalogs distributed to retailer customers for use in ordering merchandise, and (2) catalogs distributed by wholesalers to retailers for dissemination to the buying public.

*In the following related cases of Max Factor & Company, Docket No. 7717 and Shulton, Inc., Docket No. 7721.

**And the following related cases: Union Carbide Corporation, Docket No. 8492; Becton, Dickinson & Company, Docket No. 8493; Warner-Lambert Pharmaceutical Company, Docket No. 8494; Julius Schmid, Inc., Docket No. 8495; The Mennen Company, Docket No. 8496; Eversharp, Inc., Docket No. 8497; Sterling Drug, Inc., Docket No. 8498; Corn Products Company, Docket No. 8499; White Laboratories, Inc., Docket No. 8500; Chemway Corporation, Docket No. 8502; The d-Con Company, Inc., Docket No. 8503; Hazel Bishop, Inc., Docket No. 8504; Philip Morris, Incorporated, Docket No. 8505; Lehn & Fink Products Corporation, Docket No. 8506; B. T. Babbitt, Inc., Docket No. 8507; Youngs Rubber Corporation, Docket No. 8508.

The Complaints and Final Orders in these cases were consolidated by the compiler.

COMPLAINTS

The Federal Trade Commission, having reason to believe that the party respondents named in the caption hereof, and hereinafter more particularly described, have violated and are now violating the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13), hereby issues its complaints, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Chesebrough-Pond's, Inc., Docket No. 8491, 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 485 Lexington Avenue, New York, New York.

Respondent Union Carbide Corporation, Docket No. 8492, 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 30 East 42nd Street, New York, New York.

Respondent Becton, Dickinson & Company, Docket No. 8493, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at Rutherford, New Jersey.

Respondent Warner-Lambert Pharmaceutical Company, Docket No. 8494, 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 Morris Plains, New Jersey.

Respondent Julius Schmid, Inc., Docket No. 8495, 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 423-439 West 55th Street, New York, New York.

Respondent The Mennen Company, Docket No. 8496, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at Hanover Avenue, Morristown, New Jersey.

Respondent Eversharp, Inc., Docket No. 8497, 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 350 Fifth Avenue, New York, New York.

Respondent Sterling Drug, Inc., Docket No. 8498, 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 1450 Broadway, New York, New York.

Respondent Corn Products Company, Docket No. 8499, is a corpo-

ration 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 717 Fifth Avenue, New York, New York.

Respondent White Laboratories, Inc., Docket No. 8500, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at Kenilworth, New Jersey.

Respondent Chemway Corporation, Docket No. 8502, 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 Fairfield Road, Wayne, New Jersey.

Respondent The d-Con Company, Inc., Docket No. 8503, 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 1450 Broadway, New York, New York.

Respondent Hazel Bishop, Inc., Docket No. 8504, 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 445 Park Avenue, New York, New York.

Respondent Philip Morris Incorporated, Docket No. 8505, is a corporation organized, existing and doing business under the laws of the State of Virginia with its office and principal place of business located at 100 Park Avenue, New York, New York.

Respondent Lehn & Fink Products Corporation, Docket No. 8506, 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 445 Park Avenue, New York, New York.

Respondent B. T. Babbitt, Inc., Docket No. 8507, 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 625 Madison Avenue, New York, New York.

Respondent Youngs Rubber Corporation, Docket No. 8508, 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 145 Hudson Street, New York, New York.

PAR. 2. Respondent Chesebrough-Pond's, Inc., Docket No. 8491, is now and has been engaged in the business of manufacturing, selling and distributing cosmetics, toiletries, drugs and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$66,000,000 in the year 1959.

Respondent Union Carbide Corporation, Docket No. 8492, through

its division, Union Carbide Consumer Products Company, formerly National Carbon Company, is now and has been engaged in the business of manufacturing, selling and distributing dry cell batteries, flashlights and related battery and flashlight products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$1,200,000,000 in the year 1959.

Respondent Becton, Dickinson & Company, Docket No. 8493, is now and has been engaged in the business of manufacturing, selling and distributing medical thermometers, syringes, needles, household gloves and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$26,000,000 in the year 1959.

Respondent Warner-Lambert Pharmaceutical Company, Docket No. 8494, through its divisions and subsidiaries, is now and has been engaged in the business of manufacturing, selling and distributing cold remedies, anodynes, toothpastes, antiseptics and related products. It sells these products to wholesalers of drugs and sundries throughout the United States. Respondent's total sales are substantial, having exceeded \$190,000,000 in the year 1959.

Respondent Julius Schmid, Inc., Docket No. 8495, is now and has been engaged in the business of manufacturing, selling and distributing prophylactic rubber products, gynecological products, and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's sales were approximately \$8,000,000 in the year 1959.

Respondent The Mennen Company, Docket No. 8496, is now and has been engaged in the business of manufacturing, selling and distributing toilet articles which include men's deodorants, shaving lathers, lotions, talcs, baby powders, baby oils, foot powder and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$20,000,000 in the year 1959.

Respondent Eversharp, Inc., Docket No. 8497, through its division Schick Safety Razor Company, is now and has been engaged in the business of manufacturing, selling and distributing razors, razor blades and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$18,000,000 in the year 1959.

Respondent Sterling Drug, Inc., Docket No. 8498, through its division Glenbrook Laboratories, is now and has been engaged in the business of manufacturing, selling and distributing cosmetics, toilet-

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ries, proprietary drugs, sundries and related products. It sells its products to wholesalers of drugs and sundries located throughout the United States. Respondent's total sales are substantial, having exceeded \$200,000,000 in the year 1959.

Respondent Corn Products Company, Docket No. 8499, through its division Best Foods, is now and has been engaged in the business of manufacturing, selling and distributing shoe dressings, household dyes, color removing agents and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$500,000,000 in the year 1959.

Respondent White Laboratories, Inc., Docket No. 8500, is now and has been engaged in the business of manufacturing, selling and distributing drugs, pharmaceuticals and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$15,000,000 in the year 1959.

Respondent Chemway Corporation, Docket No. 8502, through its divisions Dunbar Laboratories and Household Products, is now and has been engaged in the business of manufacturing, selling and distributing cosmetics, toiletries, insecticides, proprietary drugs and related products. It sells its products to wholesalers of drugs and sundries throughout the United States. Respondent's total sales are substantial, having exceeded \$7,000,000 in the year 1959.

Respondent The d-Con Company, Inc., Docket No. 8503, is now and has been engaged in the business of manufacturing, selling and distributing rodenticides, insecticides, cleansing and deodorizing agents, lighter fluids, shoe dressings and related products. It sells its products to drugs and sundries wholesalers located throughout the United States. Respondent's total sales are substantial having exceeded \$4,000,000 in the year 1959.

Respondent Hazel Bishop, Inc., Docket No. 8504, is now and has been engaged in the business of manufacturing, selling and distributing cosmetics and related products. It sells these products to wholesalers of drugs and sundries throughout the United States. Respondent's total sales are substantial, having exceeded \$8,000,000 in the year 1959.

Respondent, Philip Morris Incorporated, Docket 8505, through its division American Safety Razor Company, is now and has been engaged in the business of manufacturing, selling and distributing razors, razor blades and related products. It sells its products to its customers located in all of the States of the United States and the

District of Columbia. Respondent's total sales are substantial, having exceeded \$500,000,000 in the year 1960.

Respondent, Philip Morris Incorporated, Docket No. 8505, on May 3, 1960, purchased all of the assets and business of A.S.R. Products Company, a corporation organized under the laws of the State of Virginia with its office and principal place of business located at 308 Madison Avenue, New York, New York. Prior to said acquisition A.S.R. Products Company was engaged in the business of manufacturing, selling and distributing among other things, razors, razor blades and allied products. It sold its products to drug and sundries wholesalers located throughout the United States. Sales by A.S.R. Products Company were substantial having exceeded \$32,000,000 in the year 1959. [Paragraph Three in separate complaint.]

Since Philip Morris Incorporated acquired A.S.R. Products Company on May 3, 1960, Philip Morris Incorporated has carried on the business of A.S.R. Products Company as a Division of Philip Morris Incorporated, and has changed the name of the Division from A.S.R. Products Company to American Safety Razor Company. [Paragraph Four in separate complaint.]

Respondent Lehn & Fink Products Corporation, Docket No. 8506, is now and has been engaged in the business of manufacturing, selling and distributing disinfectants, deodorants, skin creams, hair rinses, bath preparations, feminine hygiene products and related products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$32,000,000 in the year 1959.

Respondent B. T. Babbitt, Inc., Docket No. 8507, through its divisions and subsidiaries, is now and has been engaged in the business of manufacturing, selling and distributing household cleansing products, hair creams, sprays, shampoos and related products. It sells its products to wholesalers and retailers throughout the United States. Respondent's total sales are substantial having exceeded \$23,000,000 in the year 1959.

Respondent Youngs Rubber Corporation, Docket No. 8508, is now and has been engaged in the business of manufacturing, selling and distributing prophylactic rubber products. It sells its products to drug and sundries wholesalers located throughout the United States. Respondent's total sales are substantial, having exceeded \$6,000,000 in the year 1959.

PAR. 3. In the course and conduct of their business, respondents have engaged and are now engaging in commerce, as "commerce" is defined in the Clayton Act, as amended, in that respondents sell and

