

Complaint

IN THE MATTER OF

E. C. DEWITT & CO., INC.

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

*Docket 8642. Complaint, Aug. 28, 1964—Decision, Dec. 16, 1966**

Order requiring a New York City manufacturer of "Man Zan Pile Ointment" and other pile remedies to cease falsely representing in its advertising that its product will shrink, avoid need for surgical treatment on, heal, cure, or remove hemorrhoids or effect any other cure beyond temporary relief.

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 E. C. DeWitt & Co., Inc., a corporation, 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent E. C. DeWitt & Co., Inc., is a corporation, organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 730 Fifth Avenue, in the city of New York, State of New York.

PAR. 2. Respondent E. C. DeWitt & Co., Inc., is now and has been for more than one year last past, engaged in the sale and distribution of three preparations offered for the treatment of piles or hemorrhoids and coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designations used by respondent E. C. DeWitt & Co., Inc., for said preparations, the formulas thereof and the directions for use are as follows:

A. *Designation:* "DeWitt's Stainless Man Zan Pile Ointment."

Formula: Active Ingredients: CARBOLIC ACID ½% BENZOCAINE, ZINC OXIDE, ALLANTOIN, EPHEDRINE HCl.

Directions: For palliative relief cleanse affected parts with warm water and toilet soap; dry with soft towel. After gently inserting the

*Modified on Dec. 15, 1970.

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Stainless Man Zan applicator as far as possible into the rectum, squeeze tube to apply a liberal quantity. Use night and morning, also after stooling when convenient.

CAUTION: Avoid using this preparation in case of undue bleeding, since this may indicate a serious condition requiring medical advice.

B. *Designation: "Man Zan Pile Ointment."*

Formula: Active Ingredients: Ephedrine HCl Allantoin, Benzocaine Carbolic Acid 0.5% Menthol, Tannic Acid.

Directions: For palliative relief cleanse affected parts with warm water and toilet soap; dry with soft towel. After gently inserting the Man Zan applicator as far as possible into the rectum, squeeze tube to apply a liberal quantity. Use night and morning, also after stooling when convenient.

CAUTION: Avoid using this preparation in case of undue bleeding since this may indicate a condition requiring medical advice.

C. *Designation: "DeWitt's Stainless Man Zan Suppositories."*

Formula: Active Ingredients: Benzocaine Zinc Oxide, Phenol 0.5% Allantoin, Phenylpropanolamine.

Directions: Before using Man Zan Suppositories remove the protective foil wrapping. Wash affected parts, then insert the suppository as high as possible into the rectum. Use morning and night and after each bowel movement. Treatment should be continued daily for best results. External discomforts are best treated with Man Zan Pile Ointment—Stainless or Regular.

CAUTION: If relief is not obtained in a reasonable period of time, and in cases of undue bleeding, consult your physician.

PAR. 3. Respondent E. C. DeWitt & Co., Inc., causes the said preparations, when sold, to be transported from its place of business located at 2835 Sheffield Avenue, Chicago 14, Illinois, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparations 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. 4. In the course and conduct of its business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the preparations referred to in Paragraph Two, above, by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to advertisements in newspapers, magazines and other advertising media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations; and has disseminated, and caused the dissemination of, advertisements concerning said preparations by various means,

including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce, directly or indirectly the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

Itching and Soreness of hemorrhoid discomfort quickly relieved with DeWitt's Manzan. Manzan contains Allantoin for healing, benzocaine to ease pain, and a vasoconstrictor to help reduce swelling. For soothing action and fast palliative relief, try . . . Manzan ointment or Suppositories

HEMORRHOIDS Real Relief . . . When simple hemorrhoids cause agony . . .

. . . a special healing agent.

. . . to ease pain . . . reduce swelling.

REAL RELIEF FROM HEMORRHOIDS

. . . now even more effective with Allantoin, a special healing agent.

PAR. 6. Through the use of said advertisements and others similar thereto not specifically set out herein, respondent has represented and is now representing, directly and by implication that the use of DeWitt's Stainless Man Zan Pile Ointment, Man Zan Pile Ointment, DeWitt's Stainless Man Zan Suppositories, and each of them, will:

1. Reduce piles;
2. Heal piles;
3. Be effective in relieving severe or agonizing pain of piles;
4. Relieve all pain or itching caused by piles.

PAR. 7. In truth and in fact the use of DeWitt's Stainless Man Zan Pile Ointment, Man Zan Pile Ointment, DeWitt's Stainless Man Zan Suppositories, or each of them will not:

1. Reduce piles;
2. Heal piles;
3. Be effective in relieving severe or agonizing pain of piles;
4. Relieve all pain or itching caused by piles;
5. Afford any relief or have any therapeutic effect upon the condition known as piles, or upon any of the symptoms or manifestations thereof, in excess of affording temporary relief of minor pain or minor itching associated with piles.

Therefore, the advertisements referred to in Paragraph Five were and are misleading in material respect and constituted and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

OPINION OF THE COMMISSION

DECEMBER 16, 1966

BY JONES, *Commissioner*:

I

The complaint in this matter, issued on August 28, 1964, charged that respondent violated Sections 5 and 12 of the Federal Trade Commission Act by making false representations in advertising its preparations sold under the names of "DeWitt's Stainless Man Zan Pile Ointment," "Man Zan Pile Ointment," and "DeWitt's Stainless Man Zan Suppositories," for the treatment of hemorrhoids or piles.¹ The complaint alleged and respondent in its answer admitted that it maintained a course of trade in said preparation in commerce within the meaning of the Federal Trade Commission Act.

Paragraph Five of the complaint charged that the following were typical of the statements made by respondent in its advertising:

Itching and Soreness of hemorrhoid discomfort quickly relieved with DeWitt's Manzan. Manzan contains Allantoin for healing, benzocaine to ease pain, and a vasoconstrictor to help reduce swelling. For soothing action and fast palliative relief, try . . . Manzan ointment or Suppositories.

HEMORRHOIDS Real Relief . . . When simple hemorrhoids cause agony . . .

. . . a special healing agent.

. . . to ease pain . . . reduce swelling.

REAL RELIEF FROM HEMORRHOIDS

. . . now even more effective with Allantoin, a special healing agent.

Paragraph Six of the complaint charged that through the use of these advertisements and others respondent had represented that use of ManZan will: (1) reduce piles; (2) heal piles; (3) be effective in relieving severe or agonizing pain of piles; and (4) relieve all pain or itching caused by piles. Respondent denied the allegations in this paragraph except insofar as this paragraph alleged that respondent represented "that the use of its prepara-

¹ The terms "hemorrhoids" and "piles" are synonymous (Finding of Fact 11; and will be used interchangeably herein. Hereinafter the paragraphs of the Findings of Fact in this case will be referred to as "F.-----."

tions will be effective in relieving pain of simple piles" (Answer, Par. 6).

In Paragraph Seven the representations set forth in Paragraph Six are alleged to be false and it is further alleged that ManZan will not "[a]fford any relief or have any therapeutic effect upon the condition known as piles, or upon any of the symptoms or manifestations thereof, in excess of affording temporary relief of minor pain or minor itching associated with piles." Therefore, it is concluded in this paragraph that respondent's advertisements were misleading in material respects and constituted "false advertisements" within the meaning of the Federal Trade Commission Act. Respondent denied the allegations in this paragraph except that it admitted that "the use of respondent's preparations will not relieve all pain or itching caused by piles" (Answer Par. 7).

The complaint in this matter was issued simultaneously with four other complaints also charging misrepresentations in the advertising of hemorrhoidal preparations, namely: *Humphreys Medicine Company, Incorporated*, Docket 8640 [p. 1502 herein], *American Home Products Corporation*, Docket 8641 [p. 1524 herein], *Grove Laboratories, Incorporated*, Docket 8643 [71 F.T.C. 822] and *The Mentholatum Company*, Docket 8644 [p. 1671 herein]. Hearings in the *American Home Products* case took place in April and May 1965, and the initial decision in that case was rendered on October 22, 1965. Complaint counsel appealed. On January 12, 1966, before argument of his appeal, complaint counsel moved in each of the other four cases to suspend hearings pending the issuance of the Commission's decision in *American Home Products*. This motion was denied by the Commission on March 16, 1966, and respondents in each of these four cases moved for reconsideration. On April 26, 1966 [69 F.T.C. 1179], the Commission entered an order directing the examiner to proceed with the hearings in each of these cases unless the parties desired to enter into a stipulation providing essentially that their cases may be disposed of on the basis of the record and findings in the *American Home Products* case. On May 25, 1966, respondent and complaint counsel filed a stipulation in accordance with the provisions of the Commission's order of April 26, 1966.² The stipulation provided that the Commission may issue such order as it deems necessary in the public interest on the basis of

² The terms of this stipulation (hereinafter referred to as "Stip.") are set forth in full in F.5.

the facts stipulated by the parties and that the respondent waived any intervening steps before the hearing examiner. The parties further stipulated that the advertisements in the case had no significantly different effect upon readers from the effect of the advertisements in *American Home Products*; that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparation; and that, to the extent that respondent's advertisements differ significantly from those in American Home Products, the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences.

Attached to this stipulation are the texts of four virtually identical advertisements. The following is the full text of two of these advertisements:

Real Relief from Hemorrhoids. When simple hemorrhoids cause agony and embarrassing itch, use DeWitt's ManZan—now even more effective with Alantoin, a special healing agent. ManZan also contains benzocaine to ease pain, and a vasoconstrictor to help reduce swelling. For soothing action and fast palliative relief, try . . . ManZan—Ointment or Suppositories.

On the basis of the pleadings, the stipulation of the parties and the attached advertisements, together with such portions of the record in *American Home Products* as are specified in the attached findings, we conclude that we have jurisdiction over respondent and the subject matter and that respondent was engaged in commerce and accordingly are entering our Findings of Fact and Conclusions in the matter.

II

DISCUSSION OF ISSUES

A. *Representations Made by Respondent in Its Advertisements*

Respondent is charged with representing that its product will (1) reduce hemorrhoids, (2) heal hemorrhoids, (3) relieve all pain and be effective in relieving severe or agonizing pain of hemorrhoids, and (4) relieve all itching caused by hemorrhoids.

In *American Home Products* we found that respondent had represented that its preparation would "reduce or shrink hemorrhoids," "heal, cure, or remove hemorrhoids, and cause hemorrhoids to cease to be a problem," "relieve all pain attributed to or caused by hemorrhoids" and "eliminate all itch due to or ascribed to hemorrhoids" (F.8). In Par. 3 of the stipulation executed by the parties, it is provided that the advertisements in the instant case "had no significantly different effect upon readers from the effect

of the advertisements in *American Home Products.*" Accordingly, on the basis of this provision of the parties' stipulation alone, we could conclude that respondent's advertisements represent that the alleged representations were in fact made by respondent. However, there is no need to rely exclusively on parties' stipulation for this conclusion since the advertisements speak for themselves and our own independent examination of them enables us to determine whether the complaint allegations as to the representations made in these advertisements may be sustained.

(1) Respondent's claims respecting shrinkage or reduction of hemorrhoids

Respondent's advertisements state that its products contain "a vasoconstrictor to help reduce swelling." Since a "vasoconstrictor" is an agent which causes constriction of blood vessels (Webster's New International Dictionary, Second Edition), the clear implication of this statement is that the hemorrhoids or blood vessels will be reduced and not merely that the overlying tissue will be reduced in size. Furthermore, the only meaning which the reader could ascribe to the claim that a medication for hemorrhoids will help reduce swelling is that it will reduce or shrink hemorrhoids. Accordingly, we conclude that respondent's claims in its advertising are tantamount to direct representations that its product will shrink hemorrhoids.

(2) Respondent's claims respecting healing of hemorrhoids

Respondent's advertisements state that ManZan contains "Alantoin, a special healing agent." Since the only apparent function of a "healing agent" would be to heal, the reference to such an agent necessarily carries with it the implication that respondent's product heals hemorrhoids. Thus, in our opinion respondent's claims are tantamount to representations that its product will heal hemorrhoids.

(3) Respondent's claims respecting pain

Respondent promises in its advertising that its product will provide "real relief from hemorrhoids" and states that ManZan, which "contains benzocaine to ease pain," should be used when "simple hemorrhoids cause agony." Respondent's claims are unequivocal and do not permit even an inference that the relief actually afforded may be partial or temporary. The reference to the word "benzocaine," a local anesthetic (Webster's New International Dictionary, Second Edition), implies that the preparation

will produce anesthesia or paralysis of the sensory apparatus in the affected area (Id.) thus effecting a total absence of pain or other feeling. In our opinion a substantial portion of the purchasing public would conclude from these broadly worded statements not merely that severe or agonizing pain will be relieved by ManZan, as alleged in Paragraph Six (3) of the complaint, but further that all pain resulting from hemorrhoids will be relieved, as alleged in Paragraph Six (4). Furthermore, the representations pertaining to healing referred to above would also tend to cause the reader to believe that the symptoms, including pain, would be eliminated after the "healing agent" had acted to heal the hemorrhoid. Accordingly, we conclude that the statements in respondent's advertisements constitute representations that its product will relieve all pain, including severe or agonizing pain, attributed to or caused by hemorrhoids.

(4) Respondent's claims respecting itching

Respondent advertises that its product should be used "when simple hemorrhoids cause agony and embarrassing itch," that "itching * * * of hemorrhoid discomfort [is] quickly relieved with DeWitt's ManZan" and the product offers "real relief from hemorrhoids." In our opinion these statements unquestionably promise complete relief from the itching due to hemorrhoids and that the average reader would be under the impression that if he used ManZan he would have real or entire relief from itching due to hemorrhoids.

B. *Deceptive Nature of Respondent's Claims*

The parties have stipulated that the facts applicable to this case support the stipulation that the effect of the use of respondent's preparation is not significantly different from the effect of American Home Products' preparations (Stip., Par. 4). Accordingly, the findings of fact and conclusions reached in *American Home Products* with respect to the efficacy of Preparation H, drawn from the record and Findings of Fact in that case, are equally applicable to ManZan. It is in the light of these findings and conclusions, therefore, that the allegations in Paragraph Seven must be analyzed. Respondent has admitted in its answer that ManZan "will not relieve all pain or itching" (Answer, Par. 7). Therefore, our discussion will be confined to the remaining issues relating to the efficacy of ManZan.

(1) Ability of ManZan to reduce hemorrhoids

Paragraph Seven (1) of the complaint alleges that, contrary to respondent's representations, ManZan will not reduce hemorrhoids.

Respondent advertises that ManZan contains "a vasoconstrictor to help reduce swelling." We have concluded that this representation amounts to a claim, and will be understood by the hemorrhoidal sufferer as a claim, that his hemorrhoids will be reduced in size. Hemorrhoids are by definition veins located underneath the mucous membrane of the rectum and the skin of the anal canal (F. 10). The evidence in the record is that hemorrhoidal preparations such as ManZan may have some effect upon edema or swelling in the tissue overlying hemorrhoids (F. 25(c), 26), but that they cannot reduce the size of the hemorrhoidal veins (F. 25(b), 26). The record also demonstrates, however, that this product can have no beneficial effect when the swelling is due to thrombosis (F. 25(c), 26). Thus, even if we were to assume that some reduction of swelling is effected by respondent's preparation, not all types of swelling will be affected in this way, and furthermore, the reduction which will occur will not be of the hemorrhoid itself but only of the surrounding area and thus will not be of the type implicitly promised by respondent's advertising. Accordingly, we find that respondent's representations with respect to reduction or shrinkage of hemorrhoids are in all respects false and misleading.

(2) Ability of ManZan to heal hemorrhoids

Paragraph Seven of the complaint alleges that contrary to respondent's representations, ManZan will not heal hemorrhoids. The record applicable to this case demonstrates that surgical removal is the only means by which hemorrhoids can be permanently cured (F. 22). Although certain symptoms may be ameliorated by other means (F. 24, 25) and may disappear spontaneously (F. 21), unless the underlying vascular condition is corrected, the patient will be subject to recurring episodes of symptoms (F. 21). Since ManZan cannot affect the underlying dilated veins it cannot heal or cure hemorrhoids (F. 25(a), 26).

(3) Ability of ManZan to relieve severe or agonizing pain caused by hemorrhoids

It is alleged in subparagraphs (2) and (3) of Paragraph 4 of the complaint that ManZan will not "relieve all pain * * * caused by piles or be "effective in relieving severe or agonizing pain of

piles." Respondent has admitted that its preparations "will not relieve all pain * * * caused by piles" (Answer, Par. 7). Since all pain is agonizing to many, if not most users and since ManZan admittedly cannot relieve all pain, it therefore follows that it is not capable of relieving "agonizing" pain in a substantial portion of hemorrhoidal sufferers. Furthermore, according to the record applicable to this case, severe pain in hemorrhoids is frequently caused by spasm or strangulation of a prolapsing internal hemorrhoid (F. 16) or by an external thrombotic hemorrhoid (F. 17) and that ManZan will have no effect upon pain when attributable to these causes (F. 25(d), 26). Thus it is clear that respondent's claims implying that it can eliminate all severe or agonizing pain of hemorrhoids are false and misleading.

C. Alleged Absence of Other Therapeutic Benefits of ManZan

In addition to the allegations that respondent's affirmative representations with respect to its product are false, the complaint also alleged that ManZan will not "[a]fford any relief or have any therapeutic effect upon any of the symptoms or manifestations thereof, in excess of affording temporary relief of minor pain or minor itching associated with piles" (Complaint, Paragraph Seven (5)).

As we have noted, the record demonstrates that surgical removal is the only means by which hemorrhoids can be permanently cured (F. 22) and that ManZan will not heal, cure or remove hemorrhoids or cause them to cease to be a problem (F. 25(a), 26). The record also demonstrates that while ManZan may in some cases provide some temporary relief from two symptoms of hemorrhoids, namely, pain and itching (F. 25(d) and (e), 26), it will not afford any other type of relief or have any other therapeutic effect upon hemorrhoids or its symptoms (F. 25 (e) (f), 26). Accordingly, we conclude that the allegations in Paragraph Seven (5) of the complaint must be sustained.

III

THE ORDER

The parties have stipulated that the Commission may issue such order as it deems necessary in the public interest, taking into consideration any significant differences between respondent's advertising and those of *American Home Products* (Stip., Pars. 6 and 7).

In determining what order is necessary to ensure that respondent's misrepresentations respecting the efficacy of its drug

preparation will not occur again, it is of primary importance to consider the segment of the public which is most likely to be particularly affected by these representations.

Our mandate under the law was graphically expressed by Judge Clark when he emphasized that "the law is not 'made for the protection of experts, but for the public—that vast multitude which includes the ignorant, the unthinking and the credulous.'" *Charles of the Ritz Distributing Corporation v. Federal Trade Commission*, 143 F. 2d 676, 679 (2nd Cir. 1944).

The need for protection of the public becomes particularly acute where misrepresentations are made with respect to health claims and the efficacy of drugs since the appeal of such representations falls most poignantly on those persons who are in distress, frequently the aged and the infirm. Moreover, today, with Medicare a reality, many people may be consulting doctors for the first time in their lives. They will be learning that aches and pains and discomforts of all kinds may be symptoms of diseases which they had never heard of before or never before associated with their own distress. Consequently, advertised claims of drug efficacy will have increasing relevance to this segment of our population and will offer hope of relief to millions in our population who may have previously ignored such advertising not realizing their possible application to their own conditions. Accordingly, it becomes of even greater importance today to make sure that representations respecting health claims and relief of distress are absolutely accurate and do not contain promises, impressions, or even highly veiled suggestions of efficacy which are in any sense false or misleading. It is with these basic principles in mind that we must fashion the type of prohibitive provisions which are necessary to be included in the order in this case.

A. *Product Application of the Order*

The order proposed by complaint counsel provided that it was to be applicable to ManZan "or any other preparation of *substantially similar composition or possessing substantially similar properties*" (emphasis added). As we noted in our opinion in *American Home Products* with respect to Preparation H, under such an order the respondent could easily replace the ingredients in its product with those that are not "substantially similar" or which did not possess "substantially similar properties" and be exempt from the order even though such substitute product may be equally ineffective in relieving symptoms of hemorrhoids

(*American Home Products* Opinion, pp. 1623-1625).³ And, as we further pointed out in *American Home Products*, determination of whether or not the new ingredients were "substantially similar" or possessed "substantially similar properties" "would be difficult of enforcement and would only be productive of controversy and probably litigation" (*American Home Products*, Opinion, p. 1623). Consequently, we are entering an order in the instant case, comparable to that entered in *American Home Products* which is applicable to all preparations which may be sold by respondent for relief or treatment of hemorrhoids or its symptoms regardless of whether they contain the same or different ingredients from those contained in ManZan. Finally, as we pointed out in detail in our opinion in the *American Home Products* case, this provision in no way hinders respondent from developing a truly efficacious remedy for hemorrhoids which might enable it to make some of the claims which this order now prohibits it from making. In this situation respondent need only apply to the Commission for a modification of the order as specifically provided for in the order which we are entering.

B. Respondent's Representations Respecting the Efficacy of ManZan

The order which we are entering prohibits respondent from representing directly or by implication that its product will reduce or shrink hemorrhoids; heal hemorrhoids; afford any relief from pain and itching, in excess of providing some temporary relief in some cases of pain and itching; or have any other effect on hemorrhoids or its symptoms. In connection with the prohibition of further representations as to ManZan's alleged ability to heal hemorrhoids we have also prohibited respondent from claiming that surgery may be avoided through the use of its product. Since surgery is the only certain cure for hemorrhoids (F. 22), it is obvious that the use of ManZan cannot obviate surgery where it is needed (F. 25(a), 26). Although respondent makes no specific claims to this effect in its present advertising, the Commission is obligated "to close all roads to the prohibited goal." *Federal Trade Commission v. Ruberoid*, 343 U.S. 470 (1953).

In its advertising respondent stresses that its preparations contain three ingredients: (1) "Allantoin, a special healing agent,"

³ It is apparent from the nature of the ingredients in respondent's preparation (F. 3) that they in all likelihood are replaceable by other ingredients which might have no different effect on hemorrhoids and yet be wholly outside the order if it applied only to ManZan or other preparations containing similar ingredients.

(2) "benzocaine to ease pain" and (3) "a vasoconstrictor to help reduce swelling." We are prohibiting respondent from referring to each of these ingredients.

(1) "*Allantoin*": Since, as we have found, ManZan cannot "heal" hemorrhoids, the so-called "healing agent," "Allantoin," can in fact perform no useful function. It is clear that continued reference by respondent to Allantoin in its advertising would be highly misleading and would imply to the public that the product is capable of healing hemorrhoids, whereas, according to the record, it is unable to provide more than some palliative relief. To prohibit respondent from representing that ManZan has any healing characteristics and to permit it to continue to represent that its product contains Allantoin, its purported "healing agent," would be to nullify in major part the prohibition respecting the curative properties of its product.

(2) "*Benzocaine*": As we have noted, the reference in respondent's advertising to "benzocaine," a local anesthetic, is equivalent to a direct claim that entire relief from pain in the affected area will be achieved. In view of our findings and conclusions that ManZan will not relieve all pain, any use of this term would therefore be wholly false and misleading. We have found that respondent's product will at best only afford some temporary relief in some cases of pain associated with some types of hemorrhoids. If this temporary relief is due to benzocaine, it would be redundant to permit respondent to single this ingredient out for special mention in its advertisement in addition to making the permitted disclosure respecting temporary relief for some cases of pain and would serve only to confuse and mislead the reader or hearer. To the extent singling such an ingredient out for special emphasis conveyed an impression different from this disclosure, it would be false and misleading. Accordingly, we have prohibited use of this word.

(3) "*Vasoconstrictor*": As we have pointed out, ManZan is not capable of reducing the size of hemorrhoids. Since, as we have further found, the word "vasoconstrictor" (literally [blood] vessel constrictor) implies that the hemorrhoid will be shrunk, the further reference by respondent to this ingredient can only have the effect of emphasizing that which ManZan is incapable of achieving: the shrinkage of hemorrhoids. To avoid the deception inherent in the use of this word we have ordered that respondent discontinue its use.

Finally, in view of the likelihood that reference to any single

ingredient may convey the impression that such ingredient is of special importance in the treatment or relief of hemorrhoids, we have provided that respondent may not refer to any other ingredient 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.

FINDINGS OF FACT, CONCLUSIONS AND ORDER

FINDINGS OF FACT

A. Respondent and its Products

1. Respondent E. C. DeWitt & Co., Inc., is a corporation, organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 730 Fifth Avenue, in the city of New York, State of New York (Complaint, Par. 1; Answer, Par. 1).

2. Respondent E. C. DeWitt & Co., Inc., is now and has been for more than one year last past, engaged in the sale and distribution of three preparations coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act (Complaint, Par. 2; Answer, Par. 2).

3. The designations used by respondent E. C. DeWitt & Co., Inc., for said preparations, the formulas thereof and the directions for use are as follows:

A. *Designation*: "DeWitt's Stainless Man Zan Pile Ointment."

Formula: Active Ingredients: CARBOLIC ACID $\frac{1}{2}\%$ BENZOCAINE, ZINC OXIDE, ALLANTOIN, EPHEDRINE HCl.

Directions: For palliative relief cleanse affected parts with warm water and toilet soap; dry with soft towel. After gently inserting the Stainless Man Zan applicator as far as possible into the rectum, squeeze tube to apply a liberal quantity. Use night and morning, also after stooling when convenient.

CAUTION: Avoid using this preparation in case of undue bleeding, since this may indicate a serious condition requiring medical advice.

B. *Designation*: "Man Zan Pile Ointment."

Formula: Active ingredients: Ephedrine HCl Allantoin, Benzocaine Carbolic Acid 0.5% Menthol, Tannic Acid.

Directions: For palliative relief cleanse affected parts with warm water and toilet soap; dry with soft towel. After gently inserting the Man Zan applicator as far as possible into the rectum, squeeze tube to apply a liberal quantity. Use night and morning, also after stooling when convenient.

CAUTION: Avoid using this preparation in case of undue bleeding since this may indicate a condition requiring medical advice.

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Findings

C. *Designation*: "DeWitt's Stainless Man Zan Suppositories."

Formula: Active Ingredients: Benzocaine Zinc Oxide, Phenol 0.5% Allantoin, Phenylpropanolamine.

Directions: Before using Man Zan Suppositories remove the protective foil wrapping. Wash affected parts, then insert the suppository as high as possible into the rectum. Use morning and night and after each bowel movement. Treatment should be continued daily for best results. External discomforts are best treated with Man Zan Pile Ointment—Stainless or Regular.

CAUTION: If relief is not obtained in a reasonable period of time, and in cases of undue bleeding, consult your physician.

4. Respondent E. C. DeWitt & Co., Inc., causes the said preparations, when sold, to be transported from its place of business located at 2835 Sheffield Avenue, Chicago 14, Illinois, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act (Complaint, Par. 3; Answer, Par. 3).

B. Stipulation Entered Into By Parties Hereto

5. The parties hereto entered into a Stipulation, filed on May 25, 1966, providing as follows:

1. This proceeding may and shall be submitted to the Commission for disposition on the basis of record in Docket 8641, *American Home Products Corporation*, and such other stipulations and records as are provided for herein.

2. The advertisements attached to and made a part of this stipulation are representative of respondent's advertising claims for its product ManZan and are to be included in the record of these proceedings.

3. The advertisements in this case had no significantly different effect upon readers from the effect of the advertisements in *American Home Products* and the facts applicable to this case support this stipulation.

4. The effect of the use of respondent's preparation, Man Zan, is not significantly different from the use of American Home Products preparation, known as "Preparation H," and the facts applicable to this case support this stipulation.

5. The respondent waives any further intervening procedural steps before the Hearing Examiner.

6. The Commission may, on the basis of this stipulation, the attached advertisements and the record in *American Home Products*, issue such order as it deems necessary to the public interest.

7. To the extent that the respondent's advertisements differ significantly to those in *American Home Products*, the Commission may, in its order disposing of the proceedings, include appropriate provisions to take into consideration such differences.

8. The Commission is to issue its order disposing of these proceedings con-

currently with the order setting forth its final decision in *American Home Products*.

9. The record on which the Commission is to make its disposition of the proceeding and for the purposes of judicial review, is limited to the record at the time this stipulation is filed, this stipulation with the attached advertisements and the record in *American Home Products*.

Attached to this stipulation (hereinafter referred to as "Stip.") are copies of four of respondent's advertisements.

C. *Representations Made*

6. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said preparation 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 said preparation; and has disseminated, and caused the dissemination of, advertisements concerning said preparation for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act (Complaint, Par. 4; Answer, Par. 4; Stip., Par. 2).

7. Among the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

Real relief from Hemorrhoids. When simple hemorrhoids cause agony and embarrassing itch, use DeWitt's ManZan—now even more effective with Allantoin, a special healing agent. ManZan also contains benzocaine to ease pain, and a vasoconstrictor to help reduce swelling. For soothing action and fast palliative relief, try . . . MANZAN Ointment or suppositories.

Itching and soreness of hemorrhoid discomfort quickly relieved with DeWitt's ManZan. ManZan contains Allantoin for healing, benzocaine to ease pain, and a vasoconstrictor to help reduce swelling. For soothing action and fast palliative relief, try . . . MANZAN Ointment or Suppositories.

(Stip. [attachments]).

D. *Meaning of Respondent's Representations*

8. In *American Home Products Corporation*, Docket 8641 [p. 1524 herein], we found that through the use of American Home Products Corporation's advertisements, said respondent has represented and is now representing, directly and by implication, that the use of Preparation H Ointment and Suppositories, and each of them, will:

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- (a) Reduce or shrink hemorrhoids;¹
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Eliminate all itch due to or ascribed to hemorrhoids;
- (d) Relieve all pain attributed to or caused by hemorrhoids;
- (e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(*American Home Products Corporation*, Docket 8641, Finding of Fact 7.²)

9. Through the use of the advertisements set forth in paragraph 7 hereof, and others similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of ManZan Ointment or Suppositories will:

- (a) Reduce or shrink hemorrhoids;
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Eliminate all itch due to or ascribed to hemorrhoids;
- (d) Relieve all pain attributed to or caused by hemorrhoids;
- (e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(Stip., Par. 3.)

E. General Medical Facts Pertaining to Hemorrhoids and Their Treatment

10. "Hemorrhoids" are masses of dilated weak-walled veins located underneath the mucous membrane of the lower portions of the rectum and under the skin of the anal canal and the peri-anal area (A.H.P. Tr. 193, 255, 340, 413-414, 478, 543, 606, 709, 817, 838, 867, 892).³

11. The terms "hemorrhoids" and "piles" are synonymous (A.H.P. Tr. 117, 193, 255, 340, 414, 478-479, 543, 607 and 709).

12. "Internal hemorrhoids" are hemorrhoids occurring above the pectinate line and are covered by mucosa. "External hemorrhoids" are hemorrhoids occurring below the pectinate line and are covered by skin (A.H.P. Tr. 193, 199, 232, 236, 255-257, 262, 342, 420, 421, 486, 548, 549, 608, 609, 817, 838, 867 and 892).

13. An "external thrombotic hemorrhoid" is a blood clot under

¹The words "hemorrhoids" and "piles" are synonymous (See Finding 11, *infra*) and will be used interchangeably herein.

²The paragraphs of the Findings of Fact in *American Home Products* are hereinafter referred to as "A.H.P. —."

³The references are to the transcript in *American Home Products*.

the surface of the skin located in the immediate vicinity of the anal opening (A.H.P. Tr. 117). It is also referred to as an "anal hematoma" (A.H.P. Tr. 719) or a "perianal thrombosis" (A.H.P. Tr. 549).

14. A "prolapse" or "prolapsing hemorrhoid" is an internal hemorrhoid which, due to laxity of the rectum is enabled to fall outside the anal canal and protrudes to the surface (A.H.P. Tr. 199).

15. Hemorrhoids develop in a human being largely because of the fact that he stands in an upright position. In such a position a column of blood is formed from the splenic to the superior hemorrhoidal vein. The hemorrhoidal veins do not have valves to support the weight of this column of blood. The resulting pressure causes the hemorrhoidal veins to dilate (A.H.P. Tr. 594, 231). Hemorrhoids tend to be hereditary (A.H.P. Tr. 144, 231). Other factors leading to the development of hemorrhoids are abnormally long periods of standing, straining, difficulty with bowel movement, impacted stool, pregnancy and cirrhosis of the liver (A.H.P. Tr. 231-232, 144).

16. The most common symptom of internal hemorrhoids is bleeding (A.H.P. Tr. 256, 393 479). The other principal symptom of internal hemorrhoids is prolapse (A.H.P. Tr. 256). Pain rarely occurs in internal hemorrhoids since the sympathetic nervous system which services the region above the pectinate line where hemorrhoids are located does not contain sensory nerve fibers (A.H.P. 266, 294, 342-343). Pain, however, may occur in infrequent cases of severe complicated internal hemorrhoids as the result of spasm or strangulation caused by prolapse or as the result of the involvement of tissues beyond the pectinate line (A.H.P. Tr. 342, 415, 631-632, 723).

17. The most common symptoms of external hemorrhoids are pain and swelling (A.H.P. Tr. 256, 742). Pain in external hemorrhoids is frequently caused by an external thrombotic hemorrhoid (A.H.P. Tr. 503). Other causes of pain in external hemorrhoids are inflammation, swelling and ulceration (A.H.P. Tr. 174, 267, 358, 519). Pain may also result from infection. However, this cause of pain is a relatively infrequent occurrence since the rectal and anal area is relatively highly resistant to infection (A.H.P. Tr. 520) and thus infection occurs very rarely as a symptom of hemorrhoids (A.H.P. Tr. 315).

18. Swelling, as distinguished from the dilation of the hemorrhoidal veins, may be a symptom of hemorrhoids as well as a

possible cause of pain in external hemorrhoids. Swelling usually results either from a blood clot or thrombosis, which causes distension in the tissue overlying the hemorrhoid, or from edema, which is the accumulation of serous fluid in the interfibrillar spaces in such tissue (A.H.P. Tr. 144, 550).

19. Itching is not a common symptom of internal or external hemorrhoids (A.H.P. Tr. 129, 265, 618-619, 727). The itching thought to be caused by hemorrhoids is usually the result of some other condition such as fungus infection or idiopathic pruritis (A.H.P. Tr. 326, 502, 504, 347, 618-619, 727). The itching which is caused by hemorrhoids is usually the result of discharge from a prolapsed internal hemorrhoid (A.H.P. Tr. 318, 425, 618-619), or healing of an external hemorrhoid (A.H.P. Tr. 265, 502).

20. The symptoms of hemorrhoids can be confused with other conditions such as fissure, fistula, peri-anal or peri-rectal abscess, hypertrophic papillae, papillitis, cryptitis, polyps, proctitis, ulcerative colitis, pruritis ani and carcinoma (cancer). Any of these conditions can co-exist with hemorrhoids and it is not uncommon to find such a situation (A.H.P. Tr. 114-115, 196-197, 205, 259-260, 347-349, 483-484, 545-546, 612-613, 714-715).

21. The symptoms of hemorrhoids often disappear spontaneously within short periods of time, which may range from several days to two weeks (A.H.P. Tr. 119, 264, 324, 355, 361, 424, 875, 1613). However, the underlying pathology, namely, the vascular dilation, will persist unless corrected and will be subject to recurring episodes of symptoms (A.H.P. Tr. 516, 214).

22. Surgical removal is the only means by which hemorrhoids can be permanently cured (A.H.P. Tr. 118-119, 195, 200-202, 262-263, 352, 422, 487, 550, 554, 623, 719-723, 830). However, surgery does not effect a complete cure in every case (A.H.P. Tr. 150). Surgery may not be advisable or necessary in every case. Surgery may be contra-indicated in cases in which the patient's general medical condition is such that the danger of anesthesia and surgery outweigh the possible benefits to be derived (A.H.P. Tr. 226). Surgery is also not advisable for a simple, uncomplicated hemorrhoid (A.H.P. Tr. 169). Although hemorrhoids may be uncomfortable they are rarely a very serious medical problem, so that a patient, if he chooses to avoid surgery or should avoid it for medical reasons, can go through life without having his hemorrhoids removed (A.H.P. Tr. 135).

23. The symptoms of simple, uncomplicated, internal hemorrhoids of small size can frequently be ameliorated by injectional

therapy. This consists of the injection of a sclerosing solution into the hemorrhoid itself which causes scar tissue to form which cuts off the blood vessel feeding the hemorrhoid (A.H.P. Tr. 145, 200, 262-263, 353). A further treatment which has been used within the last several years is the baron ligation method whereby a ligature of rubber is placed around internal hemorrhoids as another means of cutting off blood circulation to the hemorrhoid (A.H.P. Tr. 200-201, 488).

24. In cases on which surgery, injectional therapy or the baron ligation method are not used, a so-called "conservative" course of treatment may be prescribed. The measures used in such a course of treatment include cleanliness, altering of the diet to eliminate irritative foodstuffs, control of the bowels to ensure a smooth, soft stool, warm baths, witch hazel, boric acid, local anesthetic, ointments, suppositories, avoidance of standing and manual reinsertion of prolapse (A.H.P. Tr. 120, 202, 306, 356-357, 684-686). Ointments and suppositories contain lubricants which may protect the anal and rectal canal against the passage of hard, dry stool. Such lubricants may also serve to relieve dryness and soften the skin as well as provide a psychological advantage; many people derive mental relief from the fact that some sort of treatment is applied (A.H.P. Tr. 203-204, 279, 313, 355, 358, 362-363, 525, 555, 557).

F. Conclusions re Effect of ManZan Ointment and Suppositories

25. In *American Home Products* we reached the following conclusions with respect to the effect of Preparation H Ointment and Suppositories on hemorrhoids and its symptoms based on citations set forth below:

(a) Preparation H will not avoid the need for surgery where it is indicated, or heal, cure or remove hemorrhoids, or cause hemorrhoids to cease to be a problem (A.H.P. 25, 26, 28, 29; A.H.P. Initial Decision, p. 1602; conceded by respondent on appeal (A.H.P. 31)).

(b) Preparation H cannot reduce the size of hemorrhoidal veins (A.H.P. Tr. 128-129, 173-174, 212-213, 276, 369-370, 436-437, 500, 563-564, 629-630, 740, 1497, 1668) (A.H.P. 32).

(c) Preparation H may possibly, through the lubricants which it contains, temporarily protect inflamed surface areas from the passage of hard, dry stool and thereby have some effect upon edema or swelling in the tissue overlying hemorrhoids (A.H.P. Tr. 202, 1471, 1570, 1668. But cf. Tr. 128-129, 463, 684, 742-743).

However, where swelling is due to thrombosis (A.H.P. Tr. 264), it will have no beneficial effect (A.H.P. Tr. 503, (A.H.P. 33).

(d) Preparation H may in some cases afford some temporary relief against some types of pain associated with hemorrhoids (A.H.P. Tr. 131, 207, 279, 372-373, 439-440, 503, 566, 632-633, 744). Through the lubricants which it contains, this medication may protect inflamed surface areas against the passage of hard, dry stool and thereby temporarily relieve some pain caused by ulceration or from edema or swelling resulting from such inflammation (A.H.P. Tr. 174, 212-213, 358, 493, 525, But *cf.* Tr. 128-129, 463, 684, 742-743). Preparation H can, however, have no effect upon pain due to thrombosis (A.H.P. Tr. 295, 358, 503) or due to spasm or strangulation caused by prolapsing internal hemorrhoids (A.H.P. Tr. 631-632) (A.H.P. 34).

(e) Through the lubricants which it contains, Preparation H may possibly relieve dryness and surface irritation and thereby provide some temporary relief from some types of itching associated with hemorrhoids (A.H.P. Tr. 131, 215, 279-280, 373-374, 439-440, 503-504, 566, 633-634, 741) (A.H.P. 35).

(f) Except for the effects set forth in A.H.P. 33, 34, 35, as well as possible psychological effects (see A.H.P. 28), Preparation H will not have any beneficial effect in the treatment or relief of hemorrhoids or any of its symptoms (A.H.P. Tr. 131, 215, 279, 315-316, 372-373, 424, 439-440, 503-504, 566, 632-633, 682-683, 744; Answer, Par. 3) (A.H.P. 36).

26. We hereby enter findings with respect to the effect of ManZan Ointment and Suppositories on hemorrhoids and its symptoms and manifestations identical to the findings with respect to Preparation H set forth in paragraph 25 hereof (Stip., Par. 4; Answer, Par. 7).

CONCLUSIONS RE ALLEGATIONS IN COMPLAINT

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondent.

2. Through the use of the advertisements set forth in paragraph 7 hereof and other similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of ManZan Ointment and Suppositories, will:

- (a) Reduce hemorrhoids;
- (b) Relieve all itch and all pain, including severe or agonizing pain, associated with hemorrhoids;

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(c) Heal hemorrhoids;

3. ManZan Ointment and Suppositories will not:

(a) Reduce hemorrhoids;

(b) Heal hemorrhoids;

(c) Eliminate all itch or pain or all severe or agonizing pain, due to or ascribed to hemorrhoids or afford any relief from pain or itching associated with hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids; or

(d) Afford any other type of relief or have any other therapeutic effect upon hemorrhoids or upon any of the symptoms or manifestations thereof.

4. Therefore, the advertisements referred to in paragraph 7 hereof 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 dissemination of said false advertisements constituted, and now constitutes, unfair and deceptive practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

ORDER

I. *It is ordered*, That respondent E. C. DeWitt & Co., Inc., 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:

A. In connection with the offering for sale, sale or distribution of DeWitt's Stainless ManZan Pile Ointment, ManZan Pile Ointment, DeWitt's Stainless ManZan Suppositories, or any other product offered for sale for the treatment or relief of hemorrhoids or piles or any of its symptoms which:

1. Represents directly or by implication that the use of such product will:

(a) Reduce or shrink hemorrhoids or hemorrhoidal tissue or membranes or reduce or shrink swelling associated with hemorrhoids;

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

(c) Heal or cure hemorrhoids;

(d) Relieve agonizing or severe pain of hemor-

rhoids or afford any relief from pain or itching attributed to or caused by hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids;

(e) Afford any other type of relief or have any other therapeutic effect upon the condition known as hemorrhoids or upon any of the symptoms or manifestations thereof.

2. Contains any reference (a) to the word "Allantoin"; (b) to the word "benzocaine" or to any word such as "anesthetic" which implies that said product will provide relief from pain or itching associated with hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids; or (c) to any word such as "vasoconstrictor" which implies that said product will shrink hemorrhoids.

3. Contains any reference to any other ingredient 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.

B. 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 respondent's preparation or preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph I(A) hereof.

II. In the event that respondent at any time in the future markets any 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(A) 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 approved 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.

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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.

FINAL ORDER

The parties having entered into a stipulation filed on May 25, 1966, providing, *inter alia*, that: the case would be submitted to the Commission on the record in Docket 8641, *American Home Products Corporation* [p. 1524 herein], and such other facts and records as provided for in said stipulation; that the advertisements in the case had no significantly different effect upon readers from the effect of the advertisements in *American Home Products*; that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparation; that to the extent that respondent's advertisements differ significantly from those in *American Home Products*, the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences; that respondent waives any further intervening steps before the hearing examiner; that the Commission may, on the basis of this stipulation, the advertisements attached thereto and the record in *American Home Products*, issue such order as it deems necessary to the public interest and that the record on which the Commission is to make its disposition of this proceeding is limited to the record at the time this stipulation is filed; and the Commission having rendered its decision and issued its Opinion herein;

Now therefore, on the basis of said stipulation and attachments, the pleadings herein and the record in Docket 8641, *American Home Products Corporation* [p. 1524 herein], it is hereby

Ordered, That the attached Findings of Fact, Conclusions and Order be and they hereby are entered and issued by the Commission in final disposition of this proceeding.

Complaint

IN THE MATTER OF

THE MENTHOLATUM COMPANY

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

*Docket 8644. Complaint, Aug. 28, 1964—Decision, Dec. 16, 1966**

Order requiring a Buffalo, N.Y., manufacturer of "Mentholatum M.P.O." pile ointment to cease falsely representing in its advertising that its product will shrink, avoid need for surgical treatment on, heal, cure, or remove hemorrhoids or effect any other cure beyond temporary relief.

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 The Mentholatum Company 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Mentholatum 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 1360 Niagara Street in the city of Buffalo, State of New York.

PAR. 2. Respondent The Metholatum Company is now, and for some time last past has been, engaged in the sale and distribution of a preparation offered for the treatment of piles or hemorrhoids and coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designation used by respondent The Mentholatum Company for said preparation, the formula thereof and directions for use are as follows:

Designation: "Mentholatum M.P.O." *Medicated* Pile Ointment.

Formula: The active ingredients for "Mentholatum M.P.O." *Medicated* Pile Ointment are as follows:

Benzocaine; Hexachlorophene; Ephedrine sulfate, lanolin, in an exclusive prescription-type base that is temperature-stable.

Directions: Apply freely night and morning and after each bowel movement. Use scientific applicator for internal hemorrhoids. Lubricate before use

*Modified on Dec. 15, 1970.

and thoroughly cleanse after. In case of bleeding, a physician should be consulted. Keep all medicine out of the reach of children.

PAR. 3. Respondent The Mentholatum Company causes the said preparation, when sold, to be transported from its place of business located at 1360 Niagara Street, Buffalo, New York, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation 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. 4. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers, magazines and other advertising media in the District of Columbia, and in various States of the United States, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and has disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

Clinical Progress Report:

NEW PAINLESS MEDICATION FOR HOME THERAPY OF HEMORRHOIDS

New M.P.O. combines fast-acting ingredients in a prescription-type ointment to shrink piles—relieve pain and itch.

Famous Mentholatum Laboratories have developed a modern, home therapy for hemorrhoids that can bring relief without surgery or injections. New M.P.O.—medicated pile ointment—starts relief from pain and itching in seconds. This soothing medication acts to shrink hemorrhoids and promote healing.

In the exact words of the two doctors who conducted recent clinical tests of Mentholatum M.P.O., they say, "We are quite pleased with the results." In reporting on the treatment of 30 patients, the results were "good to excellent in 25 cases, fair or poor in only 5 who had more severe hemorrhoids."

RELIEF STARTS IN SECONDS—the instant you apply M.P.O. its anes-

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thetic and vaso-constrictor start to work. This soothing, painless medication quickly relieves tormenting pain and stops the embarrassing itch.

HELPS PROMOTE HEALING—M.P.O.'s exclusive temperature-stable ointment concentrates medication right on inflamed tissue—not beyond as suppositories sometimes do. Its Ephedrine Sulfate works quickly to reduce swelling and shrink piles.

FIGHTS INFECTIONS—Hexachlorophene, the famous germ-killer used by physicians, acts to relieve bacteria-caused itching and to fight infectious germs.

New M.P.O. takes the fear out of hemorrhoid therapy. Don't suffer another day before you try Mentholatum M.P.O.—the painless medication that acts to shrink hemorrhoids without cutting or injections. Available without prescription at all drugstores.

Progress Report: New Formula For Home Therapy of Hemorrhoids New Metholatum M.P.O. offers a non-surgical treatment to reduce hemorrhoids—relieve pain, itch.

Special Formulation

- . . . shrink piles.
- . . . promote healing.
- . . . new development

M.P.O. offers non-surgical Treatment to Shrink Piles . . . plus Fast-Acting Relief for Pain and Itching.

- . . . works to shrink hemorrhoids, help clear them up.
- . . . New M.P.O.—medicated ointment—actually acts to shrink piles and helps clear them up.

Famous Mentholatum Laboratories have developed a modern, home therapy for hemorrhoids that can bring relief without surgery or injections.

New M.P.O. takes fear out of hemorrhoidal therapy.

New Advance in Home Therapy for Hemorrhoids.

- . . . the latest development in the non-surgical relief of hemorrhoids.
- . . . acts to shrink hemorrhoids without cutting or injections.
- . . . quickly relieves tormenting pain
- . . . acts to shrink hemorrhoids and promote healing

PAR. 6. Through the use of said advertisements, and other similar thereto not specifically set out herein, respondent has represented and is now representing, directly and by implication that the use of "Mentholatum M.P.O." *Medicated Pile Ointment* will:

1. Reduce or Shrink piles;
2. Eliminate surgery as a treatment for piles;
3. Heal, cure or clear-up piles:
4. Relieve all pain attributed to or caused by piles.
5. Stops itching.

PAR. 7. In truth and in fact the use of "Mentholatum M.P.O." *Medicated Pile Ointment* will not:

1. Reduce or shrink piles;
2. Eliminate surgery as a treatment for piles;

3. Heal, cure or clear-up piles;
4. Relieve all pain attributed to or caused by piles;
5. Stops itching;
6. Afford any relief or have any therapeutic effect upon the condition known as piles or upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles.

Therefore, the advertisements referred to in Paragraph Five 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.

PAR 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

OPINION OF THE COMMISSION

DECEMBER 16, 1966

BY JONES, *Commissioner*:

I

The complaint in this matter, issued on August 28, 1964, charged that respondent violated Sections 5 and 12 of the Federal Trade Commission Act by making false representations in advertising its ointment, sold under the name of "Mentholatum M.P.O.' Medicated Pile Ointment," for the treatment of hemorrhoids or piles.¹ The complaint alleged, and respondent in its answer admitted, that it maintained a course of trade in said preparation in commerce within the meaning of the Federal Trade Commission Act.

Paragraph Five of the complaint set forth a series of statements which were alleged to be typical of the claims made in respondent's advertisements. Among the statements quoted are the following:

Famous Mentholatum Laboratories have developed a modern, home therapy for hemorrhoids that can bring relief without surgery or injections. New M.P.O.—medicated pile ointment—starts relief from pain and itching in seconds. This soothing medication acts to shrink hemorrhoids and promote healing.

¹ The terms "hemorrhoids" and "piles" are synonymous (Finding of Fact 11); and will be used interchangeably herein. Hereinafter the paragraphs of the Findings of Fact in this case will be referred to as "F.—."

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Opinion

RELIEF STARTS IN SECONDS—the instant you apply M.P.O. its anesthetic and vaso-constrictor start to work. This soothing, painless medication quickly relieves tormenting pain and stops the embarrassing itch.

HELPS PROMOTE HEALING—M.P.O.'s exclusive temperature-stable ointment concentrates medication right on inflamed tissue—not beyond as suppositories sometimes do. Its Ephedrine Sulfate works quickly to reduce swelling and shrink piles.

New M.P.O. takes the fear out of hemorrhoid therapy. Don't suffer another day before you try Mentholatum M.P.O.—the painless medication that acts to shrink hemorrhoids without cutting or injections. Available without prescription at all drugstores.

Respondent in its answer admitted so much of Paragraph Five of the complaint as alleged that the statements quoted therein were among the statements made by respondents in advertisements but denied that they were typical (Answer, Par. 5).

Paragraph Six of the complaint charged that through the use of these advertisements and others respondent had represented that use of M.P.O. will: (1) reduce or shrink piles; (2) eliminate surgery as a treatment for piles; (3) heal, cure or clear up piles; (4) relieve all pain attributed to or caused by piles and (5) stop itching. Respondent denied each allegation in this paragraph (Answer, Par. 6).

In Paragraph Seven the representations set forth in Paragraph Six are alleged to be false and it is further alleged that M.P.O. will not "[a]fford any relief or have any therapeutic effect upon the condition known as piles or upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles." Therefore, the complaint concludes that respondent's advertisements were misleading in material respects and constituted "false advertisements" within the meaning of the Federal Trade Commission Act. Respondent denied the allegations in this paragraph except that it admitted that M.P.O. will not eliminate surgery as a treatment for piles and will not relieve all pain attributed to or caused by piles (Answer, Par. 7).

The complaint in this matter was issued simulataneously with four other complaints also charging misrepresentations in the advertising of hemorrhoidal preparations, namely: *Humphreys Medicine Company, Incorporated*, Docket 8640 [p. 1502 herein], *American Home Products Corporation*, Docket 8641 [p. 1524 herein], *E. C. DeWitt & Co., Inc.*, Docket 8642 [p. 1647 herein], and *Grove Laboratories, Incorporated*, Docket 8643 [71 F.T.C. 822]. Hearings in the *American Home Products* case took place

in April and May 1965, and the initial decision in that case was rendered on October 22, 1965. Complaint counsel appealed. On January 12, 1966, before argument of his appeal, complaint counsel moved in each of the other four cases to suspend hearings pending the issuance of the Commission's decision in *American Home Products*. This motion was denied by the Commission on March 16, 1966, and respondents in each of these four cases moved for reconsideration. On April 26, 1966 [69 F.T.C. 1179], the Commission entered an order directing the examiner to proceed with the hearings in each of these cases unless the parties desired to enter into a stipulation providing essentially that their cases may be disposed of on the basis of the record and findings in the *American Home Products* case. On June 17, 1966, respondent and complaint counsel filed a stipulation in accordance with the provisions of the Commission's order of April 26, 1966.² The stipulation provided that the Commission may issue such order as it deems necessary in the public interest on the basis of the facts stipulated by the parties and that the respondent waived any intervening steps before the hearing examiner. The parties further stipulated that the advertisements in the case had no significantly different effect upon the reader from the effect of the advertisements in *American Home Products*; that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparations; and that, to the extent that respondent's advertisements differ significantly from those in *American Home Products*, the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences.

Attached to this stipulation are the texts of two similar advertisements, stated in the stipulation to be "representative of respondent's advertising claims." One of these advertisements reads in full as follows:

HEMORRHOIDS? Make this 3-day test!

New M.P.O. *must* relieve pain faster and longer than the preparation you are now using or we will gladly refund your purchase price in full.

If you seek *more* relief than you may now be getting, join the thousands of hemorrhoid (pile) sufferers now turning to new M.P.O. Developed by famous Mentholatum Laboratories, M.P.O. works in these five ways:

1. *Helps ease pain faster.* You get more medically accepted pain-relieving ingredients than the preparation you may now be using . . . to help reduce pain and discomfort.

² The terms of this stipulation (hereinafter referred to as "Stip.") are set forth in F.5.

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2. *Helps shrink swollen tissues.* M.P.O. quickly releases the proven vasoconstrictor, Ephedrine Sulfate.

3. *Helps relieve embarrassing itch.* M.P.O.'s medication is homogenized for faster absorption, faster action.

4. *Helps make relief last longer.* M.P.O.'s more temperature-stable base holds medication in place for prolonged action.

5. *Helps fight danger in infection.* Proven germ-killer, Hexachlorophene, combats bacteria.

Test it yourself for the next three days. If not satisfied that M.P.O. helps you more than the preparation you're now using, return unused portion to the Mentholatum Co., Buffalo, N.Y., for refund. Available in stainless ointment or suppositories at drug counters.

The other advertisement states in part as follows:

You get more medically accepted pain-relieving ingredients, including Benzocaine, than in the preparation you may now be using.

On the basis of the pleadings, the stipulation of the parties and the attached advertisements, together with such portions of the record in *American Home Products* as are specified in the attached findings we conclude that we have jurisdiction over respondent and the subject matter and that respondent was engaged in commerce and accordingly are entering our Findings of Fact and Conclusions in the matter.

II

DISCUSSION OF ISSUES

A. *Representations Made by Respondent in Its Advertisements.*

Respondent is charged with representing that its product will (1) reduce or shrink hemorrhoids, (2) eliminate surgery as a treatment for hemorrhoids; (3) heal, cure or clear up hemorrhoids; (4) relieve all pain attributed to or caused by hemorrhoids and (5) stop itching.

In evaluating the meaning of respondent's advertisements we will consider not only the advertisements annexed to the stipulation between the parties but also to the statements quoted in the complaint which respondent has admitted were made by it in its advertisement. Respondent denied that the statements alleged in the complaint were typical. However, we are not compelled to determine whether the ads are typical but only whether they contain false or misleading statements. The advertisements were conceded to have been made, and if they contain false or misleading representations, issuance of an order is proper even though

there may have been other advertisements of respondent which did not contain these representations.

In *American Home Products* we found that respondent had represented that its preparation would "reduce or shrink hemorrhoids," "avoid the need for surgery as a treatment for hemorrhoids," "eliminate all itch due to or ascribed to hemorrhoids," "relieve all pain attributed to or caused by hemorrhoids," and "heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem." In Par. 2(a) of the stipulation executed by the parties, it is provided that the advertisements in the instant case "had no significantly different effect upon the reader from the effect of the advertisements in *American Home Products*." Accordingly, on the basis of this stipulation alone, we could conclude that respondent's advertisements represent that its ointment will shrink hemorrhoids and relieve all pain. However, there is no need to rely exclusively on parties' stipulation for this conclusion since the advertisements speak for themselves and our own independent examination of them enables us to determine whether the complaint allegations as to the representations made in these advertisements may be sustained.

(1) Respondent's claims respecting shrinkage or reduction of hemorrhoids

Respondent claims in the advertisements that its preparation "acts to shrink hemorrhoids" and that "[i]ts Ephedrine Sulfate works quickly to reduce swelling and shrink piles," thus directly representing, as alleged, that M.P.O. will reduce or shrink piles. Other advertising claims made by respondent, while literally specifying only shrinkage of "swollen tissues," also have the effect of creating in the mind of the hemorrhoid sufferer that his hemorrhoids will be shrunk. These advertisements state that respondent's medication "Helps shrink swollen tissues" and "quickly releases the proven vaso-constrictor, Ephedrine Sulfate." Since a "vaso-constrictor" is an agent which causes constriction of blood vessels (Webster's New International Dictionary, Second Edition), the clear implication of this statement is that the hemorrhoids or blood vessels will be shrunk, not merely that the overlying tissue will be reduced in size. Furthermore, in our opinion, any member of the public who reads a representation that a hemorrhoidal preparation will help shrink swollen tissue is unlikely to make any technical distinction between this representation and the representation that the product will shrink hemorrhoids. Ac-

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cordingly we conclude that respondent's claims in its advertising are equivalent to direct representations that its products will shrink hemorrhoids.

(2) Respondent's claims respecting elimination of surgery as a treatment of hemorrhoids

Respondent advertises that M.P.O. "can bring relief without surgery or injections." This, in our opinion, clearly constitutes a representation that it will "eliminate surgery as a treatment for piles" as alleged in Paragraph Six (2) of the complaint.

(3) Respondent's claims respecting healing, curing or clearing up of hemorrhoids

Respondent maintains in its advertising that its preparation "actually acts to shrink piles and helps clear them up"; "can bring relief without surgery or injections"; "acts to shrink hemorrhoids and promote healing" and "helps promote healing." While the word "healing" is in certain cases coupled with the word "promote," the implication remains that through the use of M.P.O. one's hemorrhoids may be healed. An individual with hemorrhoids would undoubtedly assume that if M.P.O. promoted healing, use of this medication will within a reasonable period of time lead to the healing of his hemorrhoids. Therefore, in our opinion, these statements when viewed in the context of the entire advertisement clearly convey the message to the hemorrhoidal sufferer that M.P.O. will heal hemorrhoids.

(4) Respondent's claims respecting pain

Respondent promises in its advertising that its product "must relieve pain," "quickly relieves tormenting pain," "helps ease pain faster" and "contains more pain-relieving ingredients, including Benzocaine, than the preparation you may now be using." Respondent's claims are unequivocal and do not permit even an inference that the relief actually afforded may be partial or temporary. The reference to "benzocaine," a local anesthetic (Webster's New International Dictionary, Second Edition), implies that the preparation will produce anesthesia or paralysis of the sensory apparatus in the affected area (*Id.*), thus effecting a total absence of pain or other feeling. Furthermore, the representations pertaining to shrinking and healing referred to above would also tend to cause the reader to believe that the symptoms, including pain, would be eliminated when the hemorrhoid has been reduced

in size and healed. Accordingly, we conclude that the statements in respondent's advertisements constitute representations that its product will relieve all pain attributed to or caused by hemorrhoids.

(5) Respondent's claims respecting itching

In its advertisements respondent states that M.P.O. "relieves embarrassing itch." In our opinion this unqualified statement promises complete relief from the itching due to hemorrhoids, and that the average reader would be under the impression that if he used M.P.O. his itching would stop. Moreover, the claims respecting healing and shrinkage and the references to benzocaine, a local anesthetic, imply that entire relief will be afforded from all symptoms including itching.

B. Deceptive Nature of Respondent's Claims

The parties have stipulated that the facts applicable to this case support the stipulation that the effect of the use of respondent's preparation is not significantly different from the effect of American Home Products' preparations (Stip., Par. 2(b)). Accordingly, the findings of fact and conclusions reached in *American Home Products* with respect to the efficacy of Preparation H, drawn from the record and Findings of Fact in that case, are equally applicable to M.P.O. It is in the light of these findings and conclusions, therefore, that the allegations in Paragraph Seven must be analyzed. In its answer respondent has admitted that M.P.O. will not eliminate surgery as a treatment for piles and will not eliminate all pain attributed to or caused by piles. Therefore, our discussion will be confined to the remaining issues relating to the efficacy of M.P.O.

(1) Ability of M.P.O. to reduce or shrink hemorrhoids

Paragraph Seven (1) of the complaint alleges that, contrary to respondent's representations, M.P.O. will not reduce or shrink hemorrhoids.

Respondent advertises that M.P.O. "acts to shrink piles" and "helps shrink swollen tissues." We have concluded that these representations amount to a claim, and will be understood by the hemorrhoidal sufferer as a claim, that his hemorrhoids will be reduced in size. Hemorrhoids are by definition veins located underneath the mucuous membrane of the rectum and the skin of the anal canal (F. 10). The evidence in the record is that hemorrhoi-

dal preparations such as M.P.O. may have some effect upon edema or swelling in the tissue overlying hemorrhoids (F. 25(c), 26) but that they cannot reduce the size of the hemorrhoidal veins (F. 25(b), 26). The record also demonstrates, however, that this product can have no beneficial effect when the swelling is due to thrombosis (F. 25(c), 26). Thus, even if we were to assume that some reduction of swelling is effected by respondent's preparation, not all types of swelling will be affected in this way, and furthermore, the reduction which will occur will not be of the hemorrhoid itself but only of the surrounding area and thus will not be of the type implicitly promised by respondent's advertising. Accordingly, we find that respondent's representations with respect to shrinkage of hemorrhoids are in all respects false and misleading.

(2) Ability of M.P.O. to stop itching

It is alleged in Paragraph Seven (5) of the complaint that, in contrast to respondent's claims in its advertising, M.P.O. will not "stop itching." According to the record applicable to this case itching is not a common symptom of hemorrhoids, and the itching thought to be caused by hemorrhoids is usually the result of some other condition (F. 19). Where the itching is caused by hemorrhoids, M.P.O., through the lubricants which it contains, may possibly relieve dryness and surface irritation and thereby provide some temporary relief from some types of itching associated with hemorrhoids (F. 25(e), 26). However, it cannot eliminate all itching caused by or associated with hemorrhoids (F. 25(e), (f), 26). Therefore, respondent's claims to this effect are false.

(3) Ability of M.P.O. to heal hemorrhoids

Paragraph Seven (3) of the complaint alleges that, contrary to respondent's representations, M.P.O. will not heal, cure or clear up piles. The record applicable to this case demonstrates that surgical removal is the only means by which hemorrhoids can be permanently cured (F.22). Although certain symptoms may be ameliorated by other means (F. 24, 25) and may disappear spontaneously (F. 21), unless the underlying vascular condition is corrected, the patient will be subject to recurring episodes of symptoms (F. 21). Since M.P.O. cannot affect the underlying dilated veins it cannot heal or cure hemorrhoids or cause them to be cleared up or cease to be a problem (F. 25(a), 26).

C. *Alleged Absence of Other Therapeutic Benefits of M.P.O.*

In addition to the allegations that respondent's affirmative representations with respect to its product are false, the complaint also alleged that M.P.O. will not "[a]fford any relief or have any therapeutic effect upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles" (Complaint, Paragraph Seven (6)).

As we have noted it is clear from the record that M.P.O. cannot heal hemorrhoids. The record is also clear that while M.P.O. may in some cases provide some temporary relief from two symptoms of hemorrhoids, namely, pain and itching, it can provide no relief from the symptoms of hemorrhoids and that it can have no other therapeutic effect upon hemorrhoids (F. 25(f), 26). Accordingly, we conclude that the allegation in Paragraph Seven (6) of the complaint should be sustained.

III

THE ORDER

The parties have stipulated that the Commission may issue such order as it deems necessary in the public interest, taking into consideration any significant differences between respondent's advertising and those of *American Home Products* (Stip., Pars. 4 and 6).

In determining what order is necessary to ensure that respondent's misrepresentations respecting the efficacy of its drug preparation will not occur again, it is of primary importance to consider the segment of the public which is most likely to be particularly affected by these misrepresentations.

Our mandate under the law was graphically expressed by Judge Clark when he emphasized that "the law is not 'made for the protection of experts, but for the public—that vast multitude which includes the ignorant, the unthinking and the credulous.'" *Charles of the Ritz Distributing Corporation v. Federal Trade Commission*, 143 F. 2d 676, 679 (2nd Cir. 1944).

The need for protection of the public becomes particularly acute where misrepresentations are made with respect to health claims and the efficacy of drugs since the appeal of such representations falls most poignantly on those persons who are in distress, frequently the aged and the infirm. Moreover, today, with Medicare a reality, many people may be consulting doctors for the first

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time in their lives. They will be learning that aches and pains and discomforts of all kinds may be symptoms of diseases which they had never heard of before or never before associated with their own distress. Consequently, advertised claims of drug efficacy will have increasing relevance to this segment of our population and will offer hope of relief to millions in our population who may have previously ignored such advertising not realizing their possible application to their own conditions. Accordingly, it becomes of even greater importance today to make sure that representations respecting health claims and relief of distress are absolutely accurate and do not contain promises, impressions, or even highly veiled suggestions of efficacy which are in any sense false or misleading. It is with these basic principles in mind that we must fashion the type of prohibitive provisions which are necessary to be included in the order in this case.

A. Product Application of the Order

The order proposed by complaint counsel provided that it was to be applicable to M.P.O. "or any other preparation of *substantially similar composition or possessing substantially similar properties*" (emphasis added). As we noted in our Opinion in *American Home Products* with respect to Preparation H, under such an order the respondent could easily replace the ingredients in its product with those that are not "substantially similar" or which did not possess "substantially similar properties" and be exempt from the order even though such substitute product may be equally ineffective in relieving symptoms of hemorrhoids (*American Home Products* Opinion, pp. 1623-1625).³ And, as we further pointed out in *American Home Products*, determination of whether or not the new ingredients were "substantially similar" or possessed "substantially similar properties" "would be difficult of enforcement and would only be productive of controversy and probably litigation" (*American Home Products*, Opinion, p. 1623). Consequently, we are entering an order in the instant case, comparable to that entered in *American Home Products*, which is applicable to all preparations which may be sold by respondent for relief or treatment of hemorrhoids or its symptoms regardless of whether they contain the same or different ingredients from those contained in M.P.O. Finally, as we pointed out in detail in

³ It is apparent from the nature of the ingredients in respondent's preparation (F. 3) that they in all likelihood are replaceable by other ingredients which might have no different effect on hemorrhoids and yet be wholly outside the order if it applied only to M.P.O. or other preparations containing similar ingredients.

our opinion in the *American Home Products* case, this provision in no way hinders respondent from developing a truly efficacious remedy for hemorrhoids which might enable it to make some of the claims which this order now prohibits it from making. In this situation respondent need only apply to the Commission for a modification of the order as specifically provided for in the order which we are entering.

B. *Respondent's Representations Respecting the Efficacy of M.P.O.*

The order which we are entering prohibits respondent from representing directly or by implication that its product will reduce or shrink hemorrhoids; eliminate surgery as a treatment for hemorrhoids; heal, cure or clear up hemorrhoids; afford any relief from pain and itching, in excess of providing some temporary relief in some cases of pain and itching; or have any other effect on hemorrhoids or its symptoms. In addition, we are specifically prohibiting respondent from referring to its "proven vaso-constrictor, Ephedrine Sulphate" in its advertising. Since reference to the purported vaso-constrictor implies shrinkage of hemorrhoids, its continued use would have the effect of negating the prohibition on claims of shrinkage and therefore must be disallowed. We have similarly specifically prohibited respondent from referring in its advertisements to the ingredient "benzocaine" which respondent uses to emphasize the purported pain-relieving qualities of its medication. As we noted above, reference to this term implies total elimination of all pain. In view of our findings and conclusions that M.P.O. will not relieve all pain, any use of this term would therefore be wholly false and misleading. We have found that respondent's product will at best only afford some temporary relief in some cases of pain associated with some types of hemorrhoids. If this temporary relief is due to benzocaine, it would be redundant to permit respondent to single this ingredient out for special mention in its advertisement in addition to making the permitted disclosure respecting temporary relief for some cases of pain and would serve only to confuse and mislead the reader or hearer. To the extent singling such an ingredient out for special emphasis conveyed an impression different from this disclosure, it would be false and misleading. Accordingly, we have prohibited use of this word. Furthermore, in view of the likelihood that reference to any single ingredient may convey the impression that such ingredient is of special importance

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in the treatment or relief of hemorrhoids, we have provided that respondent may not refer to any other ingredient 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.

Respondent lays great stress upon the purported ability of its product to offer greater relief from hemorrhoids and its symptoms than other hemorrhoidal preparations. For example, it claims that "M.P.O. *must* relieve pain faster and longer than the preparation which you are now using." These representations that M.P.O. is more effective than other hemorrhoidal preparations on the market contradict the terms of respondent's stipulation herein in which it has agreed that the effect of use of its product is not significantly different from the use of the preparation of American Home Products, one of the major producers of hemorrhoidal preparations. In our opinion there is no possible justification for permitting respondent to continue to represent that its products are more effective than those of other companies, which would include American Home Products, when it has conceded that such is not the case. Therefore, we have ordered respondent to cease from claiming that its product is more effective in the treatment or relief of hemorrhoids or its symptoms than other preparations sold for the treatment or relief of hemorrhoids. If respondent develops a preparation which is in fact more effective than one or more other preparations, it may petition the Commission for the modification of the order permitting an accurate comparison with such other preparation or preparations.

FINDINGS OF FACT, CONCLUSIONS AND ORDER

FINDINGS OF FACT

A. *Respondent and Its Product*

1. Respondent The Mentholatum 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 1360 Niagara Street in the city of Buffalo, State of New York (Complaint, Par. 1; Answer, Par. 1).

2. Respondent The Mentholatum Company is now, and for some time last past has been, engaged in the sale and distribution of a preparation offered for the treatment of piles or hemor-

rhoids and coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act (Complaint, Par. 2; Answer, Par. 2).

3. The designation used by respondent The Mentholatum Company for said preparation, the formula thereof and directions for use are as follows:

Designation: "Mentholatum M.P.O." Medicated Pile Ointment.

Formula: The active ingredients for "Mentholatum M.P.O." Medicated Pile Ointment are as follows:

Benzocaine; Hexachlorophene; Ephedrine sulfate, lanolin, in an exclusive prescription-type base that is temperature-stable.

Directions: Apply freely night and morning and after each bowel movement. Use scientific applicator for internal hemorrhoids. Lubricate before use and thoroughly cleanse after. In case of bleeding, a physician should be consulted. Keep all medicine out of the reach of children.

(Complaint, Par. 2; Answer, Par. 2.)

4. Respondent The Mentholatum Company causes the said preparation, when sold, to be transported from its place of business located at 1360 Niagara Street, Buffalo, New York, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial (Complaint, Par. 3; Answer, Par. 3).

B. *Stipulation Entered Into by Parties Hereto*

5. The parties hereto entered into a Stipulation, filed on June 17, 1966, providing as follows:

1. The proceedings are herein submitted to the Commission for disposition on the basis of the record in the *American Home Products Corporation*, Docket No. 8641, and such other facts and records as provided for herein; and

2. IT IS FURTHER STIPULATED

(a) That the Advertising of The Mentholatum Company has no significantly different effect upon the reader than the effect of the advertisements in the *American Home Products* case.

(b) The effect of the use of Respondent's preparation is not significantly different from the use of the preparation of *American Home Products*.

3. Attached hereto is copy representative of Respondent's advertising claims for inclusion in the record.

4. To the extent that the Respondent's advertisements differ significantly to those in *American Home Products*, the Commission may, in its order dispo-

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ing of the proceedings, include appropriate provisions to take into consideration such differences.

5. The undersigned waive any further intervening procedures before the Hearing Examiner.

6. The Commission may, on the basis of the Stipulation, the attached advertisements and the record in American Home Products, issue such Order as it deems necessary to the Public interest.

7. The Commission is to issue its Order disposing of such proceeding concurrently with the Order setting forth its final decision in American Home Products.

8. The record on which the Commission is to make its disposition of such proceeding and for the purpose of judicial review is limited to the record at the time the Stipulation is filed, the Stipulation with the attached advertisements and the record in American Home Products.

Attached to this stipulation (hereinafter referred to as "Stip.") are copies of two advertisements.

C. Representations Made

6. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers, magazines and other advertising media in the District of Columbia, and in various States of the United States, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and has disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act (Complaint, Par. 4; Answer, Par. 4).

7. Among the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

Famous Mentholatum Laboratories have developed a modern, home therapy for hemorrhoids that can bring relief without surgery or injections. New M.P.O.—medicated pile ointment—starts relief from pain and itching in seconds. This soothing medication acts to shrink hemorrhoids and promote healing

RELIEF STARTS IN SECONDS—the instant you apply M.P.O. its anesthetic and vaso-constrictor start to work. This soothing, painless medication quickly relieves tormenting pain and stops the embarrassing itch.

HELPS PROMOTE HEALING—M.P.O.'s exclusive temperature-stable ointment concentrates medication right on inflamed tissue—not beyond as suppositories sometimes do. Its Ephedrine Sulfate works quickly to reduce swelling and shrink piles.

New M.P.O. takes the fear out of hemorrhoid therapy. Don't suffer another day before you try Mentholatum M.P.O.—the painless medication that acts to shrink hemorrhoids without cutting or injections. Available without prescription at all drugstores.

HEMORRHOIDS?

MAKE THIS 3-DAY TEST!

NEW M.P.O. MUST RELIEVE PAIN FASTER AND LONGER THAN THE PREPARATION YOU ARE NOW USING OR WE WILL GLADLY REFUND YOUR PURCHASE PRICE IN FULL.

If you seek more relief than you may now be getting, join the thousands of hemorrhoid (pile) sufferers now turning to new M.P.O. Developed by famous Mentholatum Laboratories, M.P.O. works in these five ways:

1. Helps ease pain faster. M.P.O. contains more medically accepted pain-relieving ingredients than the preparation you may now be using . . . to help reduce pain and discomfort.
2. Helps shrink swollen tissues. M.P.O. quickly releases the proven vasoconstrictor, Ephedrine Sulfate.
3. Helps relieve embarrassing itch. M.P.O.'s medication is homogenized for faster absorption, faster action.
4. Helps make relief last longer. M.P.O.'s more temperature-stable base holds medication in place for prolonged action.
5. Helps fight danger of infection. Proven germ-killer, Hexachlorophene, combats bacteria.

Test it yourself for the next three days. If not satisfied that M.P.O. helps you more than the preparation you're now using, return unused portion to the Mentholatum Co., Buffalo, N.Y., for refund. Available in stainless ointment or suppositories at drug counters.

You get more medically accepted pain-relieving ingredients, including Benzocaine, than the preparation you may now be using.

(Complaint, Par. 5; Answer, Par. 5; Stip. [attachments].)

D. Meaning of Respondent's Representations

8. In *American Home Products Corporation*, Docket 8641, we found that through the use of American Home Products Corporation's advertisements, said respondent has represented and is now representing, directly and by implication, that the use of Preparation H Ointment and Suppositories, and each of them, will:

- (a) Reduce or shrink hemorrhoids;¹
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Eliminate all itch due to or ascribed to hemorrhoids;

¹ The words "hemorrhoids" and "piles" are synonymous (See Finding 11, *infra*) and will be used interchangeably herein.

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- (d) Relieve all pain attributed to or caused by hemorrhoids;
- (e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(*American Home Products Corporation*, Docket 8641, Finding of Fact 7.²)

9. Through the use of the advertisements set forth in paragraph 7 hereof, and others similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of Mentholatum M.P.O. Medicated Pile Ointment will:

- (a) Reduce or shrink hemorrhoids;
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Eliminate all itch due to or ascribed to hemorrhoids;
- (d) Relieve all pain attributed to or caused by hemorrhoids;
- (e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(Stip., Par. 2(a).)

E. General Medical Facts Pertaining to Hemorrhoids and Their Treatment

10. "Hemorrhoids" are masses of dilated weak-walled veins located underneath the mucous membrane of the lower portions of the rectum and under the skin of the anal canal and the peri-anal area (A.H.P. Tr. 193, 255, 340, 413, 414, 478, 543, 606, 709, 817, 838, 867, 892).³

11. The terms "hemorrhoids" and "piles" are synonymous (A.H.P. Tr. 117, 193, 255, 340, 414, 478-479, 543, 607 and 709).

12. "Internal hemorrhoids" are hemorrhoids occurring above the pectinate line and are covered by mucosa. "External hemorrhoids" are hemorrhoids occurring below the pectinate line and are covered by skin (A.H.P. Tr. 193, 199, 232, 236, 255-257, 262, 342, 420, 421, 486, 548, 549, 608, 609, 817, 838, 867 and 892).

13. An "external thrombotic hemorrhoid" is a blood clot under the surface of the skin located in the immediate vicinity of the anal opening (A.H.P. Tr. 117). It is also referred to as an "anal hematoma" (A.H.P. Tr. 719) or a "perianal thrombosis" (A.H.P. Tr. 549).

14. A "prolapse" or "prolapsing hemorrhoid" is an internal

² The paragraphs of the Findings of Fact in *American Home Products* are hereinafter referred to as "A.H.P. —."

³ The references are to the transcript in *American Home Products*.

hemorrhoid which, due to laxity of the rectum is enabled to fall outside the anal canal and protrudes to the surface (A.H.P. Tr. 199).

15. Hemorrhoids develop in a human being largely because of the fact that he stands in an upright position. In such a position a column of blood is formed from the splenic to the superior hemorrhoidal vein. The hemorrhoidal veins do not have valves to support the weight of this column of blood. The resulting pressure causes the hemorrhoidal veins to dilate (A.H.P. Tr. 594, 231). Hemorrhoids tend to be hereditary (A.H.P. Tr. 144, 231). Other factors leading to the development of hemorrhoids are abnormally long periods of standing, straining, difficulty with bowel movement, impacted stool, pregnancy and cirrhosis of the liver (A.H.P. Tr. 231-232, 144).

16. The most common symptom of internal hemorrhoids is bleeding (A.H.P. Tr. 256, 393, 479). The other principal symptom of internal hemorrhoids is prolapse (A.H.P. Tr. 256). Pain rarely occurs in internal hemorrhoids since the sympathetic nervous system which services the region above the pectinate line where hemorrhoids are located does not contain sensory nerve fibers (A.H.P. 266, 294, 342-343). Pain, however, may occur in infrequent cases of severe complicated internal hemorrhoids as the result of spasm or strangulation caused by prolapse or as the result of the involvement of tissues beyond the pectinate line (A.H.P. Tr. 342, 415, 631-632, 723).

17. The most common symptoms of external hemorrhoids are pain and swelling (A.H.P. Tr. 256, 742). Pain in external hemorrhoids is frequently caused by an external thrombotic hemorrhoid (A.H.P. Tr. 503). Other causes of pain in external hemorrhoids are inflammation, swelling and ulceration (A.H.P. Tr. 174, 267, 358, 519). Pain may also result from infection. However, this cause of pain is a relatively infrequent occurrence since the rectal and anal area is relatively highly resistant to infection (A.H.P. Tr. 520) and thus infection occurs very rarely as a symptom of hemorrhoids (A.H.P. Tr. 315).

18. Swelling, as distinguished from the dilation of the hemorrhoidal veins, may be a symptom of hemorrhoids as well as a possible cause of pain in external hemorrhoids. Swelling usually results either from a blood clot or thrombosis, which causes distension in the tissue overlying the hemorrhoid, or from edema, which is the accumulation of serous fluid in the interfibrillar spaces in such tissue (A.H.P. Tr. 144, 550).

19. Itching is not a common symptom of internal or external hemorrhoids (A.H.P. Tr. 129, 265, 618-619, 727). The itching thought to be caused by hemorrhoids is usually the result of some other condition such as fungus infection or idiopathic pruritis (A.H.P. Tr. 326, 502, 504, 347, 618-619, 727). The itching which is caused by hemorrhoids is usually the result of discharge from a prolapsed internal hemorrhoid (A.H.P. Tr. 318, 425, 618-619), or healing of an external hemorrhoid (A.H.P. Tr. 265, 502).

20. The symptoms of hemorrhoids can be confused with other conditions such as fissure, fistula, peri-anal or peri-rectal abscess, hypertrophic papillae, papillitis, cryptitis, polyps, proctitis, ulcerative colitis, pruritis ani and carcinoma (cancer). Any of these conditions can co-exist with hemorrhoids and it is not uncommon to find such a situation (A.H.P. Tr. 114-115, 196-197, 205, 259-260, 347-349, 483-484, 545-546, 612-613, 714-715).

21. The symptoms of hemorrhoids often disappear spontaneously within short periods of time, which may range from several days to two weeks (A.H.P. Tr. 119, 264, 324, 355, 361, 424, 875, 1613). However, the underlying pathology, namely, the vascular dilation, will persist unless corrected and will be subject to recurring episodes of symptoms (A.H.P. Tr. 516, 214).

22. Surgical removal is the only means by which hemorrhoids can be permanently cured (A.H.P. Tr. 118-119, 195, 200-202, 262-263, 352, 422, 487, 550, 554, 623, 719-723, 830). However, surgery does not effect a complete cure in every case (A.H.P. Tr. 150). Surgery may not be advisable or necessary in every case. Surgery may be contra-indicated in cases in which the patient's general medical condition is such that the danger of anesthesia and surgery outweigh the possible benefits to be derived (A.H.P. Tr. 226). Surgery is also not advisable for a simple, uncomplicated hemorrhoid (A.H.P. Tr. 169). Although hemorrhoids may be uncomfortable they are rarely a very serious medical problem, so that a patient, if he chooses to avoid surgery or should avoid it for medical reasons, can go through life without having his hemorrhoids removed (A.H.P. Tr. 135).

23. The symptoms of simple, uncomplicated, internal hemorrhoids of small size can frequently be ameliorated by injectional therapy. This consists of the injection of a sclerosing solution into the hemorrhoid itself which causes scar tissue to form which cuts off the blood vessel feeding the hemorrhoid (A.H.P. Tr. 145, 200, 262-263, 353). A further treatment which has been used within the last several years is the baron ligation method

whereby a ligature of rubber is placed around internal hemorrhoids as another means of cutting off blood circulation to the hemorrhoid (A.H.P. Tr. 200-201, 488).

24. In cases on which surgery, injectational therapy or the baron ligation method are not used, a so-called "conservative" course of treatment may be prescribed. The measures used in such a course of treatment include cleanliness, altering of the diet to eliminate irritative foodstuffs, control of the bowels to ensure a smooth, soft stool, warm baths, witch hazel, boric acid, local anesthetic, ointments, suppositories, avoidance of standing and manual reinsertion of prolapse (A.H.P. Tr. 120, 202, 306, 356-357, 684-686). Ointments and suppositories contain lubricants which may protect the anal and rectal canal against the passage of hard, dry stool. Such lubricants may also serve to relieve dryness and soften the skin as well as provide a psychological advantage; many people derive mental relief from the fact that some sort of treatment is applied (A.H.P. Tr. 203-204, 279, 313, 355, 358, 362-363, 525, 555, 557).

F. Conclusions re Effect of Mentholatum M.P.O. Medicated Pile Ointment

25. In *American Home Products* we reached the following conclusions with respect to the effect of Preparation H Ointment and Suppositories on hemorrhoids and its symptoms based on citations set forth below:

(a) Preparation H will not avoid the need for surgery where it is indicated, or heal, cure or remove hemorrhoids, or cause hemorrhoids to cease to be a problem (A.H.P. 25, 26, 28, 29; A.H.P. Initial Decision, p. 1602; conceded by respondent on appeal (A.H.P. 31).

(b) Preparation H cannot reduce the size of hemorrhoidal veins (A.H.P. Tr. 128-129, 173-174, 212-213, 276, 369-370, 436-437, 500, 563-564, 629-630, 740, 1497, 1668) (A.H.P. 32).

(c) Preparation H may possibly, through the lubricants which it contains, temporarily protect inflamed surface areas from the passage of hard, dry stool and thereby have some effect upon edema or swelling in the tissue overlying hemorrhoids (A.H.P. Tr. 202, 1471, 1570, 1668. But cf. Tr. 128-129, 463, 684, 742-743). However, where swelling is due to thrombosis (A.H.P. Tr. 264), it will have no beneficial effect (A.H.P. Tr. 503) (A.H.P. 33).

(d) Preparation H may in some cases afford some temporary relief against some types of pain associated with hemorrhoids

(A.H.P. Tr. 131, 207, 279, 372-373, 439-440, 503, 566, 632-633, 744). Through the lubricants which it contains, this medication may protect inflamed surface areas against the passage of hard, dry stool and thereby temporarily relieve some pain caused by ulceration or from edema or swelling resulting from such inflammation (A.H.P. Tr. 174, 212-213, 358, 493, 525. But cf. Tr. 128-129, 463, 684, 742-743). Preparation H can, however, have no effect upon pain due to thrombosis (A.H.P. Tr. 295, 358, 503) or due to spasm or strangulation caused by prolapsing internal hemorrhoids (A.H.P. Tr. 631-632) (A.H.P. 34).

(e) Through the lubricants which it contains, Preparation H may possibly relieve dryness and surface irritation and thereby provide some temporary relief from some types of itching associated with hemorrhoids (A.H.P. Tr. 131, 215, 279-280, 373-374, 439-440, 503-504, 566, 633-634, 741) (A.H.P. 35).

(f) Except for the effects set forth in A.H.P. 33, 34, 35, as well as possible psychological effects (see A.H.P. 28), Preparation H will not have any beneficial effect in the treatment or relief of hemorrhoids or any of its symptoms (A.H.P. Tr. 131, 215, 279, 315-316, 372-373, 424, 439-440, 503-504, 566, 632-633, 682-683, 744; Answer, Par. 3) (A.H.P. 36).

26. We hereby enter findings with respect to the effect of Mentholatum M.P.O. Medicated Pile Ointment on hemorrhoids and its symptoms and manifestations identical to the findings with respect to Preparation H set forth in paragraph 25 hereof (Stip., Par. 2(b); Answer, Par. 7).

CONCLUSIONS RE ALLEGATIONS IN COMPLAINT

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondent.

2. Through the use of the advertisements set forth in paragraph 7 hereof and others similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of Mentholatum M.P.O. Medicated Pile Ointment, will:

- (a) Reduce or shrink hemorrhoids;
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Eliminate all itch due to or ascribed to hemorrhoids;
- (d) Relieve all pain attributed to or caused by hemorrhoids;
- (e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

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3. Mentholatum M.P.O. Medicated Pile Ointment will not:

- (a) Reduce or shrink hemorrhoids;
- (b) Avoid the need for surgery as a treatment for hemorrhoids;
- (c) Heal, cure or remove hemorrhoids and cause hemorrhoids to cease to be a problem;
- (d) Eliminate all itch or pain due to or ascribed to hemorrhoids or afford any relief from pain or itching associated with hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids; or
- (e) Afford any other type of relief or have any other therapeutic effect upon hemorrhoids or upon any of the symptoms or manifestations thereof.

4. Therefore, the advertisements referred to in paragraph 7 hereof 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 dissemination of said false advertisements constituted, and now constitutes, unfair and deceptive practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

ORDER

I. *It is ordered*, That respondent The Mentholatum 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:

A. In connection with the offering for sale, sale or distribution of Mentholatum M.P.O. Medicated Pile Ointment or any other product offered for sale for the treatment or relief of hemorrhoids or piles or any of its symptoms which:

1. Represents directly or by implication that the use of such product will:

(a) Reduce or shrink hemorrhoids or hemorrhoidal tissue or membranes or reduce or shrink swelling associated with hemorrhoids;

(b) Avoid the need for surgery as a treatment for hemorrhoids or hemorrhoidal symptoms:

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(c) Heal, cure, remove or clear up hemorrhoids;

(d) Afford any relief from pain or itching attributed to or caused by hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids;

(e) Afford any other type of relief or have any other therapeutic effect upon the condition known as hemorrhoids or upon any of the symptoms or manifestations thereof.

2. Contains any reference (a) to the words "Ephedrine Sulphate," or to any word such as "vaso-constrictor" which implies that said product will shrink or reduce hemorrhoids; or (b) to the word "benzocaine" or to any other word such as "anesthetic" which implies that said product will provide relief from pain or itching associated with hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids.

3. Contains any reference to any other ingredient 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.

4. Makes any claim that said product is more effective in the treatment or relief of hemorrhoids or any of its symptoms than other preparations sold for the treatment or relief of hemorrhoids.

B. 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 respondent's preparation or preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph I(A) hereof.

II. In the event that respondent at any time in the future markets any 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(A) 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

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the Federal Trade Commission Act, and, if such has been the case, that the specific representation has been approved 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.

FINAL ORDER

The parties having entered into a stipulation filed on June 17, 1966, providing, *inter alia*, that: the case was submitted to the Commission on the record in Docket 8641, *American Home Products Corporation* [p. 1524 herein] and such other facts and records as provided for in said stipulation; that the advertisements in the case had no significantly different effect upon the reader from the effect of the advertisements in *American Home Products*; that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparation; that to the extent that respondent's advertisements differ significantly from those in *American Home Products*, the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences; that respondent waives any intervening steps before the hearing examiner; that the Commission may, on the basis of this stipulation, the advertisements attached thereto and the record in *American Home Products*, issue such order as it deems necessary in the public interest and that the record on which the Commission is to make its disposition of this proceeding is limited to the record at the time this stipulation is filed; and the Commission having rendered its decision and issued its Opinion herein;

Now therefore, on the basis of said stipulation and attachments, the pleadings herein and the record in Docket 8641, *American Home Products Corporation* [p. 1624 herein], it is hereby

Ordered, That the attached Findings of Fact, Conclusions and Order be and they hereby are entered and issued by the Commission in final disposition of this proceeding.

Complaint

IN THE MATTER OF

TITUS PACIFIC CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS
LABELING ACTS

Docket C-1150. Complaint, Dec. 16, 1966—Decision, Dec. 16, 1966

Consent order requiring a San Francisco, Calif., importer and wholesaler of wool products, including wool blankets, to cease misrepresenting the fiber content of its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Titus Pacific Corporation, a corporation, and Lothar Steinberg, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, 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 Titus Pacific Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

Individual respondent Lothar Steinberg is an officer of said corporate respondent and participants in the formulation, direction and control of the acts, policies and practices of said corporation, including the acts and practices hereinafter referred to.

Respondents are importers and wholesalers of wool products with their office and principal place of business located at 9 First Street, San Francisco, California.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment and offered for sale in commerce, as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded within the intent and meaning of Section 4(a)(1) of the Wool Products

Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain blankets stamped, tagged or labeled as containing either "7% new cotton, 15% reprocessed cotton, 18% reused cotton, 17% reprocessed rayon, 15% reprocessed wool, 25% reused wool and 3% other unknown reclaimed fibers" or "40% reprocessed and reused wool and 60% cotton and other fibers," where in truth and in fact, said blankets contained substantially less woolen fibers than represented.

PAR. 4. Certain of said wool products were further misbranded in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were certain blankets with labels on or affixed thereto which failed to disclose the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight of (1) woolen fibers; (2) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (3) the aggregate of all other fibers.

PAR. 5. The acts and practices of the respondents as set forth above were, and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their business, respondents now cause and for some time last past, have caused their said products to be sold in the United States after importation into the United States from foreign countries and have maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the fiber content of certain of their said products.

Among such misrepresentations, but not limited thereto, were statements representing the fiber content thereof as "40% Re-Used and Repr. Wool, 60% Cotton and other fibers" whereas, in truth and in fact, said blankets contained substantially less woolen fibers than represented.

PAR. 8. The acts and practices set out in Paragraph Seven have had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to cause them to misbrand products sold by them in which said materials were used.

PAR. 9. 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 commerce, within the intent and meaning 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 Textiles and Furs 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 Wool Products Labeling Act of 1939; 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Titus Pacific Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of

business located at 9 First Street, in the city of San Francisco, State of California.

Respondent Lothar Steinberg is an officer of said corporation and his address is the same as that of said corporation.

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 respondents Titus Pacific Corporation, a corporation, and its officers, and Lothar Steinberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting, distributing or delivering for shipment in commerce wool blankets or any other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939:

1. Which are falsely and deceptively stamped, tagged, labeled, or otherwise identified as to the character or amount of the constituent fibers contained therein.

2. Unless each such product has securely affixed thereto or placed thereon a stamp, tag, label or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Titus Pacific Corporation, a corporation, and its officers, and Lothar Steinberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of blankets or any other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in blankets or any other textile products on invoices or shipping memoranda applicable thereto or in any other manner.

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.

Complaint

IN THE MATTER OF

YOUNGSTOWN CARPET GUILD DISTRIBUTORS CO.
ET AL.

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

Docket 8719. Complaint, Oct. 24, 1966—Decision, Dec. 20, 1966

Consent order requiring a Hyattsville, Md., distributor of carpets to cease using bait advertising and other pricing misrepresentations in selling its products.

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 Youngstown Carpet Guild Distributors Co., a corporation, and Paul Kahn and Morton S. Falkaw, individually and as officers of said 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 Youngstown Carpet Guild Distributors Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 4806 Rhode Island Avenue, in the city of Hyattsville, State of Maryland.

Respondents Paul Kahn and Morton S. Falkaw are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of floor covering products to the public. Respondents also do business as Youngstown Carpet Guild, Inc., and as Youngstown Carpet Distributors.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said

products, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have 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 their aforesaid business, and for the purpose of inducing the purchase of their carpeting, the respondents have made numerous statements and representations in advertisements appearing in newspapers of general circulation, respecting the character of their offer to sell and the merchandise included in such offer.

Typical and illustrative, but not all inclusive, of the aforesaid statements and representations are the following:

3 DAYS ONLY!
 WALL-TO-WALL DUPONT NYLON CARPET SALE!
 3 COMPLETE ROOMS
 100% CONTINUOUS FILAMENT DUPONT NYLON
 \$119
 270 Square feet
 Padding and Installation Optional
 DuPONT
 501
 N
 \$159
 270 Sq. ft.
 Padding & Installation Optional
 FREE WITH PURCHASE SUNBEAM
 ELECTRIC VACUUM SWEEPER

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not specifically set out herein, the respondents have represented, directly or by implication, that they were making a bona fide offer to sell the advertised carpeting at the price and on the terms and conditions specified in the advertisement.

PAR. 6. In truth and fact, respondents' offers were not bona fide offers to sell the said carpeting at the aforesaid advertised prices and on the terms and conditions therein stated but were made for the purpose of obtaining leads and information as to persons interested in the purchase of carpeting. After obtaining leads through response to said advertisements, respondents' representatives called upon such persons but made no effort to sell the carpeting at the aforesaid advertised prices. Instead, respond-

ents' representatives attempted to and frequently did sell carpeting at much higher prices. In addition, on occasions when the carpeting was requested without installation or padding pursuant to the advertised offer, respondents failed or refused to furnish the carpeting under such conditions. Further, in some instances respondents failed or refused to furnish the free merchandise offered in their advertisements.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. By and through the use of phrases such as "3 Days Only," "3 Day Sale!" and other statements and representations of similar import and meaning but not specifically set out herein, respondents represent and have represented, directly or by implication, that the availability of respondents' advertised offer is limited to 3 days only, and that respondents' carpeting is being offered for sale at special or reduced prices, and purchasers are thereby afforded savings from respondents' regular selling prices.

PAR. 8. In truth and in fact the availability of respondents' advertised offer is not limited to 3 days only, and respondents' carpeting is not being offered for sale at special or reduced prices, and purchasers are not thereby afforded savings from respondents' regular selling prices. In fact, respondents do not have a regular selling price but the prices at which respondents' carpeting is sold varies from customer to customer depending on the resistance of the prospective purchaser.

Therefore, the statements and representations set forth in Paragraph Seven hereof were and are false, misleading and deceptive.

PAR. 9. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of floor covering products of the same general kind and nature as those sold by respondents.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency 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 respondents' products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having issued its complaint in this proceeding on October 24, 1966, charging respondents Youngstown Carpet Guild Distributors Co., a corporation, and Paul Kahn and Morton S. Falkow (erroneously designated in the complaint as Morton S. Falkaw), individually and as officers of said corporation, with violation of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The respondents having thereafter filed with the hearing examiner a motion requesting waiver of Rule 2.4(d) of the Commission's Rules, to which motion was attached an executed consent agreement entered into between respondents and counsel supporting the complaint; and

The hearing examiner having certified to the Commission the said motion, with attached agreement, which agreement contains, *inter alia*, a consent order, an admission by respondents of all the jurisdictional facts alleged in the 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 the complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having determined that in the circumstances the public interest would be served by waiving, and hereby having waived, the provision of Rule 2.4(d) that the consent procedure shall not be available after issuance of complaint; and

The Commission having considered the aforesaid executed agreement, and having now determined that said agreement constitutes an adequate basis for appropriate disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent Youngstown Carpet Guild Distributors Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 4806 Rhode Island Avenue, in the city of Hyattsville, State of Maryland.

Respondents Paul Kahn and Morton S. Falkow are officers of

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the corporate respondent and their office and principal place of business is the same as that of the corporate respondent.

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 respondents Youngstown Carpet Guild Distributors Co., a corporation, and its officers, and respondents Paul Kahn and Morton S. Falkow, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of floor covering products, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise or services.

2. Making representations purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at higher prices.

3. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

4. Failing or refusing to furnish ordered merchandise or services to purchasers in accordance with the terms and conditions of any advertised offer.

5. Failing or refusing to furnish free merchandise to purchasers, irrespective of a prior request therefor, upon fulfillment of the terms and conditions of any advertised offer.

6. Representing, directly or by implication, that the availability of any offer of products or services is limited to three days only, or is limited in any other manner: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented limitation was

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actually imposed and in good faith adhered to by respondents.

7. Representing, directly or by implication, that any price for respondents' products or services is a special or sale price, unless such price constitutes a significant reduction from an established selling price at which such products or services have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting in any manner the savings available to purchasers or prospective purchasers of respondents' products or services.

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

DELCO CARPETS, INC., TRADING AS DELCO CARPET
MILLS, INC.*

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS
IDENTIFICATION ACTS

Docket 8692. Complaint, July 11, 1966—Decision, Dec. 21, 1966

Order requiring a Los Angeles, Calif., installer of wall to wall carpeting to cease misbranding, falsely advertising, and deceptively guaranteeing its merchandise and misrepresenting that it manufactures its carpeting.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Delco Carpet Mills, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in re-

*Reported as amended by the hearing examiner so as to state the correct corporate name.

spect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Delco Carpet Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

The respondent is engaged in the sale and installation of wall to wall carpeting. The respondent has its office and principal place of business at 3623 West Jefferson Boulevard, Los Angeles, California.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondent has been and is now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the respondent in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

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PAR. 4. Certain of said textile fiber products were further misbranded by respondent in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were rolls of carpeting on display in the respondent's showroom with labels which failed:

(a) To disclose the true percentage of the fibers present by weight; and

(b) To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the said carpeting or one or more persons subject to Section 3 of the said Act with respect to such carpeting.

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the said textile fiber products were advertised by means of fiber implying terms such as "Acrilans" without the aforesaid required information being set forth.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of advertisements placed by the respondent in the Los Angeles Times, a newspaper published in Los Angeles, California, in the following respects:

A. In disclosing the required fiber content information as to

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floor coverings containing exempted backings, fillings, or pad-
dings, such disclosure was not made in such a manner as to indi-
cate that such required fiber content information related only to
the face, pile, or outer surface of the floor covering and not to the
backing, filling, or padding, in violation of Rule 11 of the afore-
said Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber prod-
ucts without a full disclosure of the fiber content information re-
quired, in the said advertisement, in violation of Rule 41(a) of
the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber prod-
ucts containing only one fiber and such fiber trademark did not
appear at least once in the said advertisement, in immediate prox-
imity and conjunction with the generic name of the fiber in
plainly legible and conspicuous type, in violation of Rule 41(c) of
the aforesaid Rules and Regulations.

PAR. 7. The acts and practices of the respondent as set forth
above were, and are, in violation of the Textile Fiber Products
Identification Act and the Rules and Regulations promulgated
thereunder, and constituted, and now constitute unfair methods
of competition and unfair and deceptive acts or practices, in com-
merce, under the Federal Trade Commission Act.

PAR. 8. In the course and conduct of its business respondent
now causes and for some time last past, has caused its said prod-
ucts namely floor coverings to be advertised and offered for sale
in issues of the Los Angeles Times, a newspaper published in the
city of Los Angeles, State of California, and distributed in inter-
state commerce and thereby has been engaged in commerce, as
"commerce" is defined in the Federal Trade Commission Act.

PAR. 9. In the course and conduct of its business in soliciting
the sale of and in selling the aforesaid products, respondent has
advertised:

By direct from the mills—Save to 40% off and more.

* * * * *

CARPET MILL CLEAR OUT

To make room for shipment arriving ahead of schedule from our Georgia
mill

* * * * *

CARPET MILL BARGAIN DAYS

PAR. 10. In the course and conduct of its business in soliciting
the sale of and in selling the aforesaid products the respondent

has represented on invoices that it has mills at Ft. Oglethorpe, Georgia, and Los Angeles, California.

PAR. 11. In the course and conduct of its business in soliciting the sale of and in selling the aforesaid products, respondent does business under the name Delco Carpet Mills, Inc., and uses said name on letterheads, invoices, labels and tags, and in various advertisements of its products.

PAR. 12. By means of the aforesaid advertisements and invoices and through the use of the word "Mills" as part of respondent's corporate name, respondent represents that it owns or operates mills or factories in which the textile products sold by it are manufactured and that such mills or factories are located in Georgia and California.

PAR. 13. Although respondent does have a single carpet loom located in its place of business, such loom is used only infrequently, and produces only a minute portion of its stock and in truth and in fact respondent does not own, operate, or control any mills or factories in Georgia or California where the aforesaid products sold by it are manufactured. Further the respondent maintains its sole place of business in Los Angeles, California.

PAR. 14. There is a preference on the part of many consumers and the purchasing public to buy products including floor coverings, directly from factories or mills, believing that by doing so lower prices and other advantages thereby accrue to them.

PAR. 15. In the course and conduct of its business as aforesaid, the respondent has made representations in newspapers to the buying public respecting a guarantee of their carpeting. Said representations have been made in advertisements appearing in issues of the aforementioned Los Angeles Times, among others.

Illustrative and typical of such representations, but not all inclusive, is the following.

10 Year Unconditional Guarantee

PAR. 16. Through the use of the statements and representations set forth above and others similar thereto, but not specifically set out herein, respondent has represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for ten years' normal wear.

PAR. 17. In truth and in fact said merchandise was not in fact unconditionally guaranteed for a period of ten years as neither the nature or extent of the guarantee nor the manner in which the guarantor would perform were set forth in connection there-

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with. The foregoing and similar statements made by respondent as hereinabove stated were therefore false, misleading and deceptive.

PAR. 18. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile products of the same general kind and nature as those sold by respondent.

PAR. 19. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency 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 products by reason of said erroneous and mistaken belief.

PAR. 20. The aforesaid acts and practices of respondent as alleged in Paragraphs Nine, Ten, Eleven and Fifteen 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 and unfair and deceptive acts and practices in commerce in violation of Section 5(a) (1) of the Federal Trade Commission Act.

Mr. Michael P. Hughes for the Commission.

Mr. Samuel Duskin, 4034 Buckingham Road, Suite 216, Los Angeles, Calif., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

NOVEMBER 9, 1966

I. THE COMPLAINT

The complaint in this proceeding issued on July 11, 1966, charged the respondent named therein with violations of the Textile Fiber Products Identification Act, with violations of the Rules and Regulations promulgated thereunder, and with unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

II. ORIGINAL ANSWER AND ADMISSION ANSWER

On August 15, 1966, counsel for the respondent filed an answer denying in substance the principal allegations of the complaint. At the hearing on October 4, 1966, counsel for the respondent

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submitted a motion requesting permission to withdraw his original answer and, in lieu thereof, he admitted on behalf of the respondent the truth of ". . . the entire contents of the complaint. . ." Counsel for the respondent further stated that respondent agreed ". . . to be bound by . . . the order which is part and parcel of the complaint. . ." Respondent's motion was thereupon granted.

III. AMENDMENT OF THE COMPLAINT

At the hearing, counsel for the respondent stipulated with counsel supporting the complaint that the correct name of the respondent corporation is Delco Carpets, Inc., but that the respondent had been trading under the name Delco Carpet Mills, Inc. Counsel supporting the complaint thereupon submitted a motion requesting that the complaint herein be amended so that it would state the correct corporate name of the respondent. The motion was granted and the complaint thereupon deemed amended so as to state the correct corporate name as follows:

Delco Carpets, Inc., a corporation,
trading as
Delco Carpet Mills, Inc.

IV. PROPOSED FINDINGS AS TO THE FACTS

The hearing examiner designated October 28, 1966, as the date on or before which counsel might, at their election, submit proposed findings as to the facts and conclusions. Counsel supporting the complaint has submitted such proposals and since they conform to the allegations of the complaint and to the amendment thereof, they are accepted as the findings as to the facts in this proceeding. Counsel for the respondent has not submitted proposed findings as to the facts.

V. FINDINGS AS TO THE FACTS

1. Respondent Delco Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Respondent Delco Carpets, Inc., does business under the name Delco Carpet Mills, Inc.

The respondent is engaged in the sale and installation of wall to wall carpeting. The respondent has its office and principal place of business at 3623 West Jefferson Boulevard, Los Angeles, California.

2. Subsequent to the effective date of the Textile Fiber Prod-

ucts Identification Act on March 3, 1960, respondent has been and is now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products which have been advertised or offered for sale in commerce; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the respondent in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

4. Certain of said textile fiber products were further misbranded by respondent in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were rolls of carpeting on display in the respondent's showroom with labels which failed:

(a) To disclose the true percentage of the fibers present by weight; and

(b) To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the said carpeting or one or more persons subject to Section 3 of the said Act with respect to such carpeting.

5. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements use to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the said textile fiber products were advertised by means of fiber implying terms such as "Acrilans" without the aforesaid required information being set forth.

6. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of advertisements placed by the respondent in the Los Angeles Times, a newspaper published in Los Angeles, California, in the following respects:

(a) In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding, in violation of Rule 11 of the aforesaid Rules and Regulations.

(b) A fiber trademark was used in advertising textile fiber products without a full disclosure of the fiber content information required, in the said advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

(c) A fiber trademark was used in advertising textile fiber

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products containing only one fiber and such fiber trademark did not appear at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type, in violation of Rule 41 (c) of the aforesaid Rules and Regulations.

7. In the course and conduct of its business respondent now causes and for some time last past, has caused its said products, namely floor coverings, to be advertised and offered for sale in issues of the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and distributed in interstate commerce and thereby has been engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

8. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products, respondent has advertised:

Buy direct from the mills—Save to 40% off and more.

* * * * *

CARPET MILL CLEAR OUT

To make room for shipment arriving ahead of schedule from our Georgia mill.

* * * * *

CARPET MILL BARGAIN DAYS

9. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products the respondent has represented on invoices that it has mills at Ft. Oglethorpe, Georgia, and Los Angeles, California.

10. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products, respondent does business under the name Delco Carpet Mills, Inc., and uses said name on letterheads, invoices, labels and tags, and in various advertisements of its products.

11. By means of the aforesaid advertisements and invoices and through the use of the word "Mills" as part of respondent's trade name, respondent represents that it owns or operates mills or factories in which the textile products sold by it are manufactured and that such mills or factories are located in Georgia and California.

12. Although respondent does have a single carpet loom located in its place of business, such loom is used only infrequently, and produces only a minute portion of its stock and in truth and in fact respondent does not own, operate, or control any mills or fac-

tories in Georgia or California where the aforesaid products sold by it are manufactured.

13. There is a preference on the part of many consumers and the purchasing public to buy products including floor coverings, directly from factories or mills, believing that by doing so lower prices and other advantages thereby accrue to them.

14. In the course and conduct of its business as aforesaid, the respondent has made representations in newspapers to the buying public respecting a guarantee of their carpeting. Said representations have been made in advertisements appearing in issues of the aforementioned Los Angeles Times among others.

Illustrative and typical of such representations, but not all inclusive, is the following.

10 Year Unconditional Guarantee

15. Through the use of the statements and representations set forth above and others similar thereto, but not specifically set out herein, respondent has represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for ten years' normal wear.

16. In truth and in fact said merchandise was not unconditionally guaranteed for a period of ten years as neither the nature or extent of the guarantee nor the manner in which the guarantor would perform were set forth in connection therewith. The foregoing and similar statements made by respondent as hereinabove stated were therefore false, misleading and deceptive.

17. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile products of the same general kind and nature as those sold by respondent.

18. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency 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 products by reason of said erroneous and mistaken belief.

VI. CONCLUSIONS

The acts and practices of the respondent as set forth above in Findings One through Six were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regula-

tions promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices in commerce, under the Federal Trade Commission Act.

The acts and practices of respondent as alleged in Findings Seven through Eighteen 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 and unfair and deceptive acts and practices in commerce in violation of Section 5(a) (1) of the Federal Trade Commission Act.

Based on the allegations of the complaint and the substituted answer filed by the respondent admitting such allegations of the complaint to be true, the above conclusions are the only ones that can logically and reasonably be reached. See the official transcript of the proceedings dated October 4, 1966, in Los Angeles, California; also see the hearing examiner's memorandum taking official notice of the Eleventh and Thirteenth Findings.

The proceeding is in the public interest and an order to cease and desist from the above found unlawful practices should issue against the respondent.

VII. ORDER

It is ordered, That respondent Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or in the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to set forth that the required disclosure as

to the fiber content of floor coverings relates only to the face, pile, or outer surface of such products and not to exempted backing, filling or padding, when such is the case.

2. Failing to affix labels to such textile fiber products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under Section 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings, or paddings.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondent Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale

or distribution of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or indirectly using the word "Mills," or any other word or term of similar import or meaning in or as part of respondent's corporate or trade name, or representing in any other manner that respondent performs the functions of a mill or otherwise manufactures or processes the carpeting or textile products sold by it unless and until respondent owns and operates or directly and absolutely controls the mill wherein said carpeting or other textile products are manufactured.

2. Representing in any manner that respondent has mills or factories where its products are manufactured or misrepresenting in any manner the location of the respondent's place of business.

3. Representing that any of respondent's products are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 21st day of December, 1966, become the decision of the Commission.

It is further ordered, That Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, shall, within sixty (60) days after service of this order upon it, file with the Commission a report in writing, signed by its appropriate corporate officer, setting forth in detail the manner and form of its compliance with the order to cease and desist.

Complaint

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IN THE MATTER OF

HOLLYWOOD NOVELTY COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING
ACTS*Docket C-1151. Complaint, Dec. 27, 1966—Decision, Dec. 27, 1966*

Consent order requiring a New York City manufacturer of fur products to cease misbranding and deceptively invoicing its merchandise.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Hollywood Novelty Company, Inc., a corporation, and Alfons Schlosser and Sol Portman, individually and as officers of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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 Hollywood Novelty Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Alfons Schlosser and Sol Portman are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 244 West 27th Street, New York, New York.

PAR 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distrib-

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uted fur products which have been made in whole or in part of furs which have been shipped and received in commerce as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed:

1. To show the true animal name of the fur used in any such such fur product.

2. To show that the fur products contained or were composed of used fur, when such was the fact.

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects.

- (a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth on labels in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

- (b) The term "Persian Lamb" was not set forth on labels in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

- (c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth in the required sequence, in violation of Rule 30 of said Rules and Regulations.

- (d) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To show the true animal name of the fur used in any such fur product.

2. To show that the fur products contained or were composed of used fur, when such was the fact.

3. To show the country of origin of imported furs used in fur products.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Sealine" when, in fact, the fur contained in such products was "Rabbit."

Also among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact the furs contained therein were not entitled to such designation.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "Persian Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

(b) The term "Dyed Broadtail-processed Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

(c) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under 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 there-

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Decision and Order

after with a copy of a draft of complaint which the Bureau of Textiles and Furs 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 Fur Products Labeling 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hollywood Novelty 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 244 West 27th Street, New York, New York.

Respondents Alfons Schlosser and Sol Portman are officers of the corporate respondent and their address is the same as that of said corporate respondent.

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 respondents Hollywood Novelty Company, Inc., a corporation, and its officers, and Alfons Schlosser and Sol Portman, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been

shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Setting forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form on a label affixed to such fur product.

3. Failing to set forth the term "Persian Lamb" on a label in the manner required where an election is made to use that term instead of the word "Lamb."

4. Failing to set forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on a label in the sequence required by Rule 30 of the aforesaid Rules and Regulations.

5. Failing to set forth on a label the item number or mark assigned to such fur product.

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth on an invoice pertaining to such fur product the name or names of any animal or animals other than the name of the animal producing the fur contained in the fur product as specified in the Fur Products Name Guide, and as prescribed by the Rules and Regulations.

3. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

4. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

5. Failing to set forth on an invoice the item number or mark assigned to such fur product.

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

TARSES-GLUCKMAN, INC., DOING BUSINESS AS ALASKAN
ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING
ACTS

Docket C-1152. Complaint, Dec. 27, 1966—Decision, Dec. 27, 1966

Consent order requiring two affiliated Houston, Texas, retail furriers to cease misbranding, deceptively invoicing and falsely advertising its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Tarses-Gluckman, Inc., a corporation, doing business as Alaskan, and Crest Furs of Houston, Inc., a corporation, and Irvin Tarses, Wilbur J. Gluckman, and Jules M. Davidson, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. Respondents Tarses-Gluckman, Inc., doing business as Alaskan, and Crest Furs of Houston, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas.

Respondents Irvin Tarses, Wilbur J. Gluckman, and Jules M.

Davidson are officers of the corporate respondents. They formulate, direct and control the acts, practices and policies of the said corporate respondents including those hereinafter set forth.

Respondents are retailers of fur products with their office and principal place of business located at 606 Main Street, Houston, Texas.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents acting in cooperation and conjunction with each other have been and are now engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in violation of Section 4(1) of the Fur Products Labeling Act in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified in that labels affixed to fur products, contained representations, either directly or by implication that the prices of such fur products were reduced from respondents' former prices and the amount of such purported reduction constituted savings to purchasers of respondents' fur products. In truth and in fact, the alleged former prices were fictitious in that they were not actual bona fide prices at which respondents offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and savings were not afforded purchasers of respondents' said fur products, as represented.

PAR. 4. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, was a fur product with a label which failed to show the true animal name of the fur used in the fur product.

PAR. 5. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not la-

beled in accordance with the Rules and Regulations promulgated thereunder inasmuch as required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, was a fur product covered by an invoice which failed:

1. To show the true animal name of the fur used in the fur product.

2. To disclose that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.

3. To show the country of origin of the imported fur used in the fur product.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact the furs contained therein were not entitled to such designation.

PAR. 8. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects.

- (a) Information required under Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth on invoices in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

- (b) The term "Persian Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

- (c) The term "Dyed Broadtail-processed Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 10 of the said Rules and Regulations.

(d) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(e) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth separately on invoices with respect to each section of fur products composed of two or more sections containing different animal furs, in violation of Rule 36 of said Rules and Regulations.

(f) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 9. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements but not limited thereto, were advertisements of respondents which appeared in issues of the Houston Chronicle, a newspaper published in the city of Houston, State of Texas and having a wide circulation in Texas and in other States of the United States.

Among such false and deceptive advertisements, but not limited thereto, was an advertisement which failed:

1. To show the true animal name of the fur used in the fur product.
2. To show that the fur contained in the fur product was bleached, dyed or otherwise artificially colored, when such was the fact.
3. To show the country of origin of imported fur contained in the fur product.

PAR. 10. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects.

(a) The term "Dyed Mouton Lamb" was not set forth in the manner required in violation of Rule 9 of the said Rules and Regulations.

(b) The term "Dyed Broadtail-processed Lamb" was not set

forth in the manner required, in violation of Rule 10 of the said Rules and Regulations.

(c) The term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 11. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in that certain of said fur products were falsely or deceptively identified with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

Among such falsely and deceptively advertised fur products, but not limited thereto, were fur products advertised as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact the furs contained therein were not entitled to such designation.

PAR. 12. Respondents falsely and deceptively advertised fur products by affixing labels thereto which represented either directly or by implication that prices of such fur products were reduced from respondents' former prices and the purported reductions constituted savings to purchasers of respondents' fur products. In truth and in fact, the alleged former prices were fictitious in that they were not the actual bona fide prices at which respondents offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and the represented savings were not thereby afforded to purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations.

PAR. 13. In advertising fur products for sale, as aforesaid, respondents made pricing claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondents in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of the said Rules and Regulations.

PAR. 14. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under 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 Textiles and Furs 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 Fur Products Labeling 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Tarses-Gluckman, Inc., doing business as Alaskan, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 606 Main Street, Houston, Texas.

Respondent Crest Furs of Houston, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 606 Main Street, Houston, Texas.

Respondents Irvin Tarses, Wilbur J. Gluckman and Jules M. Davidson are officers of said corporations and their address is the same as that of said corporations.

2. The Federal Trade Commission has jurisdiction of the sub-

ject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Tarses-Gluckman, Inc., a corporation, doing business as Alaskan, or under any other name, and its officers, and Crest Furs of Houston, Inc., a corporation, and its officers, and Irvin Tarses, Wilbur J. Gluckman and Jules M. Davidson, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, selling, advertising or offering for sale in commerce, or transporting or distributing in commerce any fur product; or from selling, advertising, offering for sale, transporting or distributing any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act:

A. Unless there is securely affixed to each such product a label showing in words and in figures plainly legible all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

B. To which fur product is affixed a label required by Section 4 (2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which fails to set forth the item number or mark assigned to each such fur product.

It is further ordered, That respondents Tarses-Gluckman, Inc., a corporation, doing business as Alaskan, or under any other name, and its officers, and Crest Furs of Houston, Inc., a corporation and its officers, and Irvin Tarses, Wilbur J. Gluckman, and Jules M. Davidson, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the sale, advertising, or offering for sale in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by representing, directly or by implication on labels, that any price whether accompanied

or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresenting the price at which such fur products have been sold or offered for sale by respondents.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth on invoices pertaining to fur products any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

4. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

6. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

7. Failing to set forth separately information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to each section of fur products composed of two or more sections containing different animal furs.

8. Failing to set forth on invoices the item number or mark assigned to each such fur product.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly in the sale, or offering for sale of any fur product, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

2. Falsely or deceptively identifies any such product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Fails to set forth the term "Dyed Mouton Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

4. Fails to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

5. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

6. Represents, directly or by implication, on labels or otherwise, that any price, whether accompanied or not by descriptive terminology is the respondents' former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondents in the recent regular course of business, or otherwise misrepresents the price at which such fur products have been sold or offered for sale by respondents.

7. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

D. Failing to maintain full and adequate records disclosing the facts upon which pricing claims and representations of the types described in subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act, are based.

It is further ordered, That the respondents herein shall, within

Complaint

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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

IMPORTED FABRICS BY CONELL, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION, THE FLAMMABLE FABRICS AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket C-1153. Complaint, Dec. 29, 1966—Decision, Dec. 29, 1966

Consent order requiring a New York City importer and distributor of fabrics to cease importing and selling dangerously flammable fabrics, and misbranding its textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Imported Fabrics by Conell, Inc., a corporation, and James V. McConnell, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, and the Textile Fiber Products Identification 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 Imported Fabrics by Conell, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent James V. McConnell is the president of the said corporate respondent and he formulates, directs and controls the acts, practices and policies of said corporation.

The respondents are engaged in the sale and distribution of fabrics, with their office and principal place of business located at 1457 Broadway, New York, New York.

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Complaint

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported, and caused to be transported, in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined in the Flammable Fabrics Act, fabric, as that term is defined therein, which fabric was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 4. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products, and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 5. Certain of said textile fiber products, were misbranded by respondents in that they were not stamped, tagged, labeled, or identified by other means, as required under the provisions of Section 4 (b) of the Textile Fiber Products Identification Act.

Among such misbranded textile fiber products, but not limited thereto, were fabrics with labels which failed to disclose the name of the country where the imported fabric was processed or manufactured.

PAR. 6. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products

Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair and deceptive acts or practices, in commerce, and unfair methods of competition in commerce, under 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 Textiles and Furs 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, the Textile Fiber Products Identification Act and the Flammable Fabrics 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 the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Imported Fabrics by Conell, 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 1457 Broadway, New York 36, New York.

Respondent James V. McConnell is an officer of said corporation and his address is the same as that of said corporation.

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 respondents Imported Fabrics by Conell, Inc., a corporation, and its officers, and James V. McConnell, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric which, under the provision of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

It is further ordered, That respondents Imported Fabrics by Conell, Inc., a corporation, and its officers, and James V. McConnell, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by failing to affix a stamp, tag, label or other means of identification to each such product showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

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.