

Syllabus

IN THE MATTER OF

LA LASINE INTERNATIONAL, INCORPORATED

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1845. Complaint, June 16, 1930—Decision, Jan. 13, 1931

Where a corporation engaged in domestic manufacture, from a French formula, of an antiseptic for the mouth, throat, and general use, and in the sale thereof to vendees in the United States, principally, and also in sale and distribution thereof in foreign countries from sales offices in Paris and Rome,

- (a) Represented falsely in advertisements in newspapers and periodicals, that the preparation instantly reached every inch of mouth membrane, killing all poisonous decay germs, and gave protection to membranes of mouth and throat for hours after use, and enumerated 30 out of 50 common diseases as having their origin in the mouth area and coupled an appeal to help check meningitis with recommended use of the product in question, notwithstanding fact that said preparation was neither a preventive nor cure for meningitis, nor the other diseases enumerated;
 - (b) Represented therein that the United States Government had "tested and passed La Lasine as an antiseptic because it kills germs," and that it fulfilled the exacting requirements of the Pure Food and Drug Act, facts being that analysis of the preparation in question afforded no basis in fact for such claims, which had neither the approval nor indorsement of the aforesaid bureau or of any department of the Government, and that label on bottles, cartons, and accompanying folders was approved by Department of Agriculture only in so far as said label related to contents of bottle and preparation's therapeutic value; and
 - (c) Set forth on said cartons "LA LASINE—The Famous French Formula—Antiseptic . . . C'est Francais! C'est Merveilleux! . . . La Lasine International, Inc., New York, U. S. A. PARIS—ROME—NEW YORK";
- With capacity and tendency to induce members of the public to purchase preparation as and for one imported from France, and to divert trade from competitors engaged in sale and distribution of preparations for similar purposes, without employing such practices:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. James W. Nichol for the Commission.

Horowitz & Horowitz, of New York City, for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Delaware corporation engaged in the manufacture, sale and distribution of an alleged antiseptic preparation under the trade name of La Lasine, and with place of business in New York City, with advertising falsely or misleadingly and misbranding or mislabeling as to nature and results of product, Government indorsement, and source or origin, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, makes false and misleading claims and representations in advertising and describing its said product in newspapers, magazines, and periodicals, and on the cartons thereof and folders therein contained, to the effect that the product reaches every inch of the large surface of mouth membrane, killing all poisonous decay germs, gives protection for hours through its medication-holding deposit, prevents (by implication) 30 serious diseases, and also meningitis, and, through use of French words and phrases, that it is an imported instead of domestic preparation.¹

Said statements and representations, as alleged, "are calculated to and have had and have the capacity and tendency to mislead and deceive the public into purchasing said preparation, under the erroneous belief (a) that it is manufactured or produced in some country other than the United States of America, and imported by respondent into said United States of America prior to said purchase; and/or (b) that the claims made for the antiseptic properties of said preparation La Lasine have, as a result of tests, been passed upon and approved by some department of the United States Government, or bureau or branch thereof; and/or (c) that the claims made for the antiseptization of the mouth and throat by the use of said preparation, and statements and representations as to the curative or prophylactic properties of said preparation La Lasine are, in fact, true; all to the prejudice of the public and competitors and in violation of the aforesaid section.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Com-

¹ Various statements, above described, and as alleged in detail in the complaint, are reproduced in the findings below, the facts having been stipulated.

mission, to define its powers and duties, and for other purposes", the Federal Trade Commission issued and served a complaint upon the respondent, La Lasine International, Inc., charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act. The respondent thereafter having made, executed and filed an agreed statement of facts, in which it is stipulated and agreed by and between the respondent and the Federal Trade Commission that the said Commission may take said agreed statement as the facts in this proceeding and in lieu of testimony in support of the charges stated in said complaint or in opposition thereto, and that said Commission may proceed upon said agreed statement of facts, to make its findings as to the facts, and to enter such order as it may deem proper, without briefs or argument in support of the same; and the Federal Trade Commission, having duly considered the record and being now fully advised in the premises, makes this its report, stating its findings as to the facts:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware. It was incorporated in July, 1927, with an authorized capitalization of 100,000 shares of Class A, no par value, 50-cent dividend stock, and 390,000 shares of no par value common stock—there being of the Class A stock 2,939 shares issued and outstanding, and of common stock 385,912 $\frac{2}{3}$ shares issued and reserved for issue. Its office and principal place of business is located at 505 Fifth Avenue, in the City and State of New York; and its officers are William D. Young, president, J. J. Donlan, vice president, and O. M. Young, treasurer. Since its organization, respondent has been and now is engaged in the manufacture, sale, and distribution of a preparation under trade name of La Lasine, which it advertises and sells as an antiseptic for the mouth and throat, and general use. The said preparation is made from a French formula perfected by one Laval in 1911, and was introduced into the United States of America in 1924 by La Lysine Fornari International, Boston, Mass. Since 1927 it has been distributed by the respondent. Said preparation is manufactured at respondent's plant at 529-a Broadway (South) Boston, State of Massachusetts, and is sold in packages of varying sizes and prices, being shipped in cartons containing one dozen packages each. The bulk of said preparation is shipped from respondent's said plant in Boston, Mass., and from public warehouses in said city of Boston, principally to vendees in the United States of

Findings

14 F. T. C.

America; distribution in certain foreign countries is made from respondent's sales offices in Paris, France, and Rome, Italy. Respondent causes its said preparation, when sold to vendees in the United States of America, to be shipped from its said plant in Boston, Mass., and from public warehouses in said city of Boston, into and through other States of the United States and the District of Columbia, to the vendees thereof at their respective points of location. In the course and conduct of its business, respondent has been and is in competition with individuals, partnerships, and other corporations engaged in the sale and distribution, in interstate commerce, of other preparations used for similar purposes.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent, in offering for sale and selling its said preparation La Lasine, caused and causes the same to be advertised to the general public: (a) In newspapers, magazines, and periodicals sold and distributed between and among the various States of the United States and the District of Columbia; (b) on the cartons in which the bottles containing said preparation were and are packed and sold; and (c) on the folders accompanying the bottles containing said preparation, on the inside of said cartons—all as more particularly described below.

With the exception of an advertisement published in the Indianapolis Star of January 7, 1930, referred to below, the respondent has not advertised in newspapers since January 1, 1930. Among the magazines and periodicals in which respondent has advertised are: Vogue, Harper's Bazaar, Life, and Liberty. At the present time, respondent does not advertise in newspapers, magazines, or periodicals.

In advertisements inserted by respondent: (a) In the Chicago Daily Tribune of September 24, 1929 (full page); (b) in the Des Moines, Iowa, Register & Tribune of October 8, 1929 (half page); and (c) in other leading newspapers sold and distributed between and among the various States of the United States and the District of Columbia—appeared the following language:

LA LASINE DESTROYS FOOD FILM

Its amazing ability to mix with mouth secretions enables it to instantly reach every inch of mouth membrane and kill all poisonous decay germs. The medication-holding deposit La Lasine leaves on the membrane of the mouth and throat not only destroys food film, but actually gives protection for hours after; *80 square inches inside your mouth where poisonous decay germs breed. In this area 30 serious diseases start.* Research at the Academy of Medicine

353

Findings

reveals the startling fact that of fifty common diseases, thirty find their origin in the mouth area. They are:

Aortic	Grippe	Rhinitis
Arthritis	Influenza	Scarlet fever
Asthma	Laryngitis	Sinusitis
Bronchitis	Leprosy	Smallpox
Catarrh	Measles	Sore throat
Chicken pox	Parotitis	Tonsillitis
Common colds	Pleurisy	Tuberculosis
Croup	Pleuro-pneumonia	Typhoid
Diphtheria	Phthisis	Typhoid-pneumonia
Erysipelas	Pneumonia	Whooping cough

Is it any wonder, then, that thousands are now turning to La Lasine for protection against dangerous food film? THE UNITED STATES GOVERNMENT has tested and passed La Lasine as an Antiseptic because it kills germs. La Lasine has fulfilled the exacting requirements of the Pure Food and Drug Act.

An advertisement inserted by respondent in the Indianapolis (Indiana) Star of January 7, 1930, reads as follows:

HELP CHECK MENINGITIS

The Health Department asks your cooperation to prevent the spread of meningitis. Keep mouth and throat free from germs by using a mild, but effective antiseptic. La Lasine, officially tested by the United States Government, is an effective modern antiseptic. La Lasine, the modern mouth and skin antiseptic.

At the time of the insertion of said advertisement, there was prevalent in Indianapolis, Ind., an epidemic of spinal meningitis.

An advertisement inserted by respondent in the magazine Liberty for January 25, 1930, contains the following language:

Its effective protection lasts for hours after use.

On the folders accompanying the bottles in which respondent's said preparation La Lasine is marketed, appear the following statements:

La Lasine kills germs effectively

La Lasine kills germs

On the cartons in which the bottles containing respondent's said preparation La Lasine were and are packed and sold, appears the following language:

LA LASINE.—The Famous French Formula—ANTISEPTIC. C'est Français! C'est Merveilleux! La Lasine International, Inc., New York, U. S. A.—PARIS—ROME—NEW YORK.

PAR. 3. The preparation La Lasine, sold and distributed by respondent in interstate commerce, as described in paragraph 1 hereof, since 1927 has been manufactured by said respondent at its plant in the city of Boston, State of Massachusetts, and has not been and

Findings

14 F. T. C.

is not now imported by respondent from any foreign country into the United States of America prior to said sale and distribution. The use by respondent of the expressions "La Lasine—The Famous French Formula", "C'est Francais! C'est Merveilleux!" and "Paris—Rome", on the cartons in which the bottles containing its said preparation La Lasine were and are packed and sold, has the capacity and tendency to induce members of the public to purchase said preparation under the erroneous belief that it is imported from France.

PAR. 4. Analyses of respondent's said preparation La Lasine, made by the Food, Drug, and Insecticide Administration of the United States Department of Agriculture, afford no basis in fact for the claims made for the antiseptic properties of said preparation, as set forth in the advertisements quoted in paragraph 2 of these findings; nor do such claims have the approval or indorsement of said Food, Drug, and Insecticide Administration of the United States Department of Agriculture, or any other department of the United States Government, or bureau or branch thereof. The label now used by respondent on the bottles in which its said preparation La Lasine is marketed, on the cartons in which said bottles are packed, and on the folders accompanying said bottles, has the approval of the Food, Drug, and Insecticide Administration of the United States Department of Agriculture, in so far as the statements on said labels relate to contents of said bottle and the therapeutic value of said preparation La Lasine.

PAR. 5. The claims made by respondent for the antiseptization of the mouth and throat, by the use of its said preparation La Lasine, and statements and representations as to the curative or prophylactic properties of said preparation, as set forth in the advertisements quoted in paragraph 2 of these findings, were and are misleading and deceptive, in that said preparation can not instantly reach every inch of mouth membrane; the use of said preparation can not give protection, for hours after use, to the membranes of the mouth and throat; said preparation is not a preventive or cure for the thirty diseases referred to in the advertisement in said paragraph 2 as having their origin in the mouth area; and said preparation is not a preventive or cure for meningitis.

PAR. 6. The practices of the respondent in connection with the advertising, sale, and distribution of its product La Lasine, as hereinbefore set forth, have the capacity and tendency to divert trade from individuals, partnerships, and other corporations engaged in the sale and distribution, in interstate commerce, of other preparations used for similar purposes, who are in competition with respondent, and who do not employ the same or similar practices.

CONCLUSION

The practices of said respondent, La Lasine International, Inc., under the conditions and circumstances set forth in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in interstate commerce, and constitute a violation of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the statement of facts agreed upon by the respondent and counsel for the Commission, and the Commission having made its findings as to the facts, with its conclusion that the respondent has violated the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes",

It is now ordered, That the respondent La Lasine International, Inc., its officers, directors, agents, representatives, servants, employees, and successors—in connection with the advertising, offering for sale, and sale, in interstate commerce, of its preparation La Lasine—shall hereafter cease and desist:

(1) From the use of the expressions "La Lasine—The Famous French Formula", "C'est Francais! C'est Merveilleux!" and "Paris—Rome", and other or equivalent French or other foreign words or expressions, on the cartons in which the bottles containing its said preparation La Lasine are packed and sold, in advertising, and on business correspondence or elsewhere—except and unless said words or expressions, wherever used, are accompanied by qualifying language, equally conspicuous in character or type, clearly and affirmatively indicating that the said preparation La Lasine is manufactured in the United States of America—unless and until said preparation La Lasine is, in fact, manufactured in some country other than the United States of America.

(2) From the use of expressions or statements which, directly or indirectly, import or imply that its preparation La Lasine, as advertised, has received the indorsement of the Government of the United States, when such is not the case.

(3) From the use of expressions or statements which, directly or indirectly, import or imply: That said preparation La Lasine, when

Order

used as a mouth wash, instantly reaches every inch of mouth membrane and kills all poisonous decay germs; that it gives protection, for hours after use, to the membranes of the mouth and throat; that it is a preventive or cure for aortic, arthritis, asthma, bronchitis, catarrh, chicken pox, common colds, croup, diphtheria, erysipelas, grippe, influenza, laryngitis, leprosy, measles, parotitis, pleurisy, pleuropneumonia, phthisis, pneumonia, rhinitis, scarlet fever, sinusitis, smallpox, sore throat, tonsillitis, tuberculosis, typhoid, typhoid-pneumonia, whooping cough, or meningitis; or any other statement or expression which does not truthfully represent or describe the antiseptic or therapeutic properties of said preparation or the results which may be obtained from its use.

And it is further ordered, That the respondent La Lazine International, Inc., within 60 days after the date of the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

Complaint

IN THE MATTER OF

ADIEL VANDEWEGHE AND DAVID FESHBACK

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1383. Complaint, May 12, 1926—Decision, Jan. 27, 1931

Where an individual engaged in importation and sale of Australian and New Zealand rabbit skins and in the dyeing thereof so as to resemble fur of genuine dyed sealskin, labeled the backs thereof "superior seal" and, later, "bonded northern seal" or "Baltic seal" in large and conspicuous letters, and, in small and inconspicuous letters, "seal dyed coney" or "dyed coney", as the case might be; and

Where a garment manufacturer, purchaser of such skins from said individual, sold garments made thereof labeled "superior seal" as above set forth;

With effect of placing in the hands of retail dealers means enabling them to mislead and deceive the consuming or purchasing public into buying said garments as and for those made of genuine sealskins, and of thereby diverting trade from competitors to said individual, and garment manufacturer:

Held, That such practices, under the circumstances set forth, were all to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. James M. Brinson for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent Adiel Vandeweghe, with principal office and place of business in New York City, and operating a factory at Ridgefield Park, N. J., engaged in dressing and dyeing Australian and New Zealand rabbit skins purchased and imported by him, through use of a process causing the fur of such skins to resemble that of genuine sealskins sufficiently to mislead and deceive the purchasing public as to garments made from such rabbit skins, and respondent David Feshback, engaged in New York City in the manufacture, sale, and distribution of fur garments, with misrepresenting product and misbranding or mislabeling, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent Vandeweghe, as charged, engaged as above set forth, causes each of the aforesaid rabbit skins dyed by it as above described, to be marked on the back thereof with a trade-mark contain-