

Complaint

IN THE MATTER OF

DELSON CHEMICAL CO., INC.

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

Docket 2077. Complaint, Dec. 3, 1932—Decision, Dec. 27, 1933

Where a corporation engaged in the manufacture and sale of dog medicines, Represented or advertised in its "Kennel Manual" that "the modern method of treating disease is to remove the cause" and that "removal of germs, acids, ferments, and other impurities from the system is now possible by the aid of chemicals", and that there had resulted "a new science of Chemotherapy", and knowledge "now made available for the treatment of diseases of the dog", and included among such diseases, for treatment and cure through internal administration of its "Delcreo" preparation, and the asserted germicidal and other beneficial effects thereof, so administered, abscesses, asthma, fits, distemper, pneumonia, rheumatism, and vomiting attendant upon black tongue;

The facts being that said preparation, thus given, did not destroy bacteria or germs, or have any effect thereon or constitute a preventative treatment, and was not a cure or effective remedy in the treatment of said ailments, did not remove the causes thereof, was not effective, as represented, in causing cessation of paroxysms in asthma, was not an efficient treatment for pneumonia, rheumatism, or black tongue, and was not curative of any of the diseases mentioned in said manual;

With capacity and tendency to deceive the purchasing public into believing said preparation to be a germicide which, given internally, will kill germs and bacteria and destroy the causes of the various diseases for which prescribed, and induce purchase thereof by the public in and on account of said erroneous belief, and thus injure the business of competitors and divert trade from them to it:

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

Mr. Alfred M. Craven 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, a New York corporation engaged in the manufacture of proprietary dog medicines, and in the sale thereof to druggists, operators of dog kennels and pet shops, and to the public generally throughout the United States, and with principal place of business in New York City, with advertising falsely or misleadingly as to

qualities or properties of product, 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 aforesaid, represents through its so-called "Delcreo Kennel Manual" that its "Delcreo" preparations apply the new science of chemotherapy to diseases of the dog and offer effective remedies and cures therefor through removing germs, acids, ferments, and other impurities from the system, and thus removing the causes of the diseases involved, and that its principal preparation, "Delcreo" when given or taken internally, as directed, constitutes, by reason of its germicidal and antiseptic effect or otherwise, adequate and effective treatment and cure for abscesses, asthma, distemper, fits, pneumonia, rheumatism, and black tongue; the facts being that the preparation recommended for the aforesaid ailments, as above set forth, and composed chiefly of creosote, calcium, soda and potash, does not have any such effect as above claimed or constitute a cure or efficacious remedy for the ailments involved, there being no drug or combination of drugs which is curative for asthma, distemper, fits, or rheumatism, and the facts being, furthermore, that its said various treatments do not, as claimed by it, remove the causes of the diseases.¹

Respondent further, as charged, represents that certain of its preparations are effective for the treatment and cure of follicular mange, and prescribes a certain course of treatment involving external application of one of its said preparations, and internal administration of the other, the facts being that the representations impliedly and indirectly made in the prescribed treatment² are false and misleading in that there is no competent and dependable external treatment for the destruction of follicular mange mites or the cure of follicular mange, and there is no internal medication for the treatment or cure of said ailment.

¹ The false and misleading directions and representations, as allegedly made by respondent and quoted in the complaint in the foregoing connection, are set forth *infra* in the findings.

² Matter in question, as set forth in the complaint, follows:

"Early diagnosis is important. Where *follicular mange* is suspected, the dog's coat should be carefully examined and the infection localized. The affected parts should be washed with a solution of five tablespoonfuls of Delcreo Soluble Sulphur Compound Bath to a gallon of tepid water and a neutral soap, or saturated with Delcreo Soluble Sulphur Compound. Then apply Delcreo Ointment to prevent the spread of the parasites. Where possible the pustules should be squeezed out before applying the ointment. This treatment should be supplemented by giving Delcreo Soluble Sulphur Compound internally four times a day. This treatment should be continued to avoid the danger of recurrence and the dog should be watched for a considerable length of time after all symptoms have disappeared."

Respondent further, as charged, recommends its Delcreo Vermifuge for brood bitches and pups,^a the facts being that the description of said preparation is misleading and deceptive in that respondent does not indicate the type of worms for which it is recommended, there being no remedy for worm infestation which is effective against all of the many types of worms which infest dogs.

Said various false and misleading representations, and each of them, as alleged, "have the capacity and tendency to deceive prospective customers of respondent and to induce the purchase of respondent's preparations by the public in and on account of the belief that the use of said preparations will serve to prevent, cure, or remedy the diseases of dogs, as claimed by respondent, and each of said claims and representations has the tendency and capacity to divert trade from and otherwise injure competitors of respondent"; all to the prejudice of the public, and of respondent's competitors.

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 Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission on the 3rd day of December, 1932, issued its complaint against the respondent, Delson Chemical Co., Inc., charging it with the use of unfair methods of competition in commerce in violation of said act. Respondent having entered its appearance and filed its answer, hearings were had before trial examiners heretofore duly appointed, testimony was heard and evidence received in support of the charges of the complaint and in opposition thereto. Thereafter this proceeding came on for final hearing and the Commission, having duly considered the record and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its report stating its findings as to the facts and its conclusion drawn therefrom:

^a The advertisement or representation in question, as set forth in the complaint, follows: "Special attention should be given to brood bitches to ensure their freedom from worms because of the danger to the litter at birth * * * Many breeders are successfully overcoming these difficulties by the proper administration of Delcreo to their brood bitches and pups. And we have prepared a Delcreo Vermifuge, especially for young pups and ailing animals whose weakened condition has made it inadvisable to administer the more powerful worm remedies."

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Delson Chemical Co., Inc., is a corporation organized and existing under the laws of the State of New York and engaged in the manufacture and sale of proprietary medicines represented to be cures and efficacious treatments for diseases of dogs. The preparations manufactured and sold by respondent's principal place of business in New York City and through the various States of the United States to the purchasers thereof at their respective places of location.

In the course and conduct of its business respondent is in competition with other persons, firms, and corporations located in the United States engaged in the business of manufacturing and/or selling in interstate commerce veterinary preparations as and for and represented to be treatments for diseases of dogs.

PAR. 2. In the promotion of the sale of its products respondent advertises the same in a pamphlet or manual widely distributed by respondent all over the United States entitled "Delcreo Kennel Manual", in which its various dog preparations termed in said manual "Delcreo Remedies" are advertised and described together with recommendations and directions for the use of same. The last edition of said manual is the 13th edition, which, having superseded the 12th edition, has been current since April, 1931.

PAR. 3. In the foreword or introduction to said manual the respondent states as follows:

The modern method of treating disease is to remove the cause. Symptomatic treatment is gradually being discarded because those drugs which relieve symptoms often retard the normal efforts of the body towards recovery. As a result, while many drugs have been abandoned, the germicides which have given definite results have been greatly improved. The removal of germs, acids, ferments and other impurities from the system is now possible by the aid of chemicals. Recognition of the value of this treatment, and the necessity of governing it by scientific principles, has resulted in a new science, Chemotherapy. This knowledge is now made available for the treatment of diseases of the dog.

This foreword represents directly and by fair intendment that the preparations thereafter named in the pamphlet when given as directed will remove the causes of the various diseases mentioned and are not merely symptomatic treatments. The foreword further represents by implication that the preparations listed following the foreword are germicides and will kill germs which are the causes of various diseases and that a new science called "Chemotherapy" is made available by said "Delcreo Kennel Manual" for the treatment of the dog.

PAR. 4. The principal preparation manufactured and sold by respondent and described in said manual is one termed "Delcreo". This preparation contains in each fluid drachm two minims of beechwood creosote and $3\frac{3}{5}$ grains combined hypophosphites of calcium, sodium and potassium in glycerine emulsion. It is specifically described in the said "Delcreo Kennel Manual" as a germicide. For example, as to the disease distemper respondent states, directs, and represents in said manual as follows (*italics supplied*):

Give Delcreo every two hours for the first two days. It is advisable to limit the nourishment for the first twenty-four hours, so that the digestive organs may be reserved for the assimilation of *the germicide*. * * * It is important that the germicide should be given regularly every two hours until the infection is under control.

The respondent also represents in said pamphlet that the treatment prescribed therein is a curative treatment, the language of the pamphlet being in that respect as follow:

Effectiveness of curative treatment.—If the proper medication is employed there are only two reasons for a fatal termination in distemper, (1) delay in applying the treatment, (2) lack of natural resistance in the dog.

PAR. 5. The respondent in directing the administration of "Delcreo" for other conditions and diseases of the dog in this pamphlet under the various headings of diseases uses the following language:

Abscesses.—The first step should be to rid the system of the infection. Give Delcreo every two hours for at least two days, then three times a day. With the destruction of bacteria the activity of the white blood cells is stimulated and the abscess may come to a head very rapidly, or other abscesses may appear until the system is rid of the infection. * * *

Asthma.—Give Delcreo every two hours in regular doses until the paroxysms have ceased, then every three hours until breathing is normal. Its use should be continued until each succeeding attack grows fainter and the paroxysms finally disappear.

Fits.—Give Delcreo tonic every three hours.

Pneumonia.—Give Delcreo every two hours. * * * In severe cases the medication should be given every hour until the temperature is reduced by one or two degrees, then continue every two hours until the cough has disappeared and the temperature is normal. Delcreo should be given three or four times a day for about two weeks after the animal has recovered.

Rheumatism.—The animal should be placed in warm dry quarters. Give Delcreo in regular dosage for at least three days. This should be followed by administering Delcreo Soluble Sulphur Compound three times a day, and this treatment should be continued until all symptoms disappear.

Black tongue.—If the dog vomits after eating or drinking, give Delcreo as in distemper, for the antiseptic effect on the digestive organs and rest the stomach for twenty-four hours.

PAR. 6. The various claims made for Delcreo and the directions for its use as mentioned in paragraphs 3, 4, and 5 hereof are false and misleading in that—

Order

18 F.T.C.

(1) Delcreo when taken internally does not destroy bacteria or germs and is without any effect on bacteria or germs and is not a cure or efficacious remedy in the treatment of abscesses.

(2) Delcreo is not effective to cause the cessation of paroxysms and is not a competent or effective remedy in the treatment of asthma nor is there any drug or combination of drugs which is curative of asthma.

(3) Delcreo internally taken is not a germicide, nor is it a preventive treatment, nor is there any drug or combination of drugs which is curative or an effective treatment for distemper.

(4) Delcreo is not a preventive, treatment or cure for fits, nor is there any known cure therefor.

(5) Delcreo taken internally is not a germicide, is not a cure or efficient treatment for pneumonia, rheumatism, or black tongue, and is not curative of any of the diseases for which the "Delcreo Ken-nel Manual" directs its administration. When taken internally it is not an antiseptic, nor is it a disinfectant and is of no value in removing the causes of any of said diseases.

PAR. 7. Respondent's various statements, directions, and representations as set forth in these findings and each of them have the tendency and capacity to deceive the purchasing public into the belief that the respondent's preparation "Delcreo" is a germicide and will kill germs and bacteria and will, when given internally to the dog, kill germs and bacteria and destroy the causes of the various diseases for which it is prescribed, and to induce the purchase thereof by the public in and on account of said erroneous belief and thus to injure competitors' business and to divert trade from said competitors to respondent.

CONCLUSION

The acts and things done by respondent under the conditions and circumstances described in the foregoing findings are to the injury and prejudice of the public and respondent's competitors, and are unfair methods of competition in interstate commerce and constitute a violation of the 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 record and the Commission having made its findings as to the facts and conclusion drawn therefrom that the

respondent has violated the provisions 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, Delson Chemical Co., Inc., its officers, agents, and employees, in connection with the sale or offering for sale in interstate commerce between and among the various States of the United States and the District of Columbia, do cease and desist in any manner from:

Advertising or representing that the proprietary preparation called by respondent "Delcreo" is a germicide when taken internally by the dog or when so taken has any germicidal, antiseptic or disinfectant qualities or that said preparation when so taken removes the cause or is a cure or efficient treatment for any of the following diseases of dogs: distemper, abscesses, asthma, fits, pneumonia, rheumatism, and vomiting attendant upon black tongue.

It is further ordered, That the respondent shall within 30 days after the service upon it of a copy 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 the order to cease and desist hereinabove set forth.

IN THE MATTER OF
**WOLF GURZIZKY, DOING BUSINESS UNDER THE TRADE
NAME AND STYLE OF WHITE STAR HAT COMPANY**

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

Docket 2045. Complaint, June 6, 1932—Order, Jan. 17, 1934

Consent order requiring respondent, his agents, etc., in connection with the sale or offer of men's hats in interstate commerce and in the District of Columbia, to cease and desist from selling or offering for sale men's old, worn, used, and discarded fur felt hats, which have been cleaned and fitted with new ribbons, sweatbands, and linings, unless and until there is stamped upon, affixed or attached to said hats in a conspicuous place so as to be easily and readily seen, word or words clearly indicating that said hats are not new hats but are used and worn hats which have been cleaned and made-over (e. g., "second-hand", "used", or "made-over").

Mr. G. Ed. Rowland for the Commission.

Kreindler, Warshaw & Baron, of New York City, for respondent.

COMPLAINT

Acting in the public interest, pursuant to the provisions 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", the Federal Trade Commission charges that Wolf Gurzizky, doing business under the trade name and style of White Star Hat Co., hereinafter referred to as respondent, has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Wolf Gurzizky, is an individual doing business under the trade name and style of White Star Hat Co., having his office and principal place of business at 222 Greene Street, in the City of New York, State of New York, where he has been for more than one year last past engaged in the business of selling and distributing men's felt hats of the character and in the manner hereinafter mentioned, to jobbers and wholesale dealers located at points in the various States of the United States and the District of Columbia. Respondent causes said hats when so sold, to be transported from the City of New York, State of New York, through and into other States of the United States and the District of Columbia, to the said jobbers and wholesale dealers thereof at their respective