

Complaint
IN THE MATTER OF
NATIONAL REMEDY COMPANY

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

Docket 2136. Complaint, Dec. 13, 1933—Order, Sept. 5, 1935

Consent order requiring respondent corporation, its officers, etc., in connection with the sale in interstate commerce of its preparation known as "Japanese Oil" or "En-Ar-Co Japanese (style) Oil" or substantially the same preparation under any other name, to cease and desist from representing that such preparation is a cure or adequate treatment for sore throat, colds, or congestion connected therewith, or for congestion, aches and pains, rheumatism, neuralgia, neuritis, or stiff joints, or for baldness or dandruff, or that it will cause new hair to grow, subject to the proviso, however, that nothing contained in such order shall be construed to prevent respondent from representing that said preparation is beneficial in the treatment of minor throat and bronchial irritations, or that it is beneficial in the treatment of sprains, stiffness and muscular aches and soreness due to fatigue and exposure, or that it is beneficial in the treatment of simple neuralgia, or that it is beneficial for removing loose dandruff by its cleansing effect upon the scalp, or that it is beneficial to the scalp and hair by aiding the superficial circulation.

Mr. Harry D. Michael for the Commission.

Brashears, Townsend, O'Brien & Beasley, of Washington, D. C.,
and *Mr. Frederic Damrau*, 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 National Remedy Company has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges as follows:

PARAGRAPH 1. That said respondent, National Remedy Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York and has its office and principal place of business in the city of New York in said State.

PAR. 2. That said respondent is now and has been engaged for more than ten years last past in the sale and distribution in interstate commerce of a preparation known and described as "Japanese Oil" or "En-Ar-Co Japanese (style) Oil", which said preparation respondent causes to be transported in interstate commerce from its

Complaint

21 F. T. C.

said place of business in New York to, into, and through States of the United States other than New York to persons, firms, and corporations to whom or to which it is or has been sold. That respondent generally sells its said preparation to wholesale and retail druggists and to other dealers for ultimate resale to members of the public in the various States where said product is ultimately sold.

PAR. 3. That during the time above mentioned other individuals, firms, and corporations in the various States of the United States are and have been engaged in the sale and distribution in interstate commerce of preparations similar in kind to that of respondent and also of other preparations adapted to and used for the purposes for which respondent's preparation is recommended to be used in the advertising matter hereinafter referred to, and such other individuals, firms, and corporations have caused and do now cause their said preparations, when sold by them, to be transported from various States of the United States to, into, and through States other than the State of the origin of the shipment thereof. Said respondent has been, during the aforesaid time, in competition in interstate commerce in the sale of its said preparation with such other individuals, firms, and corporations.

PAR. 4. Respondent, in advertising its said preparation, causes advertisements to be inserted in newspapers and other publications circulated to the purchasing public in the various States of the United States which represent or imply that "Japanese Oil" is a cure or a competent and adequate treatment for sore throat, chest colds, and congestion, baldness, dandruff, aches and pains, rheumatism, neuralgia, neuritis, and stiff joints, and that said preparation will cause new hair to grow. Among such representations made by respondent and contained in such advertisements referring to said preparation are the following:

Quick relief, sore throat . . . Japanese Oil rubbed on sore throat gives quick relief. For chest colds, congestion, rub in vigorously.

Getting bald? You can grow new hair.

Getting bald? Troubled with dandruff?

Ask your druggist for free booklet, "The Truth About Hair" which tells how Japanese Oil . . . can overcome these conditions.

Prevent baldness the way others do.

Aches and pains—Quick relief with Japanese Oil.

. . . For rheumatism, neuralgia, neuritis, . . . stiff joints . . .

PAR. 5. That in truth and in fact, said preparation is not a competent and adequate treatment for sore throat, colds, or congestion connected therewith generally, but is adapted to the treatment of minor throat and bronchial irritations only; that it is not a competent and adequate treatment for congestion, aches and pains,

rheumatism, neuralgia, neuritis, or stiff joints, but is adapted to the treatment of simple neuralgia only; that said preparation is not a competent and adequate treatment for baldness or dandruff and the use of the same will not cause new hair to grow. That all of said statements, representations and implications are either not true and wholly beyond the therapeutic effects of said preparation or are greatly exaggerated and grossly inaccurate.

PAR. 6. That the representations of respondent, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondent's said preparation is a cure or a competent and adequate treatment for sore throat, chest colds and congestion, baldness, dandruff, aches and pains, rheumatism, neuralgia, neuritis, and stiff joints, and that it will cause new hair to grow when in truth and in fact such are not the facts, or only to a limited extent. That said representations of respondent have had and do have tendency and capacity to induce members of the public to buy and use said preparation because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale in interstate commerce of preparations adapted to the treatment of the ailments above mentioned.

PAR. 7. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

ORDER TO CEASE AND DESIST

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 13th day of December 1933, issued its complaint against National Remedy Company, a corporation, respondent herein, and caused the same to be served upon respondent as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

On January 18, 1934, said respondent filed herein an answer in writing to said complaint. Subsequently, said respondent filed herein a petition to withdraw its said answer and asking that a new answer

Order

21 F. T. C.

therewith submitted be filed in lieu thereof, which said petition was granted by the Commission and said new answer was accordingly filed. By said new answer respondent elected to refrain from contesting this proceeding and consented to the issuance of an order to cease and desist from the practices set forth in the complaint herein.

Thereafter this proceeding came on regularly for disposition and decision by the Commission under subdivision (b) of Rule V of the Rules of Practice and Procedure adopted by the Commission, and the Commission being fully advised in the premises—

It is ordered, That respondent, National Remedy Company, its officers, directors, agents, representatives, servants, and employees, in connection with the sale, offering for sale, or distribution in interstate commerce and the District of Columbia of its preparation known and described as "Japanese Oil" or "En-Ar-Co Japanese (style) Oil", or of a preparation of the same or substantially the same composition under any other name or names, cease and desist from representing by any statement or statements or other methods which represent or imply that such preparation is a cure, remedy, or competent and adequate treatment for sore throat, colds, or congestion connected therewith, or for congestion, aches and pains, rheumatism, neuralgia, neuritis, or stiff joints, or for baldness or dandruff, or that it will cause new hair to grow.

Provided, however, That nothing contained in this order shall be construed to prevent respondent from representing that said preparation is beneficial in the treatment of minor throat and bronchial irritations, or that it is beneficial in the treatment of sprains, stiffness, and muscular aches and soreness due to fatigue and exposure, or that it is beneficial in the treatment of simple neuralgia, or that it is beneficial for removing loose dandruff by its cleansing effect upon the scalp, or that it is beneficial to the scalp and hair by aiding the superficial circulation.

It is further ordered, That respondent, within 60 days from and 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 is complying with the order to cease and desist hereinabove set forth.

Complaint

IN THE MATTER OF

FYR-FYTER COMPANY ET AL.

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

Docket 2352. Complaint, Apr. 4, 1935—Order, Sept. 12, 1935

Consent order requiring respondent corporations, their officers, etc., in connection with the sale and offer of fire extinguishing equipment and supplies in interstate commerce, and subject to the exception from such order of any lawful action taken in regard to patented articles or under license agreements relating thereto, to cease and desist from doing and performing, by understanding, agreement, or combination among themselves or between or among any two or more of them, or with others, acting directly by or through the respondents, the following acts and things, namely—

- (a) Fixing prices at which said commodities are to be sold;
- (b) Agreeing that none of them singly will solicit the customers of another respondent or quote them prices lower than those at the time being quoted such customers by the respondent supplying them;
- (c) Refusing to continue to sell fire extinguishing equipment and supplies to distributors, jobbers, and dealers who will not agree with them not to sell such fire extinguishing equipment and supplies at prices less than those fixed by said respondents;
- (d) Refusing to sell such equipment and supplies to all distributors, jobbers, and dealers who sell same, purchased from respondents, at prices lower than the prices so fixed by them;
- (e) Agreeing upon prices to be bid where competitive bids are called for by industrial and governmental users of respondents' fire extinguishing equipment and supplies; or
- (f) Procuring withdrawal and cancellation of bids called for by industrial and governmental users of respondents' fire extinguishing equipment and supplies in cases where such bids so withdrawn are at prices for such fire extinguishing equipment and supplies less than those fixed by respondents; and

Dismissing complaint against the individual respondents for the reason that the order against the corporate respondents, their officers, employees and agents adequately and effectively restores free and open competition between and among all of the respondents engaged in selling fire extinguisher equipment and supplies in interstate commerce.

Mr. P. C. Kolinski for the Commission.

Chadbourne, Hunt, Jaechel & Brown, of New York City, for respondents, along with whom *Darby & Darby*, of New York City, also appeared for *Walter Kidde & Co., Inc.*

COMPLAINT

Pursuant to the provisions of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission,