

## Complaint

## IN THE MATTER OF

P. A. LEFEBVRE & COMPANY, LIMITED, AND ZATIQUE  
LACOMB

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

*Docket 2933. Complaint, Sept. 30, 1936—Decision, Nov. 20, 1936*

Where a corporation and an individual engaged in the manufacture, sale and distribution of a product named "Magic Gas," for mixing with gasoline or kerosene for use in internal combustion engines; in advertising the same in pamphlets, and through labels attached to the containers thereof, and in newspapers, periodicals, radio broadcasts, testimonials, placards, and otherwise—

Falsely represented that said product, thus mixed and used in the engines of motor vehicles, increased mileage and prevented or removed and eliminated carbon and carbon troubles and improved starting, pickup, and power and performance, and increased economy and the life of the motor, and equalled gasoline at three cents a gallon, and solved the gasoline problem;

With capacity and tendency to mislead and deceive purchasers of their said product into believing that when buying the same from them they were obtaining one that would, when used by them, increase the efficiency of a motor vehicle, and that they were thereby gaining an advantage in the purchase of said product, and with effect of unfairly diverting trade to them from many competitors who make and distribute products that increase the efficiency of such vehicles and sell and distribute products designated for similar usage to that sold and distributed by them and do not misrepresent the capacities or effects thereof; to their substantial injury and prejudice:

*Held*, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

*Mr. T. H. Kennedy* for the Commission.

## COMPLAINT

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, having reason to believe that P. A. Lefebvre & Company, Limited, a corporation, and Zatique Lacombe, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act of Congress, and it appearing to said Commission that a proceeding by it in respect thereof will be in the public interest, hereby issues its complaint and states its charges in that respect as follows:

PARAGRAPH 1. The respondent P. A. Lefebvre & Company, Limited, is a corporation existing and doing business under and by virtue of the laws of the Dominion of Canada, having its principal place of

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business at Alexandria, Ontario, Canada, and its manufacturing establishment and place of business for business transacted within the United States at Malone, N. Y. Respondent Zatique Lacombe is an individual and at all times herein referred to has been and now is residing and maintaining his place of business at Malone, N. Y. Respondents, and each of them, during the five years last past have been engaged in the manufacture for sale and the sale of a product sold by the respondents under the trade name "Magic Gas" in commerce between and among the various States of the United States and the District of Columbia, and respondents and each of them causes and has caused said product, when sold by them to be transported in interstate commerce from their places of business in the State of New York and from other States of the United States and from the Dominion of Canada to purchasers thereof located in various States of the United States other than the State of origin of the shipment or the Dominion of Canada and in the District of Columbia.

PAR. 2. In the course and conduct of their said business, respondents and each of them are now, and they have been for more than five years last past, engaged in substantial competition with corporations, individuals, partnerships, and firms engaged in the manufacture for sale, sale, and distribution in commerce between and among the various States of the United States, with foreign countries and in the District of Columbia, of products used for purposes similar to the purposes for which respondents' "Magic Gas" is represented by respondents to be efficacious, and said competitors in interstate and foreign commerce have truthfully represented and now truthfully represent the properties, capacities and effects of their said products.

PAR. 3. In the course and conduct of their said business as hereinabove described, respondents and each of them, in soliciting the sale of and selling in interstate and foreign commerce "Magic Gas," in advertising said products by pamphlets, labels attached to containers of the product, advertisements inserted in newspapers, periodicals and magazines, radio broadcasts, testimonials, placards, and otherwise, have made extravagant, deceptive, misleading, and false statements and representations regarding the value, efficacy, and effect of their said product, among which are the following:

That "Magic Gas" when mixed with gasoline or kerosene and used in internal combustion engines in motor vehicles:

- (a) Increases the mileage of the motor vehicle;
- (b) Prevents, removes or eliminates from the motor, carbon, carbon knocks, and carbon troubles;
- (c) Makes cars start and pick up easier or quicker and run better or smoother;
- (d) Saves gasoline and oil, gives the engine more power; perfects ignition and lubrication and lessens odor and smoke;

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- (e) Will add to the life of the motor ; increases the power of the motor ;
- (f) Equals gasoline at 3¢ a gallon ;
- (g) Solves gasoline problem.

PAR. 4. In truth and in fact, respondents' representations and each of them as set forth in paragraph 3 hereof and respondents' advertisements and representations in pamphlets, labels attached to containers of the product, newspapers, periodicals, magazines, radio broadcasts, testimonials, placards, and otherwise, are extravagant, deceptive, misleading, and false in the following respects:

Respondents' product "Magic Gas" when mixed with gasoline or kerosene and used in internal combustion engines in motor vehicles will not: increase the mileage of the motor vehicles; prevent, remove, or eliminate from the motor carbon, carbon knocks, or carbon troubles; make cars start and pick up easier or quicker or run better or smoother; save gasoline or oil; give engine more power; and perfect ignition and lubrication, or lessen odor or smoke; add to the life of the motor; increase the power of the motor; result to the user in an equivalent of the cost of gasoline at the rate of 3¢ a gallon or any appreciable saving; or solve the gasoline problem.

PAR. 5. Respondents' advertising and representations hereinabove described have had and still have the tendency and capacity to mislead and deceive the purchasing public regarding the value, efficacy and effect of "Magic Gas," and further, as a direct consequence of the deceptive acts and representations of the respondents and the erroneous and mistaken beliefs induced by said acts as herein set out the purchasing public has purchased respondents' "Magic Gas" with the result that trade has been unfairly diverted to the respondents from competitors engaged in the business of distributing or selling products designed for similar usage who truthfully advertise and represent the properties, capacities, or effects of their respective products and the results that may be expected to be obtained from the use thereof. As a result thereof, injury has been and is now being done by the respondents and each of them to competition in commerce between and among the various States of the United States, in the District of Columbia and in foreign commerce.

PAR. 6. The acts, practices and representations of the respondents and each of them hereinabove set forth have been and are to the injury and prejudice of the public and of the competitors of the respondents in interstate and foreign commerce, and have constituted and now constitute unfair methods of competition 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.

## 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 September 30, 1936, issued, and on October 5, 1936, served its complaint in this proceeding upon respondents, P. A. Lefebvre & Company, Limited, a corporation, and Zatique Lacomb, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, the respondents filed in the office of the Commission, and answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Since in or about 1931, the respondent, P. A. Lefebvre & Company, Limited, a corporation, has been organized and exists as a corporation under the laws of the Dominion of Canada and has maintained during all of said time and now maintains its principal place of business in the Dominion of Canada at Alexandria, Ontario, Canada, and has maintained at all times herein referred to and now maintains its principal place of business for business conducted within the United States, at Malone, N. Y. During all of said time the respondent, Zatique Lacomb, an individual, has maintained and now maintains his principal place of business at Malone, N. Y.

PAR. 2. Since said 1931, respondents and each of them have been engaged in the manufacture for sale and sale and distribution of a product sold by the respondents under the trade name of "Magic Gas." The respondents and each of them have sold this product to various firms, persons, associations, or corporations located not only in the State of New York, but in other States of the United States, and after sales have been consummated, the respondents and each of them have shipped the purchased goods or caused them to be shipped from the place of business of the respondents in Malone, N. Y., or from the place of business of P. A. Lefebvre & Company,

## Findings

a corporation at Alexandria, Ontario, Canada, or from States in the United States other than the State of New York, to purchasers thereof located in States other than the State of New York or than the State of origin of the shipment.

PAR. 3. Respondents, and each of them, during all the time herein referred to, have represented that the said product "Magic Gas" is to be mixed with gasoline or kerosene for use in internal combustion engines in motor vehicles and that when so used, results will be achieved as hereinafter more fully set forth, which will be greatly beneficial to the users thereof.

PAR. 4. During all of the time that respondents have been engaged in the foregoing business there have been other firms, associations, partnerships, or corporations engaged in similar business to that of the respondents, to wit: the sale and distribution of products which will benefit the users thereof in increasing the efficiency of the operation of motor vehicles and said other firms, associations, partnerships, or corporations have been engaged in interstate commerce in said business. The respondents, during all of the aforesaid time, were and still are in competition in commerce in the sale of said "Magic Gas" with other individuals, firms, and corporations likewise engaged in the sale and distribution of products having an efficacy similar to that claimed by the respondents for "Magic Gas."

PAR. 5. In soliciting the sale of their product, respondents have continuously, during all the aforesaid time, represented in advertising said product by pamphlets, labels attached to containers of the product, advertisements inserted in newspapers, periodicals and magazines, radio broadcasts, testimonials, placards, and otherwise that "Magic Gas" when mixed with gasoline or kerosene and used in internal combustion engines in motor vehicles, increases the mileage of the motor vehicle, prevents, removes, or eliminates from the motor, carbon, carbon knocks, and carbon troubles, makes cars start and pick up easier or quicker and run better or smoother, saves gasoline and oil, gives the engine more power, perfects ignition and lubrication, lessens odor and smoke, adds to the life of the motor, increases the power of the motor, equals gasoline at 3¢ a gallon, and solves the gasoline problem. These representations have been made through advertising mediums and otherwise and caused by the respondents to be circulated in interstate commerce to their customers and prospective customers.

PAR. 6. As a matter of fact, respondent's said product, "Magic Gas," when mixed with gasoline or kerosene and used in internal combustion engines and motor vehicles, will not increase the mileage

## Conclusion

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of the motor vehicles. Its use will not prevent, remove or eliminate from the motor, carbon, carbon knocks or carbon troubles. Its use will not make cars start and pick up easier or quicker, or run better or smoother and will not save gasoline or oil. It does not give the engine more power, perfect ignition and lubrication and lessen odor or smoke. Its use does not add to the life of the motor, increase the power of the motor or result to the user in an equivalent of the cost of gasoline at the rate of 3¢ a gallon or any appreciable saving, or solve the gasoline problem.

PAR. 7. There is a preference among purchasers or prospective purchasers of respondents' products, located in various States of the United States, for a product that will improve the efficiency of motor vehicles and each and every representation by the respondents with regard to "Magic Gas," describes a product that purchasers or prospective purchasers of respondents' product desire. The representations made by the respondents above referred to have the capacity and tendency to mislead and deceive the purchasers of respondents' product into believing that when purchasing said product from respondents, they will obtain a product that will, when used by them, increase the efficiency of a motor vehicle, and that such purchasers are thereby gaining an advantage by purchasing respondents' product.

PAR. 8. The representations of respondents as aforesaid, have had and do have the tendency and capacity to mislead and deceive a substantial number of the purchasers of respondents' product.

PAR. 9. There are many competitors of respondents who manufacture and distribute products that increase the efficiency of motor vehicles and who sell and distribute products designated for similar usage to that sold and distributed by the respondents in various States of the United States, who do not misrepresent the capacities or effects of their products.

PAR. 10. Respondents' acts and practices as hereinabove set forth tend to and do unfairly divert trade to respondents from such competitors to the substantial injury and prejudice of such competitors.

## CONCLUSION

The aforesaid acts and practices of the respondents, P. A. Lefebvre & Company, Limited, a corporation, and Zatique Lacombe, are to be prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce, within the intent and meaning 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 answer filed herein on November 5, 1936, by respondents, admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have 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 ordered*, That the respondent P. A. Lefebvre & Company, Limited, a corporation, its officers, representatives, agents and employees, and Zatique Lacombe, an individual, his representatives, agents, and employees, in connection with the offering for sale, sale, and distribution in interstate or foreign commerce or in the District of Columbia of a product designated "Magic Gas," or a product of the same or substantially the same composition as the product designated "Magic Gas," do forthwith cease and desist from representing, directly or indirectly, that said product, when mixed with gasoline or kerosene and used in internal combustion engines and motor vehicles, will:

- (a) Increase the mileage of the motor vehicle;
- (b) Prevent, remove or eliminate from the motor carbon, carbon knocks and carbon troubles;
- (c) Make cars start and pick up easier and quicker and run better or smoother;
- (d) Save gasoline and oil, give the engine more power; perfect ignition and lubrication and lessen odor and smoke;
- (e) Add to the life of the motor; increase the power of the motor;
- (f) Equal gasoline at 3¢ a gallon;
- (g) Solve the gasoline problem.

*It is further ordered*, That the respondents and each of them shall, within 60 days after the 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  
PASQUALE MARGARELLA

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

*Docket 1790. Complaint, May 19, 1936<sup>1</sup>—Decision, Nov. 27, 1936*

Where an individual engaged in manufacturing candies, including assortments of penny pieces of uniform size and shape in which the chance selection of one of a small number of said pieces, the colored centers of which differed from those of the majority, entitled purchaser to one of the larger pieces included with such assortment without further charge, and in which purchaser of last of said penny pieces in assortment was given, free, a box of candy also included therewith—

Sold said assortments, in competition with many unwilling to offer or sell candies so packed and assembled or otherwise arranged and packed for sale to the purchasing public as to involve a game of chance or the sale of a chance to win something by chance, or any other method contrary to public policy, as long expressed in the common law and criminal statutes, and to established public policy of the United States Government, to wholesalers and jobbers for resale to retailers by whom said assortments were exposed for sale and sold to the purchasing public in accordance with aforesaid sales plan;

With result that many dealers in, and ultimate purchasers of, candy, attracted by said method and manner of packing said product and by element of chance involved in the sale thereof as above set forth, were thereby induced to purchase his said candy, thus packed and sold, in preference to that of competitors who do not use same or equivalent methods, and were thereby supplied with the means of conducting lotteries in the sale of his product, in accordance with aforesaid sales plan and contrary to public policy, and with capacity and tendency to induce as aforesaid, and to divert to him, by reason of said game of chance, trade and custom from his said competitors who do not use same or an equivalent method, to exclude from said candy trade all competitors who are unwilling to and who do not use such method as unlawful, lessen competition therein, and eliminate from said trade all actual, and exclude therefrom all potential, competitors who do not adopt and use such or an equivalent method, and tend to create a monopoly of said trade in him and such other distributors of candy as use such a method, and deprive the purchasing public of the benefits of free competition in trade in question:

*Held*, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. Miles J. Furnas*, trial examiner.

*Mr. Henry C. Lank* for the Commission.

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<sup>1</sup> Amended and supplemental complaint. Original findings and order in this matter, which issued on April 3, 1934 (18 F. T. C. 278), were vacated, etc., by order reopening case on May 19, 1936 (22 F. T. C. 912).