

IN THE MATTER OF
LEON E. VAN LAETHEM, TRADING AS VAN PRODUCTS
COMPANY

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

Docket 3743. Complaint, Mar. 21, 1939—Decision, Aug. 12, 1939

Where an individual engaged in compounding, selling, and distributing, under name of "No-No Germ Control," medical or pharmaceutical preparation to members of purchasing public in various States; in advertisements which he disseminated through the mails and newspapers and periodicals of general circulation, and through circulars and other printed matter distributed in commerce among the various States, and through various means, and which were intended and calculated to induce purchase of his said product in commerce—

- (a) Represented that his said preparation would kill all the germs in the body, and constituted an absolute germicide and absolute contraceptive, and preparation which was odorless and nonirritating to the organs involved, and that users thereof need have no fear as to its effectiveness, and that its vapors penetrated hidden recesses of the body and killed germs where other products composed of powder and liquid would not reach; and
- (b) Represented that it was an effective remedy for and would give quick relief from head colds and hay fever, and would clear the nasal passages, reduce swollen membranes, and clear away mucous, and would remove bunions and callouses from the feet and do away with the pain caused thereby;

Facts being statements, representations, and implications used and disseminated by him as above set forth were grossly exaggerated, misleading, and untrue, and constituted false advertisements, it was not an absolute germicide and would not kill all germs in the body or accomplish other results claimed therefor as above set forth, was not odorless, and was irritating to organs concerned, users thereof had no assurance that it would be effective, its vapors did not penetrate as aforesaid and kill germs not reached by powder and liquid preparations, and it was not effective in treatment of head colds and hay fever, would not operate as set forth in such cases, nor in connection with removal of bunions and callouses, nor relieve pain caused thereby, and constituted nothing more than a formaldehyde solution, with very distinctive odor and effective as antiseptic rather than as germicide, and inhalation of which irritated mucous membranes of nose and was likely to cause bronchitis or other catarrhal conditions, and his said claims as to therapeutic value or efficacy of said product greatly exceeded any claims with respect thereto which might truthfully be made;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and that his said product possessed properties claimed and represented, and would accomplish results indicated, and of causing substantial portion of said public, because of such erroneous and mistaken belief, to purchase substantial quantities of his said product:

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Held, That such acts and practices were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. J. D. Kash for the Commission.

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 Leon E. Van Laethem, an individual, trading as Van Products Co., hereinafter referred to as respondent, has violated the provisions of the 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. The respondent, Leon E. Van Laethem, is an individual trading as Van Products Co., with his office and place of business in the city of New Milford, State of New Jersey.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of compounding, selling, and distributing a medical or pharmaceutical preparation under the name "No-No Germ Control." Respondent sells said preparation to members of the purchasing public situated in various States of the United States and causes the said preparation, when sold by him, to be transported from his aforesaid place of business in the State of New Jersey to the purchasers thereof at their respective points of location in 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 among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of the aforesaid business the respondent has disseminated and is now disseminating, and has and does now cause to be disseminated, false advertisements for the purpose of inducing, and which were and are likely to induce, directly or indirectly, the purchase of respondent's said medical preparation. Said false advertisements were and are disseminated by use of the United States mails and by insertion in newspapers, in periodicals having a general circulation and also in circulars and other printed matter, all of which are distributed in commerce among and between the various States of the United States. Various means have been and are used by respondent to disseminate or cause the dissemination of said false advertisements for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase in commerce

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among and between the various States of the United States of respondent's said medical preparation. Among, and typical of, the statements and representations so used and disseminated as aforesaid are the following:

Odorless Feminine Hygiene Germ Control.

Absolute germicide

No uncertainty

Non-irritating

No-No Vapors will kill all the germs

No-No Vapors kill the germs, as they reach where powder and liquid do not reach.

No-No Vapors Go Effectively to the Very Seat of Head Colds.

Safety first with No-No Germ Control used as syringe; it may cost a lot of money and suffering to forget it.

Sure, quick relief—hay fever, head colds.

For bunions and callouses. Pain will disappear. Enables you to wear your shoes with comfort.

No-No Vapors as an absolute germicide clear the nasal passages, penetrate deeply, reduce swollen membranes, clear away clogging mucous, lessen watery discharges from nose and eyes.

On some of the false advertisements used and disseminated as aforesaid the respondent uses, under the words "No-No Germ Control," a picturization showing the arrival of the stork carrying a bundle, and a woman with her hands upraised, warding off or frightening away the stork, saying "No; No."

PAR. 4. Through the use of the statements, representations, and implications hereinabove set forth, and others similar thereto not herein set out, all of which purport to be descriptive of respondent's preparation and its effectiveness in use, respondent has represented that his product will kill all the germs in the human body; that it is an absolute germicide; that it is an absolute contraceptive and preventive of pregnancy; that it is odorless, nonirritating to the genital organs, and the users thereof need have no fear as to its effectiveness; that its vapors penetrate the hidden recesses of the body and kill germs therein where other preparations composed of powder and liquid will not reach; that it is an effective remedy for, and will give quick relief in, head colds and hay fever, and will clear the nasal passages, reduce swollen membranes, and clear away mucous; and that its use will remove bunions and callouses from the feet and do away with the pain caused thereby.

PAR. 5. The aforesaid statements, representations, and implications used and disseminated by the respondent in the manner above described are grossly exaggerated, misleading, and untrue, and constitute false advertisements. In truth and in fact, respondent's product is not an absolute germicide, and it will not kill all the germs in the human

body; it is not a contraceptive and will not prevent pregnancy; it is not odorless and is irritating to the genital organs, and the users thereof have no assurance it will be effective; its vapors do not penetrate hidden recesses of the body and kill germs not reached by preparations in powder and liquid form; it is not effective in the treatment of head colds and hay fever, and does not clear the nasal passages or reduce swollen membranes and clear away mucous; it will not remove bunions and callouses from the feet and relieve the pain caused thereby.

The preparation of respondent is nothing more than a formaldehyde solution. It has a very distinctive odor and is effective as an antiseptic, rather than as a germicide. Inhalation of said product causes irritation to the mucous membranes of the nose and is likely to cause bronchitis or other catarrhal conditions.

Respondent's claims of therapeutic value or efficacy of said preparation are grossly exaggerated, false, and deceptive, and greatly exceed any claims as to the therapeutic value and efficacy of said preparation which might truthfully be made.

PAR. 6. The use by the respondent of the aforesaid false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid with respect to said preparation has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and that respondent's preparation possesses the properties claimed and represented and will accomplish the results indicated, and causes a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase substantial quantities of respondent's said preparation.

PAR. 7. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 21, 1939, issued, and on March 22, 1939, served, its complaint in this proceeding upon respondent, Leon E. Van Laethem, an individual, trading as Van Products Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 12, 1939, respondent filed his answer, in which answer

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he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and answer thereto, and the Commission having duly considered the matter 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. The respondent, Leon E. Van Laethem, is an individual trading as Van Products Co., with his office and place of business in the city of New Milford, State of New Jersey.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of compounding, selling, and distributing a medical or pharmaceutical preparation under the name "No-No Germ Control." Respondent sells said preparation to members of the purchasing public situated in various States of the United States and causes the said preparation, when sold by him, to be transported from his aforesaid place of business in the State of New Jersey to the purchasers thereof at the respective points of location in other States of the United States and in the District of Columbia.

Respondent maintains, and at all times herein mentioned has maintained, a course of trade in said preparation, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of the aforesaid business the respondent has disseminated and is now disseminating, and has and does now cause to be disseminated, false advertisements for the purpose of inducing and which were and are likely to induce, directly or indirectly, the purchase of respondent's said medical preparation. Said false advertisements were and are disseminated by use of the United States mails and by insertion in newspapers, in periodicals having a general circulation and also in circulars and other printed matter, all of which are distributed in commerce among and between the various States of the United States. Various means have been and are used by respondent to disseminate or cause the dissemination of said false advertisements for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase in commerce among and between the various States of the United States of respondent's said medical preparation. Among, and typical of, the

statements and representations so used and disseminated as aforesaid are the following:

Odorless Feminine Hygiene Germ Control.

Absolute germicide.

No uncertainty.

Non-irritating.

No-No Vapors will kill all the germs.

No-No Vapors kill the germs, as they reach where powder and liquid do not reach.

No-No Vapors Go Effectively to the Very Seat of Head Colds.

Safety first with No-No Germ Control used as syringe; it may cost a lot of money and suffering to forget it.

Sure, quick relief—hay fever, head colds.

For bunions and callouses. Pain will disappear. Enables you to wear your shoes with comfort.

No-No Vapors as an absolute germicide clear the nasal passages, penetrate deeply, reduce swollen membranes, clear away clogging mucous, lessen watery discharges from nose and eyes.

On some of the false advertisements used and disseminated as aforesaid the respondent uses, under the words "No-No Germ Control," a picturization showing the arrival of the stork carrying a bundle, and a woman with her hands upraised, warding off or frightening away the stork, saying "No; No."

PAR. 4. Through the use of the statements, representations, and implications hereinabove set forth, and others similar thereto not herein set out, all of which purport to be descriptive of respondent's preparation and its effectiveness in use, respondent has represented that his product will kill all the germs in the human body; that it is an absolute germicide; that it is an absolute contraceptive and preventive of pregnancy; that it is odorless, nonirritating to the genital organs, and the users thereof need have no fear as to its effectiveness; that its vapors penetrate the hidden recesses of the body and kill germs therein where other preparations composed of powder and liquid will not reach; that it is an effective remedy for, and will give quick relief in, head colds and hay fever, and will clear the nasal passages, reduce swollen membranes, and clear away mucous; and that its use will remove bunions and callouses from the feet and do away with the pain caused thereby.

PAR. 5. The aforesaid statements, representations, and implications used and disseminated by the respondent in the manner above described are grossly exaggerated, misleading and untrue, and constitute false advertisements. In truth and in fact, respondent's product is not an absolute germicide and it will not kill all the germs in the human body; it is not a contraceptive and will not prevent

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pregnancy; it is not odorless and is irritating to the genital organs, and the users thereof have no assurance it will be effective; its vapors do not penetrate hidden recesses of the body and kill germs not reached by preparations in powder and liquid form; it is not effective in the treatment of head colds and hay fever, and does not clear the nasal passages or reduce swollen membranes and clear away mucus; it will not remove bunions and callouses from the feet and relieve the pain caused thereby.

The preparation of respondent is nothing more than a formaldehyde solution. It has a very distinctive odor and is effective as an antiseptic, rather than as a germicide. Inhalation of said product causes irritation to the mucous membranes of the nose and is likely to cause bronchitis or other catarrhal conditions.

Respondent's claims of therapeutic value or efficacy of said preparation are grossly exaggerated, false, and deceptive, and greatly exceed any claims as to the therapeutic value and efficacy of said preparation which might truthfully be made.

PAR. 6. The use by the respondent of the aforesaid false, deceptive, and misleading statements, representations and advertisements disseminated as aforesaid with respect to said preparation has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and that respondent's preparation possesses the properties claimed and represented and will accomplish the results indicated, and causes a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase substantial quantities of respondent's said preparation.

CONCLUSION

The aforesaid acts and practices of the respondent, Leon E. Van Laethem, an individual, trading as Van Products Co., are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts,

and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Leon E. Van Laethem, individually, and trading as Van Products Co., his representatives, agents, and employees directly, or through any corporate or other device, do forthwith cease and desist from—

Disseminating or causing to be disseminated any advertisements by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of a medicinal preparation containing drugs now designated by the name of "No-No Germ Control," or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or any other name or names, or disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said medicinal preparation which advertisements represent directly or through implication that said medicinal preparation will kill germs which cannot be reached by powder or liquid preparations, or will kill all germs, or is a germicide; that said preparation will prevent pregnancy or is a competent and effective contraceptive; that said preparation is nonirritating to the genital organs and odorless; that said preparation will clear the nasal passages or reduce swollen membranes or clear away mucous, or is an effective treatment for head colds or hay fever; that said preparation will remove callouses or bunions or relieve pains caused thereby; or which advertisements fail to reveal that said preparation is not a wholly safe drug to be used by the lay public in self-medication.

It is further ordered, That the respondent shall within 60 days after the service upon him of this order file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
THE MODE NOVELTY COMPANY, WOLF ALBOUM, AND
SAMUEL WEISMAN

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

Docket 3473. Complaint, July 8, 1938—Decision, Aug. 14, 1939

Where a corporation and two individuals, who were general officers thereof and managed, dominated, and controlled its business affairs and activity, and particularly with respect to acts and practices herein involved, engaged in manufacture, sale, and distribution of novelty hats and caps made from new and from second-hand or used materials, including second-hand, old, and used felt hats which they steamed, cleaned, and shaped into novelty caps or hats and sold to jobbers and wholesalers for resale to retailers and general purchasing public—

Sold said old, used and second-hand caps and hats, after being made over into products with new trimmings and with appearance of new articles made from felts which had never been worn, with no label or marking to indicate that they were in fact made from second-hand materials which had been renovated and made over by them as aforesaid, to jobbers and wholesalers by whom said caps and hats were in turn resold to retailers, who resold same to purchasing public without disclosing fact that they had been made from felts previously worn and then renovated, and from other used materials, and under circumstances such as to indicate they were new;

With result that they were enabled, by reason of much lower cost of obtaining and making over such old and used materials than cost of making new articles of similar type, to sell said products to jobbers and wholesalers at substantially lower prices than were manufacturers of new articles of similar type able to sell to jobbers and wholesalers and, through them, to retailers and to purchasing public, and with tendency and capacity to induce many wholesale and retail dealers and many of purchasing public to buy such caps and hats, made as aforesaid, in the mistaken and erroneous belief that they were buying new and unused materials, and with result, as direct consequence of mistaken and erroneous beliefs induced by said practices, that number of consuming public bought substantial volume of their said products and trade was diverted unfairly to them from those likewise engaged in selling and manufacturing caps and hats and who do not misrepresent the quality and type of the material out of which their products are made; to the substantial injury of competition in commerce;

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

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. George Foulkes and *Mr. Robert Mathis, Jr.* for the Commission.

Mr. Jacob Lipman, of Newark, N. J., for respondents.