

IN THE MATTER OF
ANESTHETIC LABORATORIES, INC., FORMERLY
GUILD ANESTHETIC LABORATORIES

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

Docket 3816. Complaint, June 9, 1939—Decision, Apr. 29, 1940

Where a corporation engaged in manufacture of medicinal preparation for use as local anesthetic, under name "Guild Procaine Epinephrine Anesthetic," and in sale and distribution thereof to purchasers, such as practicing dentists, physicians and dental colleges, in other States and in the District of Columbia; in advertisements which it disseminated concerning its said product through the mails, in circulars and other printed or written matter distributed in commerce between the various States, and through other means, and which were intended and likely to induce purchase of its said preparation—

- (a) Represented that it was a guild or association of persons operating for the benefit, education, and enlightenment of the dental and medical professions, without profit, and that its purpose was the advancement of the science of anesthesia, through use of its corporate or trade name "Anesthetic Advancement and Research Guild, Inc.," and statements displaying the same, and such matter or legends as "Organized in the Interests of the Medical and Dental Professions" and "* * * has made a most thorough study and analysis of local anesthetics and finds that there is absolutely no reason nor foundation for present high prices," and "In its serious efforts to help the Dental Profession the Guild feels that its policy of education and enlightenment should include, wherever an item is not equitably priced, the production in its own fully equipped laboratory of the Equivalent or Better of the item involved that it may thus offer to the dentist at the lowest possible price," and "The success of the Guild is your success. * * *," etc.; and
- (b) Made use also of trade or corporate name "Guild Anesthetic Laboratories" in various advertising matter, circulars, letterheads, and other printed matter disseminated as aforesaid, and featured in certain of such matter word "guild" in such corporate or trade name, and thereby represented that its organization was that of a guild or association of persons engaged in kindred pursuits for mutual protection, aid and cooperation, and not a commercial corporation organized for profit;

Facts being it was not a guild or association of persons engaged in such pursuits, but commercial business organized, existing, and operated for profit, was not impartially engaged in research for purpose of advancement of science of anesthesia for benefit of dental or medical professions, and did not operate solely for benefit, education, and enlightenment of such professions;

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 of inducing portion of such public,

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because of such belief, to purchase its drug-containing medicinal preparation:

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

Before *Mr. Randolph Preston*, trial examiner.

Mr. Robert Mathis, Jr. for the Commission.

Mr. Robert L. Kahn, of Chicago, Ill., for respondent.

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 Guild Anesthetic Laboratories, a corporation, hereinafter referred to as respondent, has violated the provisions of 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. Guild Anesthetic Laboratories, is now and has been at all times mentioned herein, a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 2457-2459 South Michigan Avenue, in the city of Chicago, and State of Illinois. Said respondent corporation was originally incorporated in 1937 under the name of Anesthetic Advancement and Research Guild, Inc., an Illinois corporation, and within the year last past, changed its name to the one presently used, to wit: Guild Anesthetic Laboratories.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the manufacture, sale, and distribution of a medicinal preparation known as "Guild Procaine Epinephrine Anesthetic," for use as a local anesthetic. Respondent causes said preparation, when sold, to be transported from its place of business in the State of Illinois, to purchasers thereof, such as practicing dentists, physicians and dental colleges, located in other States of the United States and the District of Columbia. At all times respondent has maintained a course of trade in said preparation sold and distributed by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements

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concerning its medicinal preparation, by United States mails and in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said preparation; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false and misleading advertisements concerning its said preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among, and typical of false statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

**ANESTHETIC ADVANCEMENT AND RESEARCH GUILD, INC.
ORGANIZED IN THE INTERESTS OF THE
MEDICAL AND DENTAL PROFESSIONS**

The Anesthetic Advancement and Research Guild has made a most thorough study and analysis of local anesthetics and finds that there is absolutely no reason nor foundation for present high prices.

In its serious efforts to help the Dental Profession the GUILD feels that its policy of education and enlightenment should include, wherever an item is not equitably priced, the production in its own fully equipped laboratory of the EQUIVALENT OR BETTER of the item involved that it may thus offer to the dentist at the lowest possible price.

The success of the Guild is your success. You are invited to join the ranks of our countless friends throughout the country, Dentists like yourself who are anxious to help usher in a new era for the Dental trade.

Through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, and also through the use of the corporate or trade name of "Anesthetic Advancement and Research Guild, Inc.," the respondent represents that it is a guild or association of persons operated for the benefit, education and enlightenment of the dental and medical professions without profit and that its purpose is the advancement of the science of anesthesia.

PAR. 4. In addition to the above statements and representations, the respondent also uses the trade or corporate name of "Guild Anesthetic Laboratories," in various advertising matter, circulars, letterheads, and other printed matter disseminated as aforesaid. In certain of this printed matter the word "guild," when used in the corporate or trade name, is set out in a different type of lettering

with the effect of stressing, emphasizing, and directing the attention of the reader to the word "guild."

By this means the respondent represents that this organization is that of a guild or an association of persons engaged in kindred pursuits for mutual protection, aid and cooperation, and not a commercial corporation organized for profit.

PAR. 5. In truth and in fact the respondent is not a guild or association of persons engaged in kindred pursuits for protection and cooperation, but instead is a commercial business organized, existing, and operated for profit. Respondent is not impartially engaged in research for the purpose of advancement of the science of anesthesia, in the interest of the dental or medical profession. It does not operate solely for the benefit, education, and enlightenment of the dental and medical profession.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements, and representations, and advertisements disseminated as aforesaid with respect to said preparation, has had and now has, the capacity and tendency 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 induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparations containing drugs.

PAR. 7. The aforesaid acts and practices of respondent 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, MODIFIED FINDINGS AS TO THE FACTS AND ORDER ¹

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admitted all the material allegations of fact set forth in said complaint and stated that it waived all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and conclusion herein on the 14th day of March 1940, that respondent had violated the provisions of the Federal Trade Commission Act, and it appearing that said findings as to the facts should be modified in certain respects, and the Commission having duly considered the matter and being now fully advised in the premises, finds

¹ Original findings and order, as of March 14, 1940, not published.

that this proceeding is in the interest of the public and makes this its modified findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Anesthetic Laboratories, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 2457-2459 South Michigan Avenue in the city of Chicago, State of Illinois. This corporation was originally incorporated in 1937 under the name Anesthetic Advancement and Research Guild, Inc., an Illinois corporation. Within the last year or two the corporate name was changed to Guild Anesthetic Laboratories. This corporate name has been used until very recently, the corporate name now having been changed to Anesthetic Laboratories, Inc.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the manufacture, sale, and distribution of a medicinal preparation known as "Guild Procaine Epinephrine Anesthetic," for use as a local anesthetic. Respondent causes said preparation, when sold, to be transported from its place of business in the State of Illinois, to purchasers thereof, such as practicing dentists, physicians and dental colleges, located in other States of the United States and the District of Columbia. At all times respondent has maintained a course of trade in said preparation sold and distributed by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and has caused the dissemination of false advertisements concerning its medicinal preparation, by United States mails and in circulars and other printed or written matter, all of which have been distributed in commerce among and between the various States of the United States; and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said preparation; and has disseminated and has caused the dissemination of, false and misleading advertisements concerning its said preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among, and typical of false statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

ANESTHETIC ADVANCEMENT AND RESEARCH GUILD, INC.

ORGANIZED IN THE INTERESTS OF THE

MEDICAL AND DENTAL PROFESSIONS

The Anesthetic Advancement and Research Guild has made a most thorough study and analysis of local anesthetics and finds that there is absolutely no reason nor foundation for present high prices.

In its serious efforts to help the Dental Profession the GUILD feels that its policy of education and enlightenment should include, wherever an item is not equitably priced, the production in its own fully equipped laboratory of the EQUIVALENT OR BETTER of the item involved that it may thus offer to the dentist at the lowest possible price.

The success of the Guild is your success. You are invited to join the ranks of our countless friends throughout the country, Dentists like yourself who are anxious to help usher in a new era for the Dental trade.

Through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, and also through the use of the corporate or trade name of "Anesthetic Advancement and Research Guild, Inc." the respondent represents that it is a guild or association of persons operated for the benefit, education, and enlightenment of the dental and medical professions without profit and that its purpose is the advancement of the science of anesthesia.

PAR. 4. In addition to the above statements and representations, the respondent also uses the trade or corporate name of "Guild Anesthetic Laboratories," in various advertising matter, circulars, letterheads, and other printed matter disseminated as aforesaid. In certain of this printed matter the word "guild," when used in the corporate or trade name, is set out in a different type of lettering with the effect of stressing, emphasizing and directing the attention of the reader to the word "guild."

By this means the respondent represents that this organization is that of a guild or an association of persons engaged in kindred pursuits for mutual protection, aid and cooperation, and not a commercial corporation organized for profit.

PAR. 5. In truth and in fact the respondent is not a guild or association of persons engaged in kindred pursuits for protection and cooperation, but instead is a commercial business organized, existing, and operated for profit. Respondent is not impartially engaged in research for the purpose of advancement of the science of anesthesia, in the interest of the dental or medical profession. It does not operate solely for the benefit, education and enlightenment of the dental and medical profession.

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PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, and advertisements disseminated as aforesaid with respect to said preparation, has had and now has, the capacity and tendency 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 induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparations containing drugs.

CONCLUSION

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

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admitted all the material allegations of fact set forth in said complaint and stated that it waived 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 had violated the provisions of the Federal Trade Commission Act, and the Commission having issued its order to cease and desist herein on the 14th day of March 1940, and it appearing that said findings as to the facts and order to cease and desist should be modified in certain respects, and the Commission having duly considered the matter and being now fully advised in the premises, makes this its modified order to cease and desist.

It is ordered, That the respondent Anesthetic Laboratories, Inc., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its medicinal products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that respondent is a guild or an association of persons engaged in kindred pursuits for mutual protection, aid and cooperation, or that respondent is anything other than a commercial business existing or operating for profit.

2. Representing that respondent is impartially engaged in research for the purpose of advancement of the science of anesthesia or that

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respondent operates for the benefit, education or enlightenment of the medical and dental professions.

3. Using the word "Guild" or any other word or term of similar import or meaning to describe or in any way refer to its business, including the use of the word "Guild" as part of its corporate name.

It is further ordered, That the respondent shall, within 60 days after service upon it 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 this order.

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IN THE MATTER OF
ROXANNA CANNING COMPANY

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

Docket 3904. Complaint, Sept. 30, 1939—Decision, Apr. 29, 1940

Where a corporation engaged in manufacture of dog food and in sale and distribution under various trade names of various brands thereof, to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of such foods in commerce as aforesaid—

Represented that its said various brands contained beef byproducts, ground beef bone or beef, and that its dog food was a scientifically balanced ration and scientifically balanced beef ration for dogs, through such statements and representations, with respect to ingredients and efficacy of said dog foods, as "Blackspot Brand. A Scientifically Balanced Beef Ration," "Dog Food. Contains Beef By-Products * * * Ground Beef Bone * * *," and "Harty Brand. A Scientifically Balanced Ration," "Contains Beef By-Products * * * Ground Beef Bone * * *," facts being its said products did not contain such ingredients and were neither scientific nor balanced rations, or scientifically balanced beef rations;

With tendency and capacity to mislead and deceive substantial part of purchasing and consuming public into erroneous and mistaken belief that said representations were true, and with consequence, as result of such mistaken and erroneous belief, that such public purchased substantial amount of its said products, and trade was unfairly diverted to it from its competitors engaged in manufacture, sale, and distribution of similar products and who truthfully represent character and ingredients thereof; to the substantial injury of competition in commerce:

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

Mr. S. Brogdyne Teu, II 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 Roxanna Canning Co., a corporation, hereinafter referred to as respondent, has violated the provisions of 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. Respondent Roxanna Canning Co. is a corporation organized, existing, and doing business under and by virtue of the laws