

Syllabus

IN THE MATTER OF
DR. VAN VLECK COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3988. Complaint, Jan. 4, 1940—Decision, May 13, 1940*

Where a corporation engaged in sale and distribution of its "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco Cones," and "Dr. Van Vleck's Pills" for piles, to purchasers in various other States and in the District of Columbia; in advertisements thereof which it disseminated and caused to be disseminated through the mails, insertion in newspapers and periodicals of general circulation, and circulars and other printed or written matter distributed in commerce among the various States, and otherwise, and also through letters sent to potential customers or those who had already purchased, designed to induce such persons to buy its said products or purchase same in larger quantities, and through pamphlets and circulars containing purported testimonials from diverse and sundry persons designed to induce potential customers to purchase same or buy larger quantities thereof, and which advertisements were intended and likely to induce purchase of its said products—

Represented that its said preparations, used conjointly, were an effective and scientific cure and remedy for, and a competent and effective treatment of, piles, and that application thereof conjointly constituted an "Absorption Treatment" which removed piles without surgical aid, and that their use insured immediate and lasting relief with no return of suffering, and would remove or correct the cause of such condition;

Facts being such preparations, whether used conjointly or separately, were not cures or remedies for said condition, and did not constitute competent or effective treatment therefor, other than to give some small degree of relief by means of their analgesic qualities, and prevention of constipation, and, when used conjointly, did not remove piles, bring immediate or lasting relief, nor remove or correct cause of said condition, in that such treatment would not absorb, remove, or completely eradicate protruding external or internal hemorrhoidal protuberances;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false, deceptive, and misleading statements, representations, and advertisements were true, and of inducing portion of said public, because of such erroneous and mistaken belief, to purchase its said drug-containing medical preparations:

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

Mr. W. M. King for the Commission.

Bisbee, McKone, Badgley & Kendall, of Jackson, Mich., for respondent.

Complaint

30 F. T. C.

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 Dr. Van Vleck Co., a corporation, 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 as follows:

PARAGRAPH 1. Respondent, Dr. Van Vleck Co., is a corporation, organized, existing, and doing business under the laws of the State of Michigan, with its principal office and place of business located at 168 West Michigan Avenue, in the city of Jackson, State of Michigan.

PAR. 2. Said respondent is now and for many years last past has been engaged in the sale and distribution of certain medicinal preparations in commerce between and among the various States of the United States and in the District of Columbia. Said preparations are known as "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco Cones," and "Dr. Van Vleck's Pills," and represented to be remedies for piles. Respondent causes said preparations, when sold, to be shipped from its place of business in the State of Michigan to purchasers thereof located in various 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 medicinal preparations in commerce, between and among the various States of the United States and 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 concerning its said preparations, by United States mails, by insertion in newspapers and periodicals having a general circulation and also 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 preparations, and has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said preparations, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of false statements and representations contained in the said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

It is truly amazing how so many people say they have been lifted from a miserable existence and brought speedily back to the comfort of living by using Dr. Van Vleck Direct Treatment.

Dr. Van Vleck's Treatment has relieved thousands of their pain and suffering.

There is no doubt that Dr. Van Vleck's Ointment and Muco Cones will usually relieve the acute pain of piles without any further Treatment, but Dr. Van Vleck was not satisfied with what many would call real relief. He believed it was his duty to bring about a substantial relief and for that purpose included in his Treatment his pills. These are taken internally. The result is that Dr. Van Vleck has indeed brought immeasurable happiness into a suffering world.

In addition to the foregoing advertisements, respondent is and has been disseminating false advertisements in the same manner as hereinabove set out, by means of letters sent to potential customers or to persons who had already made a purchase, designed to induce said persons to purchase respondent's products, or to purchase the same in larger quantities. Among and typical of these false statements and representations disseminated, as aforesaid, by the use of such letters are the following:

How many things you may have tried, or how many have failed you, does not matter now. This we sent you is the Direct medication that we always rely on to bring reasonably quick results in such conditions as are only reached and relieved by a direct method of Treatment.

Promise yourself now that you will stop at nothing short of all the lasting ease and comfort that a good and helpful Treatment can bring you.

Even as the most distressing symptoms are yielding to the soothing action of the Treatment—it would be a serious mistake to allow a break or interruption in the good work before making these benefits lasting and durable—Keep it up, keep it up, until you have made sure of real relief, and continued comfort.

Vast numbers of people who were once the unhappy victims of this cruel affliction have stayed with this Treatment until they obtained the Lasting Relief they longed for.

PAR. 4. In addition to the foregoing advertisements and letters, respondent is and has been disseminating false advertisements in the same manner as hereinabove set out by means of pamphlets and circulars containing purported testimonials from diverse and sundry persons designed to induce potential customers to purchase its products, or to induce persons who had already purchased, to purchase a larger quantity thereof.

Among and typical of these statements and representations contained in said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

I have not been bothered for a long time and all due to your Treatment.

Complaint

30 F. T. C.

I am thankful to say that it has done the work. I do not feel a pain or soreness at all since using the Treatment.

Since taking your Treatment I never will get through rejoicing and have never suffered from piles since.—I have no pains at all.

About 35 years ago my husband used your Treatment and has never had a return of his suffering since.

I am so thankful to say that I am getting on just fine and feel I owe my life to you for relieving me of those cruel piles.

I got very good results from your Treatment. In my case relief was almost immediate. However, I continued it for several weeks and now there is no sign of any pile suffering.

When I first wrote you I was not able to do any walking and could not ride. I had suffered with piles for 15 years. But now I am at my work and feel as if I never had the piles.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, or therapeutic properties of respondent's preparations, respondent represents that said preparations used conjointly are an effective and scientific cure and remedy for, and a competent and effective treatment of, piles; that the application of said preparations conjointly constitutes an "Absorption Treatment" which removes piles without surgical aid; that their use insures immediate and lasting relief with no return or suffering, and will remove or correct the cause of piles.

PAR. 6. The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading, and untrue. In truth and in fact, respondent's preparations whether used conjointly or separately are not cures or remedies for piles and do not constitute a competent or effective treatment therefor other than to give some small degree of relief by means of the analgesic properties thereof and the prevention of constipation. Said preparations when used conjointly do not remove piles, do not bring immediate or lasting relief, and do not remove or correct the cause of piles in that said treatment will not absorb, remove, or completely eradicate protruding external or internal hemorrhoidal protuberances.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid, with respect to its said medicinal preparations 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 such medicinal preparations containing drugs.

PAR. 8. The aforesaid acts and practices of the 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, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the fourth day of January 1940, issued, and on the fifth day of January 1940, served its complaint in this proceeding upon the respondent, Dr. Van Vleck Co., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On February 19, 1940, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to the said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the 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. Respondent, Dr. Van Vleck Co., is a corporation organized, existing, and doing business under the laws of the State of Michigan, with its principal office and place of business located at 168 West Michigan Avenue, in the city of Jackson, State of Michigan.

PAR. 2. Said respondent is now and for many years last past has been engaged in the sale and distribution of certain medicinal preparations in commerce between and among the various States of the United States and in the District of Columbia. Said preparations are known as "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco Cones," and "Dr. Van Vleck's Pills," and represented to be remedies for piles. Respondent causes said preparations, when sold, to be shipped from its place of business in the State of Michigan to purchasers thereof located in various 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 medicinal preparations in commerce, between and among the various States of the United States and the District of Columbia.

Findings

30 F. T. C.

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 concerning its said preparations, by United States mails, by insertion in newspapers and periodicals having a general circulation and also 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 preparations, and has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said preparations, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of false statements and representations contained in the said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

It is truly amazing how so many people say they have been lifted from a miserable existence and brought speedily back to the comfort of living by using Dr. Van Vleck direct Treatment.

Dr. Van Vleck's Treatment has relieved thousands of their pain and suffering. There is no doubt that Dr. Van Vleck's Ointment and Muco Cones will usually relieve the acute pain of piles without any further Treatment, but Dr. Van Vleck was not satisfied with what many would call real relief. He believed it was his duty to bring about a substantial relief and for that purpose included in his Treatment his pills. These are taken internally. The result is that Dr. Van Vleck has indeed brought immeasurable happiness into a suffering world.

In addition to the foregoing advertisements, respondent is and has been disseminating false advertisements in the same manner as hereinabove set out, by means of letters sent to potential customers or to persons who had already made a purchase, designed to induce said persons to purchase respondent's products, or to purchase the same in larger quantities. Among and typical of these false statements and representations disseminated, as aforesaid, by the use of such letters are the following:

How many things you may have tried, or how many have failed you, does not matter now. This we sent you is the Direct medication that we always rely on to bring reasonably quick results in such conditions as are only reached and relieved by a direct method of Treatment.

Promise yourself now that you will stop at nothing short of all the lasting ease and comfort that a good and helpful Treatment can bring you.

Even as the most distressing symptoms are yielding to the soothing action of the Treatment—it would be a serious mistake to allow a break or interrup-

tion in the good work before making these benefits lasting and durable—Keep it up, keep it up, until you have made sure of real relief and continued comfort.

Vast numbers of people who were once the unhappy victims of this cruel affliction have stayed with this Treatment until they obtained the Lasting Relief they longed for.

PAR. 4. In addition to the foregoing advertisements and letters, respondent is and has been disseminating false advertisements in the same manner as hereinabove set out by means of pamphlets and circulars containing purported testimonials from diverse and sundry persons designed to induce potential customers to purchase its products, or to induce persons who had already purchased, to purchase a larger quantity thereof.

Among and typical of these statements and representations contained in said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

I have not been bothered for a long time and all due to your Treatment.

I am thankful to say that it has done the work. I do not feel a pain or soreness at all since using the Treatment.

Since taking your Treatment I never will get through rejoicing and have never suffered from piles since.—I have no pains at all.

About 35 years ago my husband used your Treatment and has never had a return of his suffering since.

I am so thankful to say that I am getting on just fine and feel that I owe my life to you for relieving me of those cruel piles.

I got very good results from your Treatment. In my case relief was almost immediate. However, I continued it for several weeks and now there is no sign of any pile suffering.

When I first wrote you, I was not able to do any walking and could not ride. I had suffered with piles for 15 years. But now I am at my work and feel as if I never had the piles.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, or therapeutic properties of respondent's preparations, respondent represents that said preparations used conjointly are an effective and scientific cure and remedy for, and a competent and effective treatment of, piles, that the application of said preparations conjointly constitutes an "Absorption Treatment" which removes piles without surgical aid; that their use insures immediate and lasting relief with no return of suffering, and will remove or correct the cause of piles.

PAR. 6. The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading, and untrue. In truth and in fact, respondent's preparations whether used conjointly or separately are not cures or remedies for piles and do not constitute a competent or effec-

Order

30 F. T. C.

tive treatment therefor other than to give some small degree of relief by means of the analgesic properties thereof and the prevention of constipation. Said preparations when used conjointly do not remove piles, do not bring immediate or lasting relief, and do not remove or correct the cause of piles in that said treatment will not absorb, remove, or completely eradicate protruding external or internal hemorrhoidal protuberances.

PAB. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid, with respect to its said medicinal preparations 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 such medical preparations containing drugs.

CONCLUSION

The aforesaid acts and practices of respondent, as found herein, 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 the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Dr. Van Vleck Co., its officers, 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 advertisement 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 the medicinal preparations known as "Dr. Van Vleck's Ointment," "Dr. Van Vleck's Muco-Cones," "Dr. Van Vleck's Pills," or any other medicinal preparations possessing substantially similar

1241

Order

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 advertisements, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said medicinal preparations, in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisements represent, directly or through implication:

1. That respondent's preparations, whether used separately or conjointly, are cures or remedies for piles or that said preparations constitute competent or effective treatments therefor, or that said preparations have any therapeutic value in the treatment of piles in excess of the relief obtained through the prevention of constipation and the use of a mild analgesic.

2. That respondent's preparations, whether used separately or conjointly, will bring immediate or lasting relief from piles; or will correct or remove the cause of piles; or will absorb, remove, or eradicate protruding external or internal hemorrhoidal protuberances without surgical aid.

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.

IN THE MATTER OF
THEODORE RADIN, INC.

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

Docket 3992. Complaint, Jan. 12, 1940—Decision, May 13, 1940

Where a corporation engaged in sale and distribution of certain medicinal preparations designated "Glycirenan," "Glycirenan-Forte," "Jodirenan," "Inhaledrin-Compositum" and "Aerizon," recommended as treatments for asthma, hay fever, sinus discomfort and bronchial irritations, and of a device called "Atmozon Aerifier" for administering said preparations, sold as aforesaid to purchasers in various other States and in the District of Columbia; in advertisements thereof which it disseminated and caused to be disseminated through the mails and insertion in newspapers and periodicals of general circulation, and pamphlets, circulars, and other printed or written matter distributed in commerce, and by other means, and through testimonial letters, circulars and form letters urging purchasers to try its aforesaid preparations for purposes above indicated—

Represented, directly and indirectly, that aforesaid preparations were cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments, and constituted competent and effective treatments therefor, and were absolutely harmless no matter how often used, and that use thereof would prevent attacks of asthma and hay fever, or the recurrence thereof, and would relieve the suffering incident thereto;

Facts being said products were not cures or remedies for said various conditions and ailments and did not constitute competent and effective treatments therefor, in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations and sinus discomfort, and, by virtue of epinephrine and ephedrine therein contained, were not harmless, no matter how often used, but, used over long period of time, might produce such prolonged vasoconstriction as to cause tissue damage from anoxemia, with secondary inflammatory reactions;

With capacity and tendency to mislead substantial portion of purchasing public into erroneous and mistaken belief that such false, deceptive and misleading statements, representations and advertisements were true, and to induce portion of such public to purchase said drug containing medicinal preparations because of such erroneous and mistaken belief:

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

Mr. M. C. Pearce for the Commission.

Mr. Irving M. Radin, of New York City, for respondent.