

IN THE MATTER OF
**GEORGE G. NEFF, DOING BUSINESS UNDER THE TRADE
NAME OF PROSTEX COMPANY**

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

Docket 3291. Complaint, Jan. 4, 1938—Decision, July 16, 1940

Where an individual engaged in manufacture of its "Glantex" medicinal preparation and in sale and distribution thereof to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of similar preparations or others intended for similar usage in commerce as aforesaid; in advertisements of its said Glantex which it inserted in newspapers and periodicals and through circulars, booklets, form letters, and other advertising material sent through the mails and circulated among the various States and in the District of Columbia and through broadcasts from radio stations of extra-State audience—

Represented expressly and by implication that said Glantex was a safe, competent, and reliable remedy and treatment for prostatitis, cystitis, urethritis, dropsy, sugar diabetes, ilio-colitis, inflammation of the bladder, ptomaine poison, and worn out or run down feeling, and that it had curative value for diseases generally known to mankind;

Facts being that none of the drugs contained in the formula of aforesaid preparation had any proper bearing on the genito-urinary tract and such product had no value in the treatment of any diseases or disorders thereof, it was not a safe, competent, and reliable remedy or treatment for prostatitis, cystitis, or any of the other diseases and symptoms for which it was claimed to be as above set forth, was of no value whatever in treatment of hypertrophied prostrate glands and would not reduce such glands, when enlarged and congested, to normal size, no internal medication alone constitutes competent treatment for prostatic ailments, and it contained no drug that would in any way aid nature in causing the various glands of the body to function in more normal manner, but chemical composition thereof was such that it could not be expected to produce any therapeutic effect upon any known disease or pathological condition, and it had no other therapeutic value other than that, when taken internally and in large quantity, it was a laxative and nothing more;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that such false statements and representations were true, and of inducing purchase of its said product because of such belief, and with result, as consequence, that trade was diverted unfairly to it from competitors engaged in selling preparations designed for treatment of same diseases and conditions, and who do not misrepresent their preparations or effectiveness thereof; to the 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 constitute unfair methods of competition in commerce.

Before *Mr. Arthur F. Thomas* and *Mr. John J. Keenan*, trial examiners.

Mr. William L. Taggart for the Commission.

Hall & Cotten, of Oklahoma City, Okla., and *Mr. R. A. Wilkerson*, of Pryor, Okla., for respondent.

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 George G. Neff, an individual, doing business under the trade name Prostex Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in 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, George G. Neff, an individual, doing business under the trade name Prostex Co., has been, and is now, engaged in the business of offering for sale and selling a medical preparation for the treatment of various diseases, ailments, and conditions afflicting mankind. The principal office and place of business of respondent is Miami, Okla. The preparation marketed by respondent is known and described as "Glantex." The respondent causes the preparation, when sold, to be transported from his aforesaid place of business in the State of Oklahoma to purchasers thereof located in various States of the United States other than the State of Oklahoma and in the District of Columbia.

Respondent maintains a course of trade and commerce in said preparation so distributed and sold by him between the State of Oklahoma and the various other States of the United States and the District of Columbia.

PAR. 2. In the course and conduct of said business, respondent has been, and is, in substantial competition in commerce between and among the various States of the United States and in the District of Columbia with other individuals, and with firms, corporations, and partnerships engaged in the distribution and sale of preparations used and useful for the treatment of the diseases, ailments, and conditions for which the respondent recommends his said preparation.

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PAR. 3. In the operation of his said business and for the purpose of inducing the purchase of said preparation by members of the public, the respondent causes advertisements to be published in various newspapers in the United States, distributes booklets, pamphlets, circulars, and labels, and broadcasts radio programs containing advertisements regarding said preparation. In said advertisements respondent makes many statements purporting to be descriptive of said preparation and regarding its efficacy as a treatment for various diseases, ailments, and conditions afflicting mankind. Among and typical of the statements so made and used by the respondent are the following representations and claims:

PROSTATE SUFFERERS. Prostate gland acute or chronic, rheumatism, kidney and bladder sufferers send for free trial package, amazing results. Endorsed by doctors.

PROSTEX COMPANY, Dept. 7, Miami, Oklahoma.

* * * For the agonizing pains and discomforts caused by prostatitis, cystitis, urethritis, difficult urination, dribbling, getting up nights, catarrhal conditions of urinary tract and prostate gland. Its influence will be manifested as a relief or arthritis and neuralgia occasioned by acute or chronic congestion of the prostate gland. There is no use in wasting time with anything that does not stop your pain, and if it does, then you know that you are going to get relief. Order a bottle of GLANTEX today. * * *

* * * It is so effective and quick acting in the relief of prostate gland disorders, that 90 to 95% of the sufferers who have used GLANTEX say that one dose generally relieves some of the pain and inconveniences caused by a congested and inflamed prostate gland. This single dose of GLANTEX might give you more relief than all of the treatments you have ever tried. It has been proven in Clinical tests.

If your bladder is highly inflamed this dose of GLANTEX may give you prompt relief and might cause you to pass a quantity of pus with your urine or from your gland. If you are suffering a chronic discharge the first dose may stop the same. GLANTEX acts by reducing the congestion and inflammation, and its internal antiseptic effect. * * *

* * * GLANTEX is absolutely harmless, but has a very powerful tonic effect and your backaches, leg aches, worn out and run down feeling will in all probability disappear in most instances. * * *

* * * If results are obtained, it may be attributed to the fact that GLANTEX is helping nature to cause the gland to function in a more normal manner. * * *

* * * GLANTEX is also very good for all forms of bowel trouble. * * * GLANTEX actually reduces a congested and inflamed prostate gland to normal size, * * * in most instances. * * *

* * * this medicine has a very high potency in the treatment of these various diseases some of which I will mention: prostatitis, acute indigestion, ptomaine poison, sugar diabetes, dropsy, illiocolitis, gastritis, malaria, and common physis.

Acute Indigestion: Most always one dose will relieve the pain almost immediately, even quicker than morphine. A few doses, one a day, will soon get the patient O. K.

Ptomaine Poison: A dose an hour apart for two or three doses soon eliminates the poison and the patient is fine in a short time.

Rheumatism: When caused as an after effect of prostatitis, venereal disease, cystitis, etc., it acts very quickly.

Dropsy: In light cases, sometimes one dose completely removes all signs of dropsy. A year or so ago we had a case of dropsy, a lady weighing nearly 300 pounds. The swelling was very bad, both shins broken from knee to ankle and wasted as much as a gallon a day or night. In three months there was not a sign of swelling and the patient was doing her housework and was happy. We have known of other similar cases that responded more quickly.

Illio-colitis, colitis, dysentery: A few doses relieves them in a few hours.

In said statements, and in other similar statements not herein set out with respect to the preparation, respondent directly and by implication represents that the preparation forms a safe, competent, and reliable remedy and treatment for such physical troubles as prostatitis, cystitis, urethritis, for backaches, leg aches, worn out or run-down feeling, acute indigestion, ptomaine poisoning, sugar diabetes, dropsy, illio-colitis, gastritis, malaria, and that it acts as an effective physic without pain or cramping, and generally has a curative effect for diseases known to man.

In truth and in fact the said preparation is not a safe, competent, and reliable remedy and treatment for prostatitis, cystitis, urethritis, for backaches, leg aches, worn out or rundown feeling, acute indigestion, ptomaine poisoning, sugar diabetes, dropsy, illio-colitis, gastritis, malaria, and does not act as an effective physic without pain or cramping, and generally is not a remedy and has no curative effect for diseases known to man; and such statements are false and misleading.

PAR. 4. There are among respondent's competitors in commerce, as herein set out, those who do not in any way misrepresent the character and nature of their products and who do not make use of any of the misleading representations herein set out and similar ones with respect to the therapeutic value of their respective preparations.

PAR. 5. The aforesaid false and misleading statements and representations used by the respondent in offering for sale and selling the said preparation in commerce as herein set out, have had, and now have, the tendency and capacity to, and do, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that said representations are true and into the purchase of substantial quantities of respondent's preparation on account of said erroneous and mistaken belief.

As a result thereof trade in said commerce is unfairly diverted to respondent from his competitors who do not, in the sale and distribution of their respective preparations, make use of the same or sim-

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ilar misrepresentations. In consequence thereof substantial injury has been and is now being done by respondents to competition in commerce among and between the various States of the United States.

PAR. 6. The methods, acts, and practices of respondent herein set forth are to the prejudice of the public and of competitors of the respondent, as hereinabove alleged. Said methods, acts, and practices 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 4, 1938, issued and thereafter served its complaint in this proceeding upon the respondent George G. Neff, an individual doing business under the trade name of Prostex Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by attorneys for the Commission, and in opposition to the allegations of the complaint by attorneys for the respondent before trial examiners of the Commission, theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony, and other evidence, briefs in support of the complaint and in opposition thereto, and oral arguments of counsel, 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 George G. Neff, is an individual doing business under the trade name of Prostex Co., having his principal office and place of business located in the city of Miami, State of Oklahoma, and is engaged in the manufacture, sale, and distribution of a liquid medicinal preparation known as Glantex. Respondent causes said product, when sold, to be transported from his place of business in Miami, Okla., to purchasers thereof located in various

States of the United States other than the State of Oklahoma, and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said product in commerce between and among the various States of the United States and in the District of Columbia. Respondent is, and has been, in substantial competition with other individuals and with corporations and firms who are also engaged in the sale and distribution of similar preparations or other preparations intended for similar usage in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business as aforesaid, and for the purpose of inducing the purchase of the product Glantex, respondent has caused advertisements to be inserted in newspapers, magazines, and periodicals, and has sent through the United States mails circulars, booklets, form letters, and other advertising material, all of which were circulated between and among the various States of the United States and in the District of Columbia, and has caused advertisements to be broadcast over radio stations, which radio stations were of such power to cause their said broadcast to be transmitted to States of the United States other than the State of origin. Typical of said advertisements, thus disseminated by the respondent, are the following:

PROSTATE SUFFERERS. Prostate gland, acute or chronic rheumatism, kidney and bladder sufferers send for trial package, amazing results. Endorsed by doctors.

PROSTEX COMPANY, Department 7, Miami, Oklahoma.

* * * Agonizing pains and discomforts caused by prostritis, cystitis, urethritis, difficult urination, dribbling, getting up nights, catarrhal conditions of urinary tract and prostate gland. Its influence will be manifested as a relief for arthritis, neuralgia, occasioned by an acute or chronic congestion of the prostate gland. It's no use in wasting time with anything that does not stop your pain, and if it does, then you know that you are going to get relief. Order a bottle of GLANTEX today. * * *

If your bladder is highly inflamed this dose of GLANTEX may give you prompt relief and might cause you to pass a quantity of pus with your urine or from your gland. If you are suffering a chronic discharge the first dose may stop the same. GLANTEX acts by reducing the congestion and inflammation, and its internal antiseptic effect * * *.

* * * if results are obtained, it may be attributed to the fact that GLANTEX is helping nature to cause the gland to function in a more normal manner.

GLANTEX is also very good for all forms of bowel trouble * * * GLANTEX actually reduces a congested and inflamed prostate gland to normal size * * * in most instances * * *.

This medicine has a very high potency in the treatment of these various diseases, some of which I will mention: Prostatitis, acute indigestion, ptomaine poison, sugar diabetes, dropsy, ilio-colitis, gastritis, malaria, and common physisic.

Rheumatism: When caused as an after-effect of prostatitis, venereal disease, cystitis, etc., it acts very quickly.

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The aforesaid statements and representations, together with similar statements and representations appearing in respondent's advertising, but not set out herein, purport to be descriptive of respondent's preparation Glantex and of its effectiveness in use. In the manner and by the means aforesaid, respondent represents expressly and by implication that Glantex is a safe, competent, and reliable remedy and treatment for the following diseases and symptoms: Prostatitis, cystitis, urethritis, dropsy, sugar diabetes, illio-colitis, inflammation of the bladder, ptomaine poison, rheumatism, backaches, leg aches, gastritis, malaria, acute indigestion, and worn out or rundown feeling. In the same manner, respondent also represents that the preparation "Glantex" has curative value for diseases generally known to mankind.

PAR. 3. The formula for respondent's preparation is as follows:

A solution in water of

Alum (approximately)-----	7.3%
Epsom salts (approximately)-----	33.0%
Quinine sulphate (approximately)-----	½ grain per fluid ounce
Sulphuric acid-----	Small proportion
Potassium nitrate-----	Small proportion

The recommended dosage of the preparation is one tablespoonful to a teaspoonful graduated down.

PAR. 4. The Commission finds that the statements made by respondent with respect to its aforesaid preparation are misleading and false. None of the drugs contained in the formula for Glantex have any proper bearing on the genito-urinary tract and such product has no value in the treatment of any disease or disorders of the genito-urinary tract. Said preparation is not a safe, competent, and reliable remedy or treatment for any of the following diseases and symptoms: Prostatitis, systitis, urethritis, dropsy, sugar diabetes, illio-colitis, inflammation of the bladder, ptomaine poison, rheumatism, backaches, leg aches, gastritis, malaria, acute indigestion, or the feeling of being run down. The preparation Glantex is of no value whatever in the treatment of hypertrophied prostrate glands and will not reduce enlarged and congested prostate glands to normal size. No internal medication alone constitutes a competent treatment for prostatic ailments. There is no drug in the preparation that would in any way aid nature in causing the various glands of the body to function in a more normal manner. The chemical composition of the product Glantex is such that it could not be expected to produce any therapeutic effect upon any known disease or pathological condition. The preparation Glantex when taken internally is nothing more than a laxative and then only provided it is taken in a large quantity. It has no other therapeutic value.

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PAR. 5. The use by the respondent of the foregoing deceptive, false, and misleading statements in describing the preparation Glantex and its effectiveness in use 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 belief that such false statements and representations are true, and induces the purchase of respondent's preparation because of said erroneous and mistaken belief. As a result thereof, trade has been diverted unfairly to respondent from competitors engaged in selling preparations designed for the treatment of these diseases and conditions who do not misrepresent their preparations or their effectiveness in use. In consequence thereof, injury has been done by respondent to competition in commerce, among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition 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, the answer of respondent, testimony, and other evidence taken before examiners of the Commission theretofore duly designated by it in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by counsel for the Commission and by counsel for the respondent, 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 respondent George G. Neff, an individual doing business under the trade name of Prostex Co., or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of a medicinal preparation known as Glantex, or any other preparation composed of similar ingredients or possessing similar properties whether sold under the name or under any other name in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That said preparation will cure prostatitis, cystitis, urethritis, sugar diabetes, dropsy, illio-colitis, gastritis, malaria, inflammation of

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the bladder, acute indigestion, ptomaine poisoning, rheumatism, back-aches, leg aches, or worn out or rundown feeling, or will serve as a safe, competent, or effective treatment for any of such diseases or conditions.

2. That said preparation will cure any disease or pathological condition or will serve as a competent or effective treatment therefor or that said preparation possesses any therapeutic value in excess of that due to its laxative properties.

It is further ordered, That the respondent shall, within 60 days after 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 is complying with this order.

Syllabus

IN THE MATTER OF

SILVER SERVICE CORPORATION AND EDWIN I. GORDON

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

Docket 3654. Complaint, Nov. 30, 1938—Decision, July 16, 1940

Where a corporation and an individual, who was its president and treasurer and dominated and controlled its business activities and practices, engaged in sale and distribution to retail merchants of a sales promotion plan, under which they supplied to merchants entering into contracts with them, advertising material with which to conduct a "Count-the-dot" sale, and which contemplated use by local merchants of newspaper material supplied, reproducing pictures or photographs of various articles of plated silverware, with numerous dots imposed thereon, and offer by local merchant in local newspaper to award certain prizes of silverware free to person most nearly estimating correct number of dots, and also to give to stated number of persons whose answers were nearest to prize-winning answer certain credit checks" or coupons redeemable in silverware, and, as thus engaged, in substantial competition with others also engaged in sale and distribution of various sales promotion plans in commerce among the various States and in the District of Columbia, and including among such competitors many who do not engage in methods and practices as herein set forth—

- (a) Represented said sales promotion plan to particular merchants contacted and solicited as being a special campaign to introduce and advertise silverware in question, facts being it was in no sense such a special or introductory offer or advertising campaign, but merely method adopted by them for marketing said silverware, on sale of which, under an agreement between them and manufacturer of product, they received stated commission on each set sold;
- (b) Represented or caused or assisted purchasers of such a plan to represent as aforesaid that plan in question was a contest, facts being it was not such within real meaning of term, in many instances no prizes of any kind were awarded but credit checks or coupons were forwarded by them or by merchant under their direction to all persons sending in answers to purported contest, without regard to correctness of answers submitted, and purported contest actually was merely means of obtaining names of members of public who might be interested in purchasing silverware, and of inducing, through issuance of such credit checks or coupons, purchase thereof;
- (c) Represented or caused or assisted purchasers, as aforesaid indicated, to represent that through credit voucher, checks, or other form of prize or gift award, in connection with such plan, recipients were to be enabled to receive a credit, reduction, or other financial advantage in purchase of merchandise, facts being credit checks or coupons issued by them or by merchants under their direction did not have any value or represent any prize or discount to prospective purchaser, but represented merely difference between fictitious value advertised and regular retail price of silverware, and recipients of said vouchers or checks did not in fact receive any such credit, reduction, or other financial advantage based upon usual customary retail price of merchandise involved; and