

IN THE MATTER OF

NICK A. GEORGE, J. LAWRENCE WALKER AND T. KYLE
WOODWARD TRADING AS WALKER & WOODWARD,
WALKER & WOODWARD, INC., AND JOHN G. BROWNCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4194. Complaint, July 24, 1940—Decision, Jan. 29, 1941*

Where an individual engaged in the compounding of his medicinal preparation designated "George's Compound"; two individuals engaged, under agreement with former and prior to April 1939, in sale and distribution of said preparation; and corporation which they organized and of which they were president and vice president, and of which they were principal stockholders, and practices and policies of which they formulated, directed, and controlled, engaged in such sale and distribution, thereafter; and fourth individual, likewise thus engaged, under direction of others hereinbefore referred to; in advertisements of said preparation which they disseminated and caused to be disseminated through the mails, and newspapers and periodicals, and by radio continuities, circulars, leaflets, and other advertising literature, and by various other means in commerce and otherwise, and acting in conjunction and cooperation with each other in carrying out acts and practices hereinafter alleged, and in sale of their said product as aforesaid to purchasers in various other States and in the District of Columbia—

Represented that their said medicinal preparation constituted a cure or remedy, and a competent and effective treatment for numerous ailments, diseases, and conditions of the body; and including, among large number set forth, rheumatism, stomach trouble, colds and tonsillitis, general run-down condition, arthritis and neuritis, high blood pressure, streptococcus infection, paralytic strokes, constipation, trench mouth, female trouble, children's diseases, low blood pressure, pneumonia; and for different forms of poisoning, including uremic, ptomaine, and black widow spider; and disorders due to menopause; and that said product possessed substantial therapeutic value in treatment of all ailments, diseases, and conditions of the body, except cancer and diabetes;

Facts being it possessed no therapeutic properties in excess of affording a stimulus to gastric juices, mild stimulation to the appetite, and temporary and palliative relief for aches and pains; use thereof for rheumatism, colds, influenza, tonsillitis, arthritis, muscular aches and pains, sore throat, headache, fever, or backache resulted only in temporary palliation of attendant pain or discomfort due to its analgesic properties, and it was not a cure or remedy nor adequate or competent treatment for any of said conditions or ailments; use thereof for stomach trouble, sour stomach, gas on the stomach, bloated stomach, indigestion, or gastric disturbances might be of benefit only when they were associated with insufficient flow of gastric juice, and it was not a cure or remedy nor an adequate and

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competent treatment for any of said conditions or ailments; and possessed no beneficial therapeutic qualities whatsoever in the treatment of large number of ailments and conditions for which it was claimed to be effective, as aforesaid set forth, and including, among others, appendicitis, hemorrhoids, general run-down condition, neuritis, lumbago, high blood pressure, mumps, kidney trouble, biliousness, nervousness, and children's diseases, except to the extent above set forth;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true, and into purchase of substantial quantities of their said preparation:

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. Randolph W. Branch for the Commission.

Mr. Fred W. Layman, of Casper, Wyo., for respondents.

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 Nick A. George, an individual; J. Lawrence Walker and T. Kyle Woodward, individually and trading as Walker & Woodward; Walker & Woodward, Inc., a corporation; and John G. Brown, an individual, hereinafter referred to as respondents, have 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, Nick A. George, has his office and principal place of business at Casper, Wyo., his mailing address being Post-office Box 271, Casper, Wyo. Respondents, J. Lawrence Walker and T. Kyle Woodward, trading as Walker & Woodward, have their office and principal place of business at 166 South Center Street, Casper, Wyo. Respondent, Walker & Woodward, Inc., is a corporation organized under the laws of the State of Wyoming, with its office and principal place of business located at 166 South Center Street, Casper, Wyo. Respondent, John G. Brown, has his office and principal place of business at 166 South Center Street, Casper, Wyo.

PAR. 2. Respondent, Nick A. George, is now, and for more than 2 years last past has been, engaged in the compounding and in the sale and distribution of a medicinal preparation designated "George's Compound."

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Prior to April 1939 the respondents, J. Lawrence Walker and T. Kyle Woodward, under an agreement with the respondent, Nick A. George, and acting both individually and under the trade name of Walker & Woodward, were engaged in the sale and distribution of said medicinal preparation.

In April 1939 the corporate respondent, Walker & Woodward, Inc., was organized by the respondents, J. Lawrence Walker and T. Kyle Woodward, who are respectively president and vice president of said corporation and the principal stockholders therein. Said individual respondents formulate, direct, and control the practices and policies of said corporation. The corporate respondent is now, and since the date of its organization has been, engaged in the sale and distribution of said medicinal preparation.

Respondent, John G. Brown, is likewise engaged in the sale and distribution of said medicinal preparation, operating under the direction of the other respondents named herein.

All of the respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter alleged.

PAR. 3. In the course and conduct of their said business the respondents cause and have caused their said medicinal preparation, when sold, to be transported from their respective places of business in the State of Wyoming to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating and have caused and are now causing the dissemination of false advertisements concerning their said product, by the United States mails and by various 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 their said product; and respondents have also disseminated and are now disseminating and have caused and are now causing the dissemination of false advertisements concerning their said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is defined in the Federal Trade Commission Act.

Through the use of various false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, by radio continuities, and by circulars, leaflets, and other advertising literature, the respondents represent and have represented that their said medicinal preparation is a cure or remedy and a competent and effective treatment for numerous ailments, diseases, and conditions of the human body, including rheumatism, stomach troubles, appendicitis, hemorrhoids, colds, influenza, tonsillitis, general run-down condition, arthritis, neuritis, pleurisy, sciatica, muscular aches and pains, lumbago, sour stomach, high blood pressure, delayed menstruation, mumps, kidney trouble, gas on stomach, bloated stomach, sore throat, streptococcus infection, paralysis and paralytic stroke, constipation, indigestion, dizziness, headaches, diphtheria, coughs, laryngitis, trench mouth, swollen neck, fever, poor complexion, pimples, infantile paralysis, bladder trouble, biliousness, nervousness, female trouble, gastric disturbances, children's diseases, ulcerated stomach, piles, backache, eczema, sinus trouble, hiccoughs, vomiting, prostate disorders, low blood pressure, bad breath, asthma, insomnia, pneumonia, uremic poisoning, tick fever, ptomaine poisoning, black widow spider poisoning, poor circulation, shortness of breath, bronchitis, ulcers, ulcerated mouth and teeth, yellow jaundice, and disorders due to the menopause. Respondents further represent that said preparation possesses substantial therapeutic value in the treatment of all ailments, diseases, and conditions of the human body except cancer and diabetes.

PAR. 5. The foregoing representations are false, deceptive, and misleading. Said preparation is not a cure or remedy for, nor does it constitute a competent or effective treatment for, rheumatism, stomach troubles, appendicitis, hemorrhoids, colds, influenza, tonsillitis, general run-down condition, arthritis, neuritis, pleurisy, sciatica, muscular aches or pains, lumbago, sour stomach, high blood pressure, delayed menstruation, mumps, kidney trouble, gas on stomach, bloated stomach, sore throat, streptococcus infection, paralysis or paralytic stroke, constipation, indigestion, dizziness, headaches, diphtheria, coughs, laryngitis, trench mouth, swollen neck, fever, poor complexion, pimples, infantile paralysis, bladder trouble, biliousness, nervousness, female trouble, gastric disturbances, children's diseases, ulcerated stomach, piles, backache, eczema, sinus trouble, hiccoughs, vomiting, prostate disorders, low blood pressure, bad breath, asthma, insomnia, pneumonia, uremic poisoning,

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tick fever, ptomaine poisoning, black widow spider poisoning, poor circulation, shortness of breath, bronchitis, ulcers, ulcerated mouth or teeth, yellow jaundice, or disorders due to the menopause. In truth and in fact, respondents' preparation possesses no therapeutic value in the treatment of any ailment, disease, or condition of the human body, in excess of such slight temporary and palliative relief for minor aches and pains as may be afforded by the analgesic properties of said preparation.

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their said preparation, disseminated as aforesaid, 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 and representations are true and into the purchase of substantial quantities of respondents' preparation.

PAR. 7. The aforesaid acts and practices of the respondents 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 the 24th day of July 1940, issued and subsequently served its complaint in this proceeding upon said respondents, Nick A. George, J. Lawrence Walker, T. Kyle Woodward, Walker & Woodward, Inc., a corporation, and John G. Brown, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 15, 1940, respondents filed their answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been ap-

proved, accepted, and filed; and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Nick A. George, has his office and principal place of business at Casper, Wyo., his mailing address being Post Office Box 271, Casper, Wyo. Respondents, J. Lawrence Walker and T. Kyle Woodward, trading as Walker & Woodward, have their office and principal place of business at 166 South Center Street, Casper, Wyo. Respondent, Walker & Woodward, Inc., is a corporation organized under the laws of the State of Wyoming, with its office and principal place of business located at 166 South Center Street, Casper, Wyo. Respondent, John G. Brown, has his office and principal place of business at 166 South Center Street, Casper, Wyo.

PAR. 2. Respondent, Nick A. George, is now, and for more than 2 years last past has been, engaged in the compounding and in the sale and distribution of a medicinal preparation designated "George's Compound."

Prior to April 1939 the respondents, J. Lawrence Walker and T. Kyle Woodward, under an agreement with the respondent, Nick A. George, and acting both individually and under the trade name of Walker & Woodward, were engaged in the sale and distribution of said medicinal preparation.

In April 1939, the corporate respondent, Walker & Woodward, Inc., was organized by the respondents, J. Lawrence Walker and T. Kyle Woodward, who are respectively president and vice president of said corporation and the principal stockholders therein. Said individual respondents formulate, direct, and control the practices and policies of said corporation. The corporate respondent is now, and since the date of its organization has been, engaged in the sale and distribution of said medicinal preparation.

Respondent, John G. Brown, is likewise engaged in the sale and distribution of said medicinal preparation, operating under the direction of the other respondents named herein.

All of the respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter alleged.

PAR. 3. In the course and conduct of their said business the respondents cause and have caused their said medicinal preparation, when sold, to be transported from their respective places of business

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in the State of Wyoming to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating and have caused and are now causing the dissemination of advertisements concerning their said product, by the United States mails and by various 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 their said product; and respondents have also disseminated and are now disseminating and have caused and are now causing the dissemination of advertisements concerning their said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is defined in the Federal Trade Commission Act.

Through the use of various statements and representations contained in said advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, by radio continuities, and by circulars, leaflets, and other advertising literature, the respondents represent and have represented that their said medicinal preparation is a cure or remedy and a competent and effective treatment for numerous ailments, diseases, and conditions of the human body, including rheumatism, stomach troubles, appendicitis, hemorrhoids, colds, influenza, tonsillitis, general run-down condition, arthritis, neuritis, pleurisy, sciatica, muscular aches and pains, lumbago, sour stomach, high blood pressure, delayed menstruation, mumps, kidney trouble, gas on stomach, bloated stomach, sore throat, streptococcus infection, paralysis and paralytic stroke, constipation, indigestion, dizziness, headaches, diphtheria, coughs, laryngitis, trench mouth, swollen neck, fever, poor complexion, pimples, infantile paralysis, bladder trouble, biliousness, nervousness, female trouble, gastric disturbances, children's diseases, ulcerated stomach, piles, backache, eczema, sinus trouble, hiccoughs, vomiting, prostate disorders, low blood pressure, bad breath, asthma, insomnia, pneumonia, uremic poisoning, tick fever, ptomaine poisoning, black widow spider poisoning, poor circulation, shortness of breath, bronchitis, ulcers, ulcerated mouth and teeth, yellow jaundice, and disorders due to the menopause. Re-

spondents further represent that said preparation possesses substantial therapeutic value in the treatment of all ailments, diseases, and conditions of the human body except cancer and diabetes.

PAR. 5. The foregoing representations are deceptive and misleading. In truth and in fact respondents' preparation possesses no therapeutic properties in excess of affording a stimulus to the flow of gastric juice, a mild stimulation to the appetite, and a temporary and palliative relief for aches and pains. It possesses no beneficial therapeutic qualities whatsoever in the treatment or relief of appendicitis, hemorrhoids, general run-down condition, neuritis, pleurisy, sciatica, lumbago, high blood pressure, delayed menstruation, mumps, kidney trouble, streptococcus infection, paralysis, paralytic stroke, dizziness, diphtheria, coughs, laryngitis, trench mouth, swollen neck, biliousness, nervousness, female trouble, children's diseases (except to the extent set forth in the following subparagraphs), ulcerated stomach, eczema, sinus trouble, hiccoughs, vomiting, prostate disorders, low blood pressure, bad breath, asthma, insomnia, pneumonia, uremic poisoning, tick fever, ptomaine poisoning, black widow spider poisoning, poor circulation, shortness of breath, bronchitis, ulcers, ulcerated mouth or teeth, yellow jaundice, or disorders due to the menopause.

The use of said preparation for rheumatism, colds, influenza, tonsillitis, arthritis, muscular aches and pains, sore throat, headache, fever, or backache results only in a temporary palliation of the attendant pain or discomfort due to its analgesic properties, and it is not a cure or remedy nor an adequate or competent treatment for any of the said conditions or ailments.

The use of said preparation for stomach trouble, sour stomach, gas on the stomach, bloated stomach, indigestion, or gastric disturbances may be of benefit only when they are associated with an insufficient flow of gastric juice, and it is not a cure or remedy nor an adequate and competent treatment for any of the said conditions or ailments.

PAR. 6. The use by the respondents of the foregoing deceptive and misleading statements and representations with respect to their said preparation, disseminated as aforesaid, 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 statements and representations are true and into the purchase of substantial quantities of respondents' preparation.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury of the public, and constitute unfair

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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, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Walker and Woodward, Inc., a corporation, its officers, and J. Lawrence Walker and T. Kyle Woodward, individually and trading as Walker and Woodward, or trading under any other name, and Nick A. George and John G. Brown, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondents' medicinal preparation designated "George's Compound" or any other medicinal preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, (a) that said preparation constitutes a cure or remedy for, or possesses any therapeutic value in the treatment of, appendicitis, hemorrhoids, general run-down condition, neuritis, pleurisy, sciatica, lumbago, high blood pressure, delayed menstruation, mumps, kidney trouble, streptococcus infection, paralysis, paralytic stroke, dizziness, diphtheria, coughs, laryngitis, trench mouth, swollen neck, biliousness, nervousness, female trouble, children's diseases (except to the extent hereinafter set forth), ulcerated stomach, eczema, sinus trouble, hiccoughs, vomiting, prostate disorders, low blood pressure, bad breath, asthma, insomnia, pneumonia, uremic poisoning, tick fever, ptomaine poisoning, black widow spider poisoning, poor circulation, shortness of breath, bronchitis, ulcers, ulcerated mouth or teeth, yellow jaundice or disorders due to the menopause; (b) that said preparation is a cure or remedy for rheuma-

tism, colds, influenza, tonsillitis, arthritis, muscular aches or pains, sore throat, headache, fever, or backache, or that said preparation possesses any therapeutic value in the treatment of any of said ailments and conditions, in excess of affording temporary relief from the pain or discomfort attendant thereto; (c) that said preparation is a cure or remedy for stomach trouble, sour stomach, gas on the stomach, bloated stomach, indigestion or gastric disturbances, or that said preparation possesses any therapeutic value in the treatment of any of said conditions, in excess of affording a stimulus to the flow of gastric juice in those cases in which said conditions are associated with an insufficient flow of gastric juice; (d) that said preparation possesses any therapeutic value in the treatment of any ailment, disease, or condition of the human body, in excess of affording a stimulus to the flow of gastric juice, a mild stimulus to the appetite, and a temporary and palliative relief from aches and pains.

2. 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 preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

J. HERBERT BLACKHURST, DOING BUSINESS AS
UNIVERSITY PRESSCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4375. Complaint, Nov. 13, 1940—Decision, Jan. 29, 1941*

Where an individual engaged, under trade name "University Press," in sale of books and other printed matter used in classroom instruction, to purchasers in various other States and in the District of Columbia—

Represented, directly or by inference, through use of words "University Press" in trade name under which he conducted his business and which he featured on printed matter above referred to, and on stationery and other advertising matter disseminated among prospective customers in various States and in said District, that his business was owned, conducted, or supervised by a university or other institution of higher learning, facts being it was not thus owned, controlled, or supervised;

With tendency and capacity, through use of word "University" by said individual as part of his trade name, to mislead and deceive members of purchasing public situated in the various States and in said District into mistaken and erroneous belief that his business was owned, conducted, or supervised by a university or other institution of higher learning, and to cause them, as result of such erroneous belief, engendered as above set forth, to purchase his said products:

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. L. E. Creel, Jr., for the Commission.

Mr. Scott Rowley, of Des Moines, Iowa, 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 J. Herbert Blackhurst, an individual, trading and doing business under the name University Press, 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, J. Herbert Blackhurst, is an individual trading and doing business under the name University Press. His