

Complaint

IN THE MATTER OF

LAMBERT AGIN, TRADING AS JACKS CHEMICAL
COMPANY AND JACQUE CHEMICAL COMPANY

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

Docket 4247. Complaint, Aug. 20, 1940—Decision, Aug. 12, 1941

Where an individual engaged in interstate sale and distribution of his "Jacks" or "Jacque" medicinal preparation; by means of advertisements disseminated through the mails, in newspapers and periodicals, and other advertising literature—

Represented that his said preparation constituted a cure or remedy for gall, kidney, and bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid and excess uric acid, and possessed substantial therapeutic value in the treatment thereof, facts being it was nothing more than a dilute aqueous solution of nitric, hydrochloric, and acetic acids of an approximate 10 percent strength, and was wholly incapable of effecting any of the results claimed for it as above set forth;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that aforesaid representations were true, and with result that substantial quantities of his said product were purchased in reliance upon such belief:

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

Before Mr. J. A. Purcell, trial examiner.

Mr. Jay L. Jackson for the Commission.

Mr. H. C. Beckner, of Cincinnati, Ohio, 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 Lambert Agin, an individual, trading as Jacks Chemical Co. and as Jacque Chemical Co., hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Lambert Agin, is an individual trading under the name and style of Jacks Chemical Co. and Jacque Chemical Co., with his office and principal place of business located at Pleasant Ridge Station, in the city of Cincinnati, State of Ohio. Said respondent is now, and for more than 2 years last past has been, en-

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gaged in the business of offering for sale, selling, and distributing, in commerce between and among the various States of the United States and in the District of Columbia, a medicinal preparation called "JACKS," sometimes called "JACQUE," described as a remedy and treatment for various ailments and conditions of the human body.

Respondent has maintained and now maintains a course of trade in said product in said commerce and has caused and now causes said product, when sold, to be shipped or transported from his said place of business in the State of Ohio to purchasers, including retailers, resellers, and users thereof, located in various States of the United States other than the State of Ohio, and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business, the respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his 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 said product; and respondent has also disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the 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, and by other advertising literature, are the following:

ARE YOU A DIABETIC?

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs, and other ailments caused by excess uric acid condition. JACKS priced at \$1.25 is sold with a money back guarantee. Try this marvelous relief today. If you are not completely satisfied, your druggist will cheerfully refund your money.

RHEUMATISM SUFFERERS!

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs and other ailments caused by excess uric acid condition.

SLUGGISH GALL-BLADDER

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs,

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and other ailments caused by excess uric acid condition. JACKS priced at \$1.25 is sold with a money back guarantee. Try this marvelous relief today. If you are not completely satisfied, your druggist will cheerfully refund your money.

GALL BLADDER

JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Hives and Excess-Acid.

PAR. 3. Through the use of the foregoing statements and representations and others of similar import not specifically set out herein, the respondent represents and has represented that his said medicinal preparation constitutes a cure or remedy for gall, kidney, and bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid and excess uric acid, and that said preparation possesses substantial therapeutic value in the treatment of such ailments and conditions.

PAR. 4. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation does not constitute a cure or remedy for gall, kidney, or bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid or excess uric acid, nor does said preparation possess any therapeutic value in the treatment of any of such ailments or conditions. Respondent's preparation is in fact nothing more than a diluted aqueous solution of nitric, hydrochloric, and acetic acids, of an approximate 10 percent strength, and is wholly incapable of effecting any of the results claimed by the respondent.

PAR. 5. The use by the respondent of the aforesaid false and misleading statements and representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and thus into the purchase of substantial quantities of respondent's product.

PAR. 6. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 20, 1940, issued, and on August 22, 1940, served its complaint in this proceeding upon respondent, Lambert Agin, individually, and trading as Jacks Chemical Co., and as Jacque Chemical Co., charging him with the use of unfair

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and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, 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, Lambert Agin, is an individual trading under the name and style of Jacks Chemical Co. and Jacque Chemical Co., with his office and principal place of business located at Pleasant Ridge Station, in the city of Cincinnati, State of Ohio. Said respondent is now, and for more than 2 years last past has been, engaged in the business of offering for sale, selling, and distributing, in commerce between and among the various States of the United States and in the District of Columbia, a medicinal preparation called "JACKS," sometimes called "JACQUE," described as a remedy and treatment for various ailments and conditions of the human body, and has maintained a course of trade in said products in said commerce. In the course thereof respondent has caused said product, when sold, to be transported from his said place of business in the State of Ohio to purchasers, including retailers, resellers, and users thereof, located in various States of the United States other than the State of Ohio and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business, the respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his 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 said product; and respondent has also disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly,

the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the 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, and by other advertising literature, are the following:

ARE YOU A DIABETIC?

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs, and other ailments caused by excess uric acid conditions. JACKS priced at \$1.25 is sold with a money back guarantee. Try this marvelous relief today. If you are not completely satisfied, your druggist will cheerfully refund your money.

RHEUMATISM SUFFERERS!

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs and other ailments caused by excess uric acid condition.

SLUGGISH GALL BLADDER

For 30 years, JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Swollen Limbs, and other ailments caused by excess uric acid conditions. JACKS priced at \$1.25 is sold with a money back guarantee. Try this marvelous relief today. If you are not completely satisfied, your druggist will cheerfully refund your money.

GALL BLADDER

JACKS has relieved thousands of sufferers from such ailments as Gall, Kidney and Bladder Stones, Diabetes, Rheumatism, Hives and Excess-Acid.

PAR. 3. Through and by means of the foregoing statements and representations, and others of similar import, respondent has represented and represents that his said medicinal preparation constitutes a cure or remedy for gall, kidney, and bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid and excess uric acid, and further that said preparation possesses substantial therapeutic value in the treatment of said ailments and conditions.

PAR. 4. The aforesaid statements and representations are grossly exaggerated, false, and misleading, in that, in truth and in fact, respondent's said preparation does not constitute a cure or remedy for gall, kidney, or bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid, or excess uric acid, and does not possess any therapeutic value in the treatment of any such ailments or conditions. The said preparation is in fact nothing more than a diluted aqueous solution of nitric, hydrochloric and acetic acids, of an approximate

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10 percent strength, and is wholly incapable of effecting any of the results claimed for it in the treatment of said ailments and conditions.

PAR. 5. The use by respondent of the aforesaid false and misleading statements and representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, resulting in the purchase of substantial quantities of respondent's said product in reliance upon such erroneous belief.

CONCLUSION

The aforesaid acts and practices of respondent as herein found, are all to the injury and 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.

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 the respondent admits all of the material allegations of fact set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Lambert Agin, individually and trading as Jacks Chemical Co. and as Jacque Chemical Co., or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of the medicinal preparation called "Jacks" or "Jacque," or of any other medicinal preparation or preparations containing similar ingredients or possessing substantially similar properties, whether sold or distributed 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 (a) by means of the United States mails or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that said preparation or product constitutes a cure or remedy for gall, kidney, and bladder stones, diabetes, rheumatism, swollen limbs, hives, excess acid and excess uric acid, or that said preparation pos-

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sesses any therapeutic value in the treatment of such ailments and conditions.

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 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 has complied with this order.

IN THE MATTER OF

DOMENICO DEL VECCHIO, TRADING AS PEOPLES
HARDWARE STORESCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4495. Complaint, May 1, 1941—Decision, Aug. 12, 1941*

Where an individual engaged in competitive interstate sale and distribution of paints and other merchandise; by means of advertisements in newspapers and otherwise—

- (a) Represented that he owned and operated or controlled the plant in which his products were made, and that the prices at which they were offered represented savings of 20 to 35 percent to purchasers as compared with prices of comparable products, through such statements as "Our factory-to-you plan brings savings of 20% to 35%"; facts being he was not a manufacturer, from whom merchandise is preferably bought direct by members of the purchasing public as affording them, in their belief, a more uniform line of goods, superior quality, lower prices, and other advantages, but filled orders with products made in a plant or factory which he did not own, operate, or control, and his prices represented no such savings; and
- (b) Represented that his "Lawrence Master Painters Flat Paint" "* * * covers 1,100 square feet per gallon"; facts being such coverage could not be obtained under normal conditions of use, but only when used over a pigment sealer on a smooth surface;

With effect of deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it, because of such belief, to purchase his said products, thereby unfairly diverting trade to him from his competitors, 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. B. G. Wilson 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 Domenico Del Vecchio, an individual trading as Peoples Hardware Stores, herein-after referred to as respondent, has violated the provisions of the