

IN THE MATTER OF
AMERICAN BANDAGE CORPORATION

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

Docket 4354. Complaint, Oct. 22, 1940—Decision, Sept. 22, 1941

Where a corporation engaged in the manufacture of so-called "Self-adhering Medicated Bandages," and in the interstate sale and distribution thereof under the trade name "A B C Gauzband"; by means of advertisements disseminated through the mails, in newspapers and periodicals, and in circulars, leaflets, pamphlets, and other advertising literature, directly and indirectly—

Represented that its product had antiseptic and germicidal properties sufficient to inhibit the growth of, and to destroy, all types of bacteria, and was self-sterilizing and remained surgically sterile after removal from the package, through such statements as "medicated with antiseptic and germicidal material which renders it self-sterilizing * * *," "* * * will remain sterile even after it is removed from the package," and "is safe to apply directly to the wound";

Facts being the properties of the mercuric iodine medication in its said product, while antiseptic and germicidal, were insufficient to inhibit the growth of and to destroy all types of bacteria, or render such product self-sterilizing, or keep it sterile after it had been removed from the package;

With tendency and capacity to induce a substantial portion of the purchasing public to believe that such statements were true, and because of such belief, to purchase a substantial amount of its said product:

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

Before *Mr. W. W. Sheppard* and *Mr. Andrew B. Duval*, trial examiners.

Mr. Maurice C. Pearce for the Commission.

Mr. Albert I. Kegan, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that American Bandage Corporation, a corporation, hereinafter referred to as the 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:

1386

Complaint

PARAGRAPH 1. Respondent, American Bandage Corporation, is a corporation duly chartered, organized, and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 4238 North Lincoln Avenue, Chicago, State of Illinois.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of manufacturing certain so-called self-adhering medicated bandages sold and distributed under the trade name and designation "A B C Gauzband," which respondent alleges have germicidal and antiseptic properties. Respondent causes said product, when sold, to be transported from its place of business in the State of Illinois to the purchasers thereof located in the various States of the United States other than the State of Illinois and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning its said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, and has also disseminated, and is now disseminating, and has caused, and is now causing the dissemination of false advertisements concerning its said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its 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, or caused to be disseminated, as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Through the development of a secret process, used exclusively by the manufacturer, GAUZBAND is medicated with an ANTISEPTIC and GERMICIDAL material, rendering it SELF-STERILIZING. It will remain sterile even after it is removed from the package.

GAUZBAND is self-sterilizing. The manufacturer has spared no expense to make this bandage the finest of its kind in the world. Years of chemical research have made possible the development of a new, secret process used exclusively by the manufacturer to render GAUZBAND self-sterilizing; it will remain sterile even after it is removed from the package.

Findings

33 F. T. C.

The same process used in rendering GAUZZBAND self-sterilizing, which is done with a medication containing antiseptic and germicidal materials, also makes it antiseptic and impregnates it with germicidal properties.

A B C GAUZZBAND is a pure white cohesive gauze bandage offering maximum protection because it is medicated with antiseptic and germicidal material which renders it self-sterilizing, assuring the user a surgically sterile dressing. It is safe to apply directly to the wound.

PAR. 4. Through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, respondent has represented and does now represent, directly and indirectly, that its said product has been impregnated with certain materials which give said product antiseptic and germicidal properties sufficient to inhibit the growth of, and to destroy all types of bacteria, thereby making said product self-sterilizing and causing it to remain surgically sterile after it has been removed from the package.

PAR. 5. The aforesaid claims, statements and representations as hereinabove described are grossly exaggerated, false and misleading. In truth and in fact, respondent's product is not self-sterilizing and will not remain sterile after it has been removed from the package. The medication in said product consists of mercuricine, which is a mercury salt derivative, having antiseptic and mild germicidal properties. These properties, however, are insufficient to inhibit the growth of and to destroy all types of bacteria or to render respondent's product self-sterilizing or keep respondent's product surgically sterile after it has been removed from the package.

PAR. 6. The use by the respondent of the foregoing false, misleading, and deceptive statements, representations, and advertisements, disseminated as aforesaid, with respect to the properties of its product, has had and now has the tendency and capacity to 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 to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase a substantial amount of respondent's product.

PAR. 7. The aforesaid acts and practices of the respondent, as hereinabove set forth, 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 22d day of October 1940, issued and thereafter served its complaint in this proceeding upon

the respondent American Bandage Corporation, a corporation, charging it with unfair and deceptive acts and practices in commerce, in violation of the provisions of said act. After the issuance of the complaint and the filing of respondent's answer thereto, evidence in support of the allegations of the complaint was introduced by the attorney for the Commission, at a hearing held before a duly appointed trial examiner of the Commission designated by it to serve in this proceeding, and at said hearing a stipulation as to the facts was entered into between the attorney for the Commission and the attorney for the respondent, and at a later date the attorney for respondent waived the filing of briefs and oral argument, and agreed that the case be submitted to the Commission upon the record.

The evidence introduced and the stipulation as to the facts were duly recorded and filed in the office of the Commission. Thereafter, the proceedings regularly came on for final hearing before the Commission on the complaint, the answer thereto, the evidence, the stipulation as to the facts, the trial examiner's report upon the evidence and brief in support of the complaint; 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, American Bandage Corporation, is a corporation organized under the laws of the State of Illinois, with its principal office and place of business at 1701 Damen Avenue, Chicago, Ill.

PAR. 2. Respondent, for some time prior to the issuance of the complaint herein had been and now is engaged in the business of manufacturing certain so-called "Self-adhering Medicated Bandages," and in the sale and distribution of same under the trade name and designation "A B C Gauzband," and caused and causes said product, when sold, to be shipped from its place of business to purchasers thereof located in various States of the United States and in the District of Columbia.

Respondent maintains and has maintained a course of trade in its said products in commerce between and among various States of the United States and in the District of Columbia.

PAR. 3. Respondent, in the conduct of its business has disseminated, and has caused the dissemination of advertisements concerning its products by means of the United States mails and by various other means, in commerce as "commerce" is defined in the Federal Trade

Commission Act, and has also disseminated and caused the dissemination of advertisements concerning its products by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its product in commerce as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in the advertisements disseminated or caused to be disseminated by respondent by means of the United States mails, by advertisements in newspapers, periodicals and by circulars, leaflets, pamphlets and other advertising literature, are the following:

Through the development of a secret process used exclusively by the manufacturer, GAUZZBAND is medicated with an ANTISEPTIC and GERMICIDAL material, rendering it SELF-STERILIZING. It will remain sterile even after it is removed from the package.

GAUZZBAND is self-sterilizing. The manufacturer has spared no expense to make this bandage the finest of its kind in the world. Years of chemical research have made possible the development of a new, secret process used exclusively by the manufacturer to render GAUZZBAND self-sterilizing; it will remain sterile even after it is removed from the package.

The same process used in rendering GAUZZBAND self-sterilizing, which is done with a medication containing antiseptic and germicidal materials, also makes it antiseptic and impregnates it with germicidal properties.

ABC GAUZZBAND is a pure white cohesive gauze bandage offering maximum protection because it is medicated with antiseptic and germicidal material which renders it self-sterilizing, assuring the user a surgically sterile dressing. It is safe to apply directly to the wound.

PAR. 4. Through the use of the statements set forth in paragraph 3 hereof, and others similar to the above but not herein set out, respondent has represented, directly and indirectly, that its product has been impregnated with certain materials which give it antiseptic and germicidal properties sufficient to inhibit the growth of, and to destroy, all types of bacteria, thereby making the product self-sterilizing and causing it to remain surgically sterile after it has been removed from the package.

PAR. 5. The statements and representations made by the respondent, as set forth in paragraph 3, and others referred to in paragraph 4, hereof, are false, misleading, and deceptive, in that respondent's product is not self-sterilizing and will not remain sterile after it has been removed from the package. The medication in respondent's product consists of mercuricin, which is an organic mercury salt having antiseptic and germicidal properties. These properties are insufficient to inhibit the growth of and to destroy all types of bacteria, or to render respondent's product self-sterilizing, or to keep respondent's product surgically sterile after it has been removed from the package.

1386

Order

PAR. 6. The use by respondent of the statements, representations, and advertisements set out in paragraph 3 and referred to in paragraph 4, with respect to the properties of its product, has had the tendency and capacity to induce a substantial portion of the purchasing public to believe that such statements, representations, and advertisements are true, and to induce a substantial portion of the purchasing public because of such belief, to purchase a substantial amount of respondent's product.

CONCLUSION

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.

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 respondent, evidence introduced before a duly appointed trial examiner of the Commission designated by it to serve in this proceeding, the report of the trial examiner thereon, the stipulation as to the facts entered into between the attorney for the Commission and the attorney for respondent, and brief filed on behalf of the Commission; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, American Bandage Corporation, a corporation, its officers, directors, agents, representatives, and employees, jointly or severally, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of any medicated bandage sold and distributed by it under the trade name "A B C Gauzband," or under any other trade name or designation, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, any advertisement in newspapers, periodicals, circulars, leaflets, pamphlets, or otherwise, 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 by implication, that its said product possesses antiseptic and germicidal properties sufficient to inhibit the growth of, or to destroy, all types of bacteria, or which represents, directly or indirectly, that said product is a

Order

33 F. T. C.

sterilizing agent, or that it remains sterile after it has been removed from the container.

2. Disseminating, or causing to be disseminated, any advertisement in newspapers, periodicals, circulars, leaflets, pamphlets, or otherwise, 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 respondent's said product, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That 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.

Syllabus

IN THE MATTER OF

JOSEPH WARNER FURNITURE CORPORATION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4416. Complaint, Dec. 13, 1940—Decision, Sept. 22, 1941

Where a corporation engaged in the interstate sale and distribution of household furniture, operating so-called dealer or trade showrooms in New York under the name "Salem House," and describing its business as "Exclusive Distributors of Salem House Furniture"; directly and by implication—

Represented that it was a wholesaler and was selling its furniture at wholesale prices, which, substantially lower than retail prices, are responsible for the well-known preference by a substantial portion of the public for purchasing at wholesale; and as part of its plan and scheme so to misrepresent the character of its business and the prices of its products—

- (a) Made such claims and statements in advertising matter, circular letters and so-called "admittance cards" which it circulated by mail and personally as "We are furniture distributors representing over 100 different factories," stocking every possible furniture need "to suit the requirements of thousands of dealers and interior decorators, and their referred clientele. A substantial money saving * * * is assured you";
- (b) Made such statements on their so-called "Admittance Permit" cards, as "ADMITTANCE PERMIT To the Trade Showrooms of the JOSEPH WARNER FURNITURE CORP. This card entitles ----- and party to all Showroom privileges, including price quotation * * *," and set forth on customer's copy of triplicate invoice of sales the words "Serving the Trade"; thereby implying that it sold only to or through dealers, that it was a wholesaler and sold to holders of such cards at wholesale prices, and that its business was something other than that of selling to the general public;
- (c) Furnished circulars to such persons and business concerns as would, for a commission, refer customers to it, to be shown to prospective customers, reading, in part, "Salem House Authorized Member Admittance and direct buying privileges by permit or personal escort available here. On view, products of over 100 factories, * * *. Substantial savings";
- (d) Paid commissions on sales to customers sent to it by various persons and smaller business concerns, with whom it entered into agreements for the payment of such commissions, and who, in making such contacts and inducing prospective customers to go to its place of business and purchase its wares, made or repeated to them some or all of the aforesaid deceptive statements;
- (e) Hesitated or refused, through its salesmen and representatives to show furniture to prospective purchasers unless they gave their dealer's name or presented an "admittance card" from some person or concern with whom it had made an agreement, as above described, for the payment of commissions on sales made to such customers, and stated that the house