

Complaint

IN THE MATTER OF

PRATT FOOD COMPANY

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

Docket 4599. Complaint, Sept. 29, 1941—Decision, Mar. 9, 1942

Where a corporation, engaged in interstate sale and distribution of its "Pratt's Inhalant" and "Pratt's Poultry Regulator;" by advertisements in periodicals, circulars, leaflets, pamphlets, and other advertising literature—

- (a) Falsely represented that its said "Inhalant" poultry preparation constituted a competent and effective treatment for colds in fowls, helped prevent serious respiratory diseases in chickens, and was germ killing, antiseptic and healing, preventing serious outbreaks of diseases, and killing germs in the air; and
- (b) Falsely represented that the use of its said "Poultry Regulator" would start hens producing more eggs in fifteen days; when in fact it would not accomplish such result within said or any period of time;

With effect of misleading and deceiving a substantial portion of the purchasing public into mistaken belief that such statements were true, and of inducing it, because of such mistaken belief, to purchase substantial quantities of 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. Maurice C. Pearce 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 Pratt Food Co., a corporation, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Pratt Food Co., is a corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 124-130 Walnut Street, Philadelphia. Pa.

PAR. 2. Respondent is now and for more than one year last past has been engaged in the sale and distribution in commerce between and among the various States of the United States and in the District

of Columbia of certain medicinal preparations for chickens designated "Pratt's Inhalant" and "Pratt's Poultry Regulator." Respondent causes said preparations when sold to be transported from its aforesaid place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent at all times mentioned herein has maintained a course of trade in said preparations in commerce among and between the various States of the United States and in the District of Columbia.

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

New WATER SOLUBLE Inhalant Gives Better Control of Colds helps prevent serious respiratory diseases.

Its germ-killing, antiseptic and healing medicines are held in a base that mixes readily with these secretions.

Pratt's Inhalant not only causes infected material to be expelled by coughing and sneezing, but unlike ordinary poultry inhalants, Pratt's germ-killing, antiseptic and healing medicines are enabled to give a greater measure of relief.

Prevents serious disease outbreaks.

Kills Germs in Air.

* * * * *

We Guarantee this famous old reliable Pratt's Poultry Regulator to start more eggs coming in just 15 short days * * * or we refund your money.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent has represented that its said poultry preparation "Pratt's Inhalant" constitutes a competent and effective treatment for colds in fowl and helps prevent serious respiratory diseases in chick-

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ens; that it is germ killing, antiseptic and healing; that it prevents serious disease outbreaks in chickens; and that it will kill germs in the air. Respondent further represents that the use of its poultry preparation "Pratt's Poultry Regulator" will start hens producing more eggs within a short period of time.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact respondent's poultry preparation "Pratt's Inhalant" does not constitute a competent or effective treatment for colds in fowl, or does it help prevent serious respiratory diseases in chickens. It is not germ killing, nor is it antiseptic or healing. It will not prevent serious disease outbreaks in chickens nor will it kill germs in the air. The use of "Pratt's Poultry Regulator" will not start hens producing more eggs within a short period of time.

PAR. 6. The use by the respondent of the aforesaid false, deceptive and misleading statements, representations and advertisements disseminated as aforesaid with respect to its said preparations has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations and advertisements are true and induces a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase substantial quantities of respondent's said products.

PAR. 7. The aforesaid acts and practices of 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 September 29, 1941, issued and subsequently served its complaint in this proceeding upon respondent, Pratt Food Co., a corporation, charging it with the use of unfair 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. The 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 Pratt Food Co., is a corporation duly organized and existing under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 124-130 Walnut Street, Philadelphia, Pa. .

PAR. 2. Respondent is now and for more than one year last past has been engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of certain medicinal preparations for chickens designated "Pratt's Inhalant" and "Pratt's Poultry Regulator." Respondent causes said preparations when sold to be transported from its afore-said place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent at all times mentioned herein has maintained a course of trade in said preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its products, by the United States mails, and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act and respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false 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 products 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 respondent's false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in periodicals and circulars, and by leaflets, pamphlets and other advertising literature, all of general circulation, are the following:

New WATER SOLUBLE Inhalant Gives Better Control of Colds helps prevent serious respiratory diseases.

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Its germ-killing, antiseptic and healing medicines are held in a base that mixes readily with these secretions.

Pratt's Inhalant not only causes infected material to be expelled by coughing and sneezing, but unlike ordinary poultry inhalants, Pratt's germ-killing, antiseptic and healing medicines are enabled to give a greater measure of relief.

Prevents serious disease outbreaks.

Kills Germs in Air.

* * * * *
We Guarantee this famous old reliable Pratt's Poultry Regulator to start more eggs coming in just 15 short days * * * or we refund your money.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent has represented that its poultry preparation "Pratt's Inhalant" constitutes a competent and effective treatment for colds in fowl and helps prevent serious respiratory diseases in chickens; that it is germ killing, antiseptic and healing; that it prevents serious disease outbreaks in chickens; and that it will kill germs in the air. Respondent further represents that the use of its poultry preparation "Pratt's Poultry Regulator" will start hens producing more eggs within 15 days.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact respondent's poultry preparation "Pratt's Inhalant" does not constitute a competent or effective treatment for colds in fowl, nor does it help prevent serious respiratory diseases in chickens. It is not a germicide, nor is it antiseptic or healing when used under the conditions prescribed in said advertisements. It will not prevent serious disease outbreaks in chickens. The use of "Pratt's Poultry Regulator" will not start all hens producing more eggs within 15 days or within any other period of time.

PAR. 6. The use by the respondent of the aforesaid false, deceptive and misleading statements, representations and advertisements disseminated as aforesaid with respect to its preparations has had and now 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, representations and advertisements are true and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase substantial quantities of respondent's products.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and waives all intervening procedure and further hearing as to the 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 the respondent, Pratt Food Co., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its medicinal preparations for chickens designated "Pratt's Inhalant" and "Pratt's Poultry Regulator," or any other preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other names, 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 by implication:

(1) That respondent's preparation "Pratt's Inhalant" constitutes a competent or effective treatment for colds in fowl.

(2) That "Pratt's Inhalant" helps prevent serious respiratory diseases in chickens.

(3) That "Pratt's Inhalant" is a germicide or has antiseptic and healing properties.

(4) That "Pratt's Inhalant" prevents serious outbreaks of disease in chickens.

(5) That respondent's preparation "Pratt's Poultry Regulator" will start all hens producing more eggs within 15 days or within any other period of time.

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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 preparations, 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 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

SAMUEL MARTIN, TRADING AS SAMUEL MARTIN, LTD.

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

Docket 4660. Complaint, Dec. 18, 1941—Decision, Mar. 9, 1942

Where an individual, engaged in Seattle, Wash., in the interstate sale and distribution to retailers and to the general public of men's clothing and blankets—

- (a) Represented that he was an English limited company, with principal place of business in London, and that the men's clothing offered and sold by him was made by such company in its factory in Leeds and imported by it and stored in a warehouse at the address given, through use of words "London," "Limited," and "Ltd." in connection with his trade name, and through such statements in connection therewith as "English Top Coats and Lounge Suits, U. S. Warehouse—Seattle, Wash.," and "Pacific Coast Warehouse, 600 Textile Tower, Seattle, Washington, U. S. A.," along with picture of a three-story factory building bearing said trade name above the words "Factory in Leeds, England," on stationery and invoices, in newspaper advertisements, and on labels attached to his garments;

When in fact he was not an English concern, but an individual doing business under the trade name indicated, with no place of business in London; little, if any, of his clothing was made by him, or in Leeds or any place in England, for which there is a preference on the part of a substantial portion of the purchasing public; and the location given was not a warehouse, but his only place of business in which some of the garments sold by him were made;

- (b) Represented that his blankets were products of the Hudson Bay Company through designating them as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket" in newspaper advertisements and on invoices or otherwise;

When in fact the blankets in question were not those widely sold, favorably known and preferred blankets long sold and distributed by the Hudson Bay Co., advertised, labeled and designated "Hudson's Bay 'Point' Blanket," and known generally as "Hudson Bay Blanket";

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such statements were true, and thereby causing it to purchase substantial quantities of his products, and with result also of placing in the hands of retailers means with which to mislead and deceive the purchasing public;

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. James I. Rooney for the Commission.