

IN THE MATTER OF
NATIONAL COIN CORPORATION AND JOHN ROMANO

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

Docket 3862. Complaint, July 29, 1939—Decision, Aug. 14, 1942

Where a corporation, subsequently dissolved, and the individual who was its president and principal owner, competitively engaged in the purchase of old and rare coins and in the interstate sale and distribution in said connection of a coin catalogue which they represented as describing all old and rare coins of value and the prices which they would pay therefor; in their advertisements in newspapers, periodicals and other publications, making possession of such catalogue a condition to such purchase—

- (a) Represented, directly or by implication, that all old coins were rare coins with values comparable to those of coins described or referred to therein, through mentioning only the old and rare coins of great value;

The facts being that only a small number of old coins are rare and highly valuable, and values and prices listed in their advertisements were greatly in excess of the usual values or selling prices of old coins; and

- (b) Represented that they would pay the prices listed in said advertisements for coins bearing the dates set forth therein without any other limitation, and that their said catalogue listed all known valuable coins;

The facts being their catalogue contained conditions and restrictions not set out by them in their advertisements: they did not pay the prices represented in their advertisements or, as illustrative, pay \$450 for all dimes dated prior to 1895, but paid it for only the "1894 Mint" dime; they required that prospective sellers post a \$1 appraisal fee to be returned only in event of their purchase of coin or coins in the amount of \$5 or more; their prices depended upon the state of preservation of coins in addition to the scarcity or dates thereof; and their catalogue did not list all known rare coins;

With effect of misleading and deceiving a substantial number of the purchasing public into the mistaken belief that said representations were true, thereby inducing it to purchase substantial number of said catalogues; whereby trade was unfairly diverted to them from competitors who did not misrepresent the conditions under which they purchased coins, and their coin catalogues, as consequence whereof, injury was done to competition:

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, and unfair and deceptive acts and practices, in commerce.

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Mr. Charles E. Booth, of Daytona Beach, Fla., 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

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Trade Commission having reason to believe that National Coin Corporation, a corporation, and John Romano, an individual, hereinafter referred to as respondents, have 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, National Coin Corporation, is a corporation, organized, and existing under and by virtue of the laws of the State of Massachusetts, having its office and principal place of business at 8 South Oleander Avenue, Daytona Beach, Fla. The respondent, John Romano, of the same address, is president and principal owner of said respondent corporation, and directs and controls the sales policies and other activities of the said corporate respondent with respect to the acts and practices herein described.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of purchasing old and rare coins. In the conduct of said business, respondents sell and distribute a coin catalog which is represented by respondents to describe all old and rare coins of value and the prices which respondents pay for the same. Respondents cause said coin catalog, when sold, to be transported from their place of business in the State of Florida to purchasers thereof at their respective points of location in various States of the United States other than the State of Florida, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said coin catalog 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 their aforesaid business, respondents are in substantial competition with other corporations and with individuals, firms, and partnerships likewise engaged in the purchase of old and rare coins and in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of catalogs and other books or pamphlets describing the coins that they offer to purchase.

PAR. 4. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said coin catalog, respondents have caused statements and representations which purport to list the prices which respondents pay for said old and rare coins to be inserted in newspapers, periodicals, and other publications having a general circulation throughout the United States. In order to induce the purchase of respondents' said coin catalog, respondents state in such advertisements that they will purchase coins only from those persons having respondents' said coin catalog, and make false

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and misleading statements with respect to the values of old coins generally and the price that the respondent will pay for such old coins. Among and typical of the respondents' aforesaid advertisements are the following:

\$2,000 for 1¢. \$4,000 for \$1.00.

We pay up to \$10.00 each for 1909 cents.

BIG CASH PREMIUMS FOR HUNDREDS OF COINS NOW IN CIRCULATION.

Dimes before 1895.....	\$450.00
Liberty Head Nickels before 1914.....	300.00
Indian Cent '64-65.....	100.00
½ Cents.....	275.00
Large Copper Cent.....	2,000.00
Half Dimes.....	175.00
20¢ Piece.....	150.00
25¢ Piece.....	300.00
Silver Dollars.....	4,000.00
50¢ Piece.....	1,000.00
Trade Dollars.....	300.00
Gold Dollars.....	1,500.00
\$2.50 Gold Pieces.....	500.00
\$3.00 Gold Pieces.....	2,000.00
\$5.00 Gold Pieces.....	6,000.00
\$10.00 Gold Pieces.....	150.00
Colonial Coins.....	300.00
Foreign Coins.....	165.00
\$20.00 Gold Pieces.....	500.00
Commem. ½ Dollars.....	60.00
All foreign currencies.	

Send 15¢ to-day for Coin Book * * * we do not accept your old coins from those who do not have our price book.

Old money. Coins wanted. 1909 cent \$10.00.

We buy all rare and old coins:

1933 50¢ \$4.00.

The following is also a typical advertisement used by respondents as aforesaid for the purpose of inducing the purchase of their said catalog:

Big prices paid for certain wanted coins. 1909 cent, \$10. Some silver dollars, \$4,000; 1864-1865 Indian head cents, \$100 each; dimes before 1895, \$600; Liberty head nickels before 1914, \$500; encased postage stamps; some large pennies, \$2,000; half-cents, \$275, paper money, gold dollars, \$1,500, foreign coins, \$165 some worth \$6,000 each. You may have coins for which we pay big premiums. Therefore, send 15¢ today for 1939 big, illustrated coin book for certain wanted coins. National Coin Corporation (80) Daytona Beach, Florida.

It is a fact that certain coins, because of their scarcity and age, are of high value and sell for exceedingly high prices among dealers and collectors of such coins. Such old and rare coins are generally, how-

ever, in the possession of dealers, collectors, museums or others engaged in collecting old and rare coins, and are not in possession of members of the purchasing public in any appreciable numbers.

The vast majority of old coins are not rare and especially valuable coins, and the value of said coins and the prices paid for them by dealers, collectors, and others are often merely nominal, and not in excess of the face value of said coins.

By mentioning only the old and rare coins of great value in its advertisements, in the manner aforesaid, respondents represent, directly and by implication, to members of the public that all old coins are rare coins with values comparable to the coins described or referred to in said advertisements. Said members of the general public do not know that only a comparatively small number of said old coins are rare and highly valuable. Consequently, many members of the purchasing public are misled and deceived into the false and erroneous belief that the high values and prices which respondents set out in their advertisements, as hereinbefore set forth, are representative of the values of old coins generally and the usual selling prices which respondents will pay for all old coins, when in truth and in fact said values and prices are greatly in excess of the usual values of old coins and greatly in excess of the usual selling prices of old coins. Respondents also represent that the prices listed in said advertisements will be paid by respondents for coins bearing the dates set forth in said advertisements without any other limitations or restrictions, and that respondents' coin catalog lists all known valuable coins. Relying upon such statements and representations, a substantial number of the purchasing public have purchased respondents' coin catalog.

PAR. 5. The coin catalog which respondents send to purchasers of the same contains a list of certain rare coins and the prices which respondents represent they will pay for such coins. Said coin catalog contains, with respect to the purchase of rare coins by the respondents, various conditions, restrictions, and limitations which are not set out by respondents in the aforesaid advertisements. In truth and in fact, respondents do not pay the prices for old coins which respondents represent they will pay in said advertisements, and upon which representations members of the public purchase respondents' catalog. For example, respondents represent in said advertisements that they will pay the sum of \$450 or other larger sums for all dimes bearing dates prior to the year 1895. Members of the public purchase respondents' catalog upon such representation, but find that respondents do not pay the sum of \$450 or other larger sums for all dimes bearing dates prior to the year 1895, but pay such sums for only one dime dated prior to the year 1895, which dime is a "1894 Mint" dime. The afore-

said advertisements by the respondents contain various other false and misleading statements and representations with respect to the prices which respondents pay for rare and old coins. Respondents' coin catalog does not list all known rare coins. Among other limitations and conditions which respondents place on their purchase of rare coins, and with respect to which prospective purchasers of said coin catalog are not advised, are:

Respondents require prospective sellers of coins to post with respondents a \$1 appraisal fee, which fee is returned by respondents only in the event of the purchase of respondents of a coin or coins in the amount of \$5 or more; and the prices which respondents pay for coins are dependent upon the state of preservation of the coins in addition to the scarcity or dates of the coins.

PAR. 6. The use by respondents of the aforesaid false and misleading statements and representations has the capacity and tendency to, and does, mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading statements and representations are true, and that respondents pay the prices listed in said advertisements for all rare coins bearing the respective dates listed therein, and into the purchase of a substantial number of respondents' coin catalogs because of said erroneous and mistaken belief. As a direct result thereof, trade in commerce among and between the various States of the United States and in the District of Columbia has been diverted unfairly to the respondents from their said competitors who do not misrepresent the terms and conditions under which they purchase coins and sell their respective coin catalogs. In consequence thereof, injury is being done, and has been done, by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and 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 July 29, 1939, issued and subsequently served its complaint in this proceeding upon respondents National Coin Corporation, a corporation, and John Romano, an

individual, charging them with the use of unfair methods of competition in commerce and 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 respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced before an examiner 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 said complaint, the answer thereto, and testimony and other evidence; 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. National Coin Corporation, named as a respondent herein, was a corporation organized under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business at 8 South Oleander Avenue, Daytona Beach, Fla. Subsequent to the issuance of the complaint herein said corporation was dissolved and it is not now in existence. Respondent, John Romano, an individual, formerly of the same address, was president and principal owner of said respondent corporation and directed and controlled the sales policies and other activities of the said corporate respondent with respect to the acts and practices herein described. Respondent John Romano now owns and operates a curio shop located at 1004 Main Street, Daytona Beach, Fla.

PAR. 2. Respondents, for several years prior to July 1940, engaged in the business of purchasing old and rare coins. In the conduct of said business, respondents sold and distributed a coin catalog which was represented by respondents to describe all old and rare coins of value and the prices which respondents would pay for the same. Respondents caused said coin catalog, when sold, to be transported from their place of business in the State of Florida to purchasers thereof at their respective points of location in various States of the United States other than the State of Florida, and in the District of Columbia. Respondents maintained a course of trade in said coin catalog 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 their aforesaid business, respondents were in substantial competition with other corporations

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Findings

Send 15¢ to-day for Coin Book * * * we do not accept your old coins from those who do not have our price book.

* * * * *
Old money. Coins wanted. 1909 cent \$10.00.

* * * * *
We buy all rare and old coins.

* * * * *
1933 50¢ \$4.00.

The following is also a typical advertisement used by respondents as aforesaid for the purpose of inducing the purchase of their said catalog:

Big prices paid for certain wanted coins. 1909 cents, \$10. Some silver dollars \$4,000; 1864-1865 Indian head cents, \$100 each; dimes before 1895, \$600; Liberty head nickels before 1914, \$500; encased postage stamps; some large pennies, \$2,000; half-cents, \$275, paper money, gold dollars, \$1,500, foreign coins, \$165 some worth \$6,000 each. You may have coins for which we pay big premiums. Therefore, send 15¢ today for 1939 big, illustrated coin book for certain wanted coins. National Coin Corporation (80) Daytona Beach, Florida.

It is a fact that certain coins, because of their scarcity and age, are of high value and sell for exceedingly high prices among dealers and collectors of such coins. Such old and rare coins are generally, however, in the possession of dealers, collectors, museums, or others engaged in collecting old and rare coins, and are not in possession of members of the purchasing public in any appreciable numbers.

The vast majority of old coins are not rare and especially valuable coins, and the value of said coins and the prices paid for them by dealers, collectors, and others are often merely nominal, and not in excess of the face value of said coins.

By mentioning only the old and rare coins of great value in its advertisements, in the manner aforesaid, respondents represented, directly and by implication, to members of the public that all old coins are rare coins with values comparable to the coins described or referred to in said advertisements. Said members of the general public do not know that only a comparatively small number of said old coins are rare and highly valuable. Consequently, many members of the purchasing public were misled and deceived into the false and erroneous belief that the high values and prices which respondents set out in their advertisements, as hereinbefore set forth, are representative of the values of old coins generally and the usual selling prices which respondents would pay for all old coins, when in truth and in fact said values and prices are greatly in excess of the usual values of old coins and greatly in excess of the usual selling prices of old coins. Respondents also represented that the prices listed in said advertisements would be paid by respondents for coins bearing the dates set

forth in said advertisements without any other limitations or restrictions, and that respondents' coin catalog lists all known valuable coins. Relying upon such statements and representations, a substantial number of the purchasing public have purchased respondents' coin catalog.

PAR. 5. The coin catalog which respondents sent to purchasers of the same contained a list of certain rare coins and the prices which respondents represented they would pay for such coins. Said coin catalog contained, with respect to the purchase of rare coins by the respondents, various conditions, restrictions, and limitations which were not set out by respondents in the aforesaid advertisements. In truth and in fact, respondents did not pay the prices for old coins which respondents represented they would pay in said advertisements, and upon which representations members of the public purchased respondents' catalog. For example, respondents represented in said advertisements that they would pay the sum of \$450 or other larger sums for all dimes bearing dates prior to the year 1895. Members of the public purchased respondents' catalog upon such representations, but found that respondents did not pay the sum of \$450 or other larger sums for all dimes bearing dates prior to the year 1895, but paid such sums for only one dime dated prior to the year 1895 which dime is a "1894 Mint" dime. The aforesaid advertisements by the respondents contained various other false and misleading statements and representations with respect to the prices which respondents paid for rare and old coins. Respondents' coin catalog did not list all known rare coins. Among other limitations and conditions which respondents placed on their purchase of rare coins, and with respect to which prospective purchasers of said coin catalog were not advised, was the requirement that prospective sellers of coins post with respondents a \$1 appraisal fee, which fee was returned by respondents only in the event of the purchase by respondents of a coin or coins in the amount of \$5 or more, and the condition that the prices which respondents paid for coins were dependent upon the state of preservation of the coins in addition to the scarcity or dates of the coins.

PAR. 6. The use by respondents of the aforesaid false and misleading statements and representations had the capacity and tendency to, and did, mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading statements and representations were true, and that respondents paid the prices listed in said advertisements for all rare coins bearing the respective dates listed therein, and into the purchase of a substantial number of respondents' coin catalogs

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because of said erroneous and mistaken belief. As a direct result thereof, trade in commerce among and between the various States of the United States and in the District of Columbia has been diverted unfairly to the respondents from their said competitors who do not misrepresent the terms and conditions under which they purchase coins and sell their respective coin catalogs. In consequence thereof, injury has been done by respondents 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 the aforesaid respondents, as herein found, were all to the prejudice and injury of the public and of respondents' competitors, and constituted unfair methods of competition in commerce and 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 respondents, and testimony and other evidence in support of the allegations of said complaint taken before an examiner of the Commission therefore duly designated by it, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, John Romano, an individual, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering to purchase and purchase of old and rare coins of the offering for sale, sale, and distribution of such coins and catalogs or other material describing same 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 all old coins are rare coins or have values comparable to the values or prices of rare coins.
2. That old coins generally have any value greatly in excess of their face value.
3. That the values of or prices which may be obtained for a very few rare coins are representative of the values or usual selling prices of old coins generally.

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4. That respondent will buy particular coins, or coins of certain kinds, at prices in excess of their face value, unless all conditions, limitations, or restrictions applicable to such purchases are clearly stated in conjunction therewith.

5. That respondent's coin catalogs list all known valuable coins.

It is further ordered, That the said 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.

It is further ordered, That, it appearing to the Commission that respondent National Coin Corporation has been dissolved and is not now in existence, this case be, and the same hereby is, closed as to said corporate respondent.

Syllabus

IN THE MATTER OF
CUTTER LABORATORIES

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

Docket 4348. Complaint, Oct. 12, 1940—Decision, Aug. 14, 1942

Where a corporation, engaged in manufacturing and compounding its "Blacklegol" vaccine for blackleg in cattle, and in competitive interstate sale and distribution thereof from its place of business at Berkeley, Calif., or from its depots and branch offices in various cities to distributors, druggists, and veterinarians; by means of advertisements in newspapers and periodicals, and by circulars, pamphlets and other advertising literature—

- (a) Represented that "Blacklegol" was the first preparation which combined the filtrate of cultural aggressin and the organisms of concentrated bacterin, and that by reason thereof it was 100 percent efficient in giving immunity to blackleg;

The facts being blackleg bacterin, which had been compounded and sold by it and its competitors for about 10 years prior to the advent of "Blacklegol" was such a combination, and "Blacklegol," in fact, was blackleg bacterin to which had been added aluminum hydroxide; its immunizing value, if any, over and above bacterin or concentrated bacterin (or bacterin from which the cultural aggressin or broth was removed) was dependent upon the addition of such chemical element; there is no vaccine preparation known to science which can be considered 100 percent effective in immunizing cattle against said infectious disease, it appearing that administration of any vaccine to cattle already infected has no value in preventing death, and the natural resistance of an animal being also a factor which may affect the immunizing value of any vaccine preparation; and

- (b) Made false and deceptive representations which unfairly disparaged its competitors' products through representing, as aforesaid, that until the advent of "Blacklegol" the combination of the filtrate of cultural aggressin and the organisms of concentrated bacterin had never been combined in a vaccine preparation, and that the efficiency of either, both of which were sold and distributed by its competitors, was equal to only 50 percent of its own said product in producing blackleg immunity in cattle;

The facts being that, as above noted, said filtrate and organisms had been combined in the vaccine blackleg bacterin for about 10 years prior to the advent of "Blacklegol"; and there was no scientific foundation for its representation that the efficiency of blackleg concentrated bacterin or blackleg cultural aggressin was equal to only 50 percent of that of its own preparation;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such representations were true, thereby inducing it, because of such belief, to purchase substantial quantities of said vaccine in preference to that of competitors; whereby trade was unfairly diverted to it from them:

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.