

IN THE MATTER OF
PAT V. JAMES, TRADING AS THE N-A COMPANY

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

Docket 4662. Complaint, Dec. 30, 1941—Decision, Aug. 14, 1942

Where an individual, engaged in the interstate sale and distribution of his "N-A No. 7," "Vicine," "Nature's Aid" or "N-A" medicinal preparation; by advertisements disseminated through the mails, by radio broadcasts and otherwise, directly and by implication—

- (a) Represented that his said product was a powerful germicide and antiseptic, was unequalled in stopping bleeding, and was a cure for athlete's foot and eczema;

The facts being that, when used externally, its therapeutic properties were limited to those of a mild astringent and mild antiseptic; used as an astringent, it would not arrest venous or arterial hemorrhages; its only value in the treatment of such conditions as athlete's foot or eczema was limited to giving temporary relief to itching and irritation; and it was not suitable to use on denuded skin surfaces where it might cause permanent disfigurement by the deposition of iron in the form of pigmentation; and

- (b) Represented that said preparation was a splendid iron tonic, and that use thereof would prevent lockjaw and blood poisoning; and that it was an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, and kidney disorders;

The facts being that while it might supply some iron, it was not a splendid iron tonic, since its iron content was not in a form readily utilizable by the body; it would not prevent lockjaw or blood poisoning; and was of no substantial therapeutic value for the treatment of ailments above set forth or any disease;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such statements were true, thereby inducing it to purchase said preparation because of such belief;

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.

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

Mr. Merle P. Lyon for the Commission.

Mr. Cecil F. Travis, of Jackson, Miss., 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 Pat V. James, an individual, trading as The N-A Co., 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

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be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Pat V. James, is an individual, trading as The N-A Co., with his principal place of business located in the city of Laurel, State of Mississippi.

PAR. 2. Respondent is now, and for several years last past, has been engaged in the sale and distribution of a medicinal preparation known variously as "N-A No. 7," "Vicine," "Nature's Aid," and "N-A." Respondent causes and has caused his said preparation, when sold, to be transported from his said place of business in the State of Mississippi to purchasers thereof located in States of the United States other than the State of Mississippi, and in the District of Columbia.

Respondent maintains, and at all the times herein mentioned has maintained, a course of trade in said preparation 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 his aforesaid business, the respondent has disseminated, and has caused the dissemination of, false advertisements concerning his said preparation 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 has caused the dissemination of, false advertisements concerning his said preparation, by various means, for the purpose of inducing, and which are likely to induce directly or indirectly, the purchase of his said preparation 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 radio broadcasts, and by other means, are the following:

N-A No. 7 or Nature's Aid is a powerful, non-poisonous germicidal antiseptic. It actually kills germs without injury to the body tissue internally or externally. * * * You'll find that N-A No. 7 is a powerful antiseptic that destroys germs and relieves soreness like magic.

It is unequalled in stopping the flow of blood. There's nothing quite like N-A No. 7 for stopping the flow of blood.

* * * We carry N-A No. 7 in our first-aid kit for cuts, burns and bruises.

It is also a splendid natural iron tonic.

As an antiseptic, N-A No. 7 is insurance against blood poison and lockjaw. It kills the germs and prevents bloodpoisoning.

We'd like to read you a letter received by the N-A Company from Mr. Charles Herring of Bridgewater, Virginia. Mr. Herring writes: "While at Saratoga, New York, my friend, Mr. Bernard Jones, gave me a bottle of Nature's Aid and advised me to try it for a bad case of Athlete's Foot, from which I had been

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suffering for some time and gotten only temporary relief from any prescribed treatment. To my great satisfaction and relief, N-A No. 7, Nature's Aid, completely cured the trouble."

I wish I had the power to convince every one of you today of the true wisdom in always having available N-A No. 7, Nature's Aid. Its natural corrective and healing properties are so many and varied it sounds almost unbelievable. But they are true.

It's invaluable in the treatment of indigestion, sour stomach, ptomaine poison, rheumatism and kidney disorders.

PAR. 4. By the use of the statements and representations hereinabove set forth, and other statements and representations similar thereto, not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of respondent's said preparation, respondent has represented and does represent, directly and by implication, that his said preparation, designated and advertised variously as "N-A No. 7," "Vicine," "Nature's Aid," and "N-A," is a powerful germicide and a powerful antiseptic; that it is a splendid iron tonic; that it is unequalled in stopping bleeding; that its use will prevent lockjaw and blood poisoning; that it is a cure for athlete's foot and eczema; and that it is an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, and kidney disorders.

PAR. 5. The aforesaid representations and advertisements used and disseminated by the respondent, as hereinabove described, are grossly exaggerated, false, and misleading.

In truth and in fact, respondent's preparation is not a powerful germicide, or a powerful antiseptic. The therapeutic properties of said preparation, when used externally, are limited to those of a mild astringent and a mild antiseptic. When used as an astringent it will not arrest venous or arterial hemorrhages. It is not an effective treatment for athlete's foot or eczema, its only value in the treatment of such disease or condition being that of giving temporary relief to itching and irritation. When used on denuded skin surfaces it may cause permanent disfigurement by the deposition of iron in the form of pigmentation. Said preparation is not suitable for use in cases involving skin conditions where the surface cells are impaired or absent.

In truth and in fact, although said preparation might supply some iron for the body, it is not a splendid iron tonic, the iron in said preparation not being in a form which is readily utilized by the body. Said preparation will not prevent lockjaw, or blood poisoning, nor is it an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, or kidney disorders. Furthermore, said preparation is of no substantial therapeutic value as an internal medicine for the treatment of any disease or condition of the body.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid with respect to the therapeutic value of his said preparation 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 statements, representations, and advertisements are true, and induces a portion of the purchasing public because of such erroneous and mistaken belief to purchase said preparation.

PAR. 7. 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 December 30, 1941, issued and on January 2, 1942, served its complaint in this proceeding upon respondent, Pat V. James, an individual, trading as The N-A Co., charging him 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, 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, Pat V. James, is an individual, trading as The N-A Co., with his principal place of business located in the city of Laurel, State of Mississippi.

PAR. 2. Respondent is now, and for several years last past, has been engaged in the sale and distribution of a medicinal preparation

known variously as "N-A No. 7," "Vicine," "Nature's Aid," and "N-A." Respondent causes and has caused his said preparation, when sold, to be transported from his said place of business in the State of Mississippi to purchasers thereof located in States of the United States other than the State of Mississippi, and in the District of Columbia.

Respondent maintains, and at all the time herein mentioned has maintained, a course of trade in said preparation 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 his aforesaid business, the respondent disseminated and caused the dissemination of false advertisements concerning his said preparation by the United States mails, and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent also disseminated and caused the dissemination of false advertisements concerning his said preparation, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of his said preparation 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 radio broadcasts, and by other means, are the following:

N-A No. 7 or Nature's Aid is a powerful, non-poisonous germicidal antiseptic. It actually kills germs without injury to the body tissue internally or externally. * * * You'll find that N-A No. 7 is a powerful antiseptic that destroys germs and relieves soreness like magic.

It is unequalled in stopping the flow of blood. There's nothing quite like N-A No. 7 for stopping the flow of blood.

* * * We carry N-A No. 7 in our first-aid kit for cuts, burns and bruises.

It is also a splendid natural iron tonic.

As an antiseptic, N-A No. 7 is insurance against blood poison and lockjaw. It kills the germs and prevents blood poisoning.

We'd like to read you a letter received by the N-A Company from Mr. Charles Herring of Bridgewater, Virginia. Mr. Herring writes: "While at Saratoga, New York, my friend, Mr. Bernard Jones, gave me a bottle of Nature's Aid and advised me to try it for a bad case of Athlete's Foot, from which I had been suffering for some time and gotten only temporary relief from any prescribed treatment. To my great satisfaction and relief, N-A No. 7, Nature's Aid, completely cured the trouble".

I wish I had the power to convince every one of you today of the true wisdom in always having available N-A No. 7, Nature's Aid. Its natural corrective and healing properties are so many and varied it sounds almost unbelievable. But they are true.

It's invaluable in the treatment of indigestion, sour stomach, ptomaine poison, rheumatism and kidney disorders.

PAR. 4. By the use of the statements and representations hereinabove set forth, and other statements and representations similar thereto, not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of respondent's said preparation, respondent has represented directly and by implication that his said preparation, designated and advertised variously as "N-A No. 7," "Vicine," "Nature's Aid," and "N-A," is a powerful germicide and a powerful antiseptic; that it is a splendid iron tonic; that it is unequalled in stopping bleeding; that its use will prevent lockjaw and blood poisoning; that it is a cure for athlete's foot and eczema; and that it is an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, and kidney disorders.

PAR. 5. The aforesaid representations and advertisements used and disseminated by the respondent, as hereinabove described, are grossly exaggerated, false, and misleading.

In truth and in fact, respondent's preparation is not a powerful germicide or a powerful antiseptic. The therapeutic properties of said preparation, when used externally, are limited to those of a mild astringent and a mild antiseptic. When used as an astringent it will not arrest venous or arterial hemorrhages. It is not an effective treatment for athlete's foot or eczema, its only value in the treatment of such diseases or conditions being that of giving temporary relief to itching and irritation. When used on denuded skin surfaces it may cause permanent disfigurement by the deposition of iron in the form of pigmentation. Said preparation is not suitable for use in cases involving skin conditions where the surface cells are impaired or absent.

In truth and in fact, although said preparation might supply some iron for the body, it is not a splendid iron tonic, the iron in said preparation not being in a form which is readily utilized by the body. Said preparation will not prevent lockjaw, or blood poisoning, nor is it an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, or kidney disorders. Furthermore, said preparation is of no substantial therapeutic value as an internal medicine for the treatment of any disease or condition of the body.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements, representations and advertisements disseminated as aforesaid with respect to the therapeutic value of his said preparation has had the capacity and tendency to mislead and deceive and has misled and deceived a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true, and has in-

duced a portion of the purchasing public because of such erroneous and mistaken belief to purchase said preparation.

CONCLUSION

The aforesaid acts and practices of the 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 the respondent, in which answer respondent admits all 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Pat V. James, individually and trading as The N-A Co., or trading under any other name, his agents, servants, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondent's medicinal preparation now designated variously by the names "N-A No. 7," "Vicine," "Nature's Aid" and "N-A," or any other preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under those names 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 medicinal preparation is a powerful germicide or a powerful antiseptic, or is other than a mild astringent and a mild antiseptic; that it is unequalled in stopping bleeding or will arrest venous or arterial hemorrhages; that it is a cure for athlete's foot or eczema, or that it has any value in the treatment of such diseases or conditions other than to give relief from the itching and irritation thereof; that it is a splendid iron tonic; that its use will prevent lockjaw or blood poisoning; that it is an effective treatment for indigestion, sour stomach, ptomaine poisoning, rheumatism, or kidney disorders; or

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that it has any substantial therapeutic value as an internal medicine for the treatment of any disease or condition of the body.

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 medicinal 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

LEWIS BLOCK, FRANK BLOCK, MAC GOLDBERG, OTTO LANGER, MORRIS BLOCK, AND DORA BLOCK, TRADING AS STYLE & MERIT BUYING SERVICE

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED

Docket 4249. Complaint, Aug. 21, 1940—Decision, Aug. 17, 1942

Where six partners, who engaged in New York City in soliciting the business of purchasing, free of charge, the merchandise requirements of retail organizations in New York and other States, contacting a large number of manufacturers of ladies' and children's ready-to-wear, leather goods and accessories, furs, and fur coats in New York, Pennsylvania, and other eastern States, and searching the market in order to obtain at the lowest possible prices the exact merchandise ordered by retail buyer-clients—

Received, from competitive sellers, manufacturers, and wholesalers of fur garments for many retail fur outlets of client-buyers upon purchases made for their said buyer-clients, brokerage fees which amounted to from 2 to 5 percent of the price of the merchandise, while acting in fact for or in behalf of or under the direct or indirect control of such buyers and as their buying representatives:

Held, That such receipt of compensation in the form of commission on purchases from competitive sellers constituted a violation of subsection (c) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

Mr. A. W. DeBirny and Mr. Edward S. Ragsdale for the Commission.

Mr. Alfred McCormack, Mr. Harmon Duncombe and Mr. Douglas L. Hatch, of Cravath, DeGersdorff, Swaine & Wood, of New York City, for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly described, since June 19, 1936, have violated and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C. Title 15, Sec. 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondents, Lewis Block, Frank Block, Mac Goldberg, Otto Langer, Morris Block, and Dora Block, are copartners, doing business under the firm name of Style & Merit Buying Service, and have their office and place of business at 225 West Thirty-fourth Street, New York, N. Y.