

IN THE MATTER OF

J. H. CAMP, TRADING AS J. H. CAMP AND DRUG
PROFITS, INC.

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

Docket 4893. Complaint, Jan. 22, 1943—Decision, June 27, 1944

Where an individual engaged in interstate sale and distribution of his "Phalene" and "Burtone" preparation; through advertisements in radio continuities—

- (a) Represented falsely that his said products were competent and effective laxatives and that his "Burtone" could be taken with safety and without ill effects to the user under all conditions and that continued use of said product was safe and harmless;

The facts being that said latter product was an irritant laxative and potentially dangerous when taken by one suffering from abdominal pains, stomach ache, or other symptoms of appendicitis; frequent or continued use thereof might result in dependence on laxatives and continued administration thereof as recommended might result in severe gastro-intestinal irritation; and

- (b) Failed to reveal that said preparations contained the drugs aloin, cascarrin, phenolphthalein and bile salts, and were potentially dangerous as aforesaid;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false and misleading advertisements were true, and with tendency so to do and thereby induce it to purchase substantial quantities of his said preparations:

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. Jesse D. Kash 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 J. H. Camp, an individual, trading as J. H. Camp and as Drug Profits, Inc., hereinafter referred to as 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:

PARAGRAPH 1. The respondent, J. H. Camp, is an individual, trading as J. H. Camp and as Drug Profits, Inc., with his office and principal place of business located at Ravenswood, W. Va.

PAR. 2. The respondent is now, and for more than one year last past has been, engaged in the sale and distribution of certain preparations containing drugs, designated by him as "Phalene" and "Burtone," and recommended by him for use in treatment of various ailments and conditions of the human body.

Respondent causes the said preparations, when sold by him, to be transported from his aforesaid place of business in the State of West

Virginia, to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains and 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 his aforesaid business respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products by means of radio continuities 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 his said products by means of radio continuities for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of 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 by said radio continuities, are the following:

PHALENE

Reach for health with Phalene! When you feel tired, weak, worn, old * * *.

Phalene acts to restore the normal flow of vital digestive juices * * *. Helps remove poisons that make you old before your time.

When you suffer from sick headaches, nauseated stomach, loss of appetite, aching muscles and joints, restless sleep, and a tired, weak body * * * and when your condition indicates the need for anti-acid and digestive treatments give Phalene a trial.

Phalene is a guaranteed tonic for the liver.

This is an old, tried and true product * * * When you feel bad * * * when you're sluggish * * * get a bottle of Phalene tablets.

* * * was developed for use in the medical world as a laxative tonic for the liver

* * *

BURTONE

A more thorough treatment when there's Bilious Attacks, Stomach Nausea, Headaches, Indigestion, Stomach Gas, and that Weak Tired-Out Feeling. These will remain—unless you correct faulty habits of the elimination; unless there's free organic action of the liver and lower bowels.—that's why we say try Burtone... Because Burtone now contains these helps.

Treatment: Begin the cathartic dose. Then one tablet night and morning until your tongue clears and your body feels free from toxic poisons.

* * * If you always feel tired, if you feel like grumbling instead of laughing. Why don't you try Burtone? In 9 cases out of 10 your trouble is simply faulty elimination—something that can be very easily remedied. Burtone is a safe remedy.

Burtone is the safe laxative * * *.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import and meaning not specifically set out herein, the respondent represents that his product "Burtone" is a safe remedy and is safe as a laxative and can be taken without harm to the user.

PAR. 5. The foregoing representations are false, misleading and deceptive. In truth and in fact respondent's preparation Burtone is not a safe remedy or a safe laxative. Said preparation is an irritant laxative and con-

tains the drugs Aloin, Cascarin, Phenolphthalein and Bile Salts, and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Its frequent or continued use may result in dependence on laxatives and the continued administration of this irritant cathartic, as recommended in respondent's advertising, may result in severe gastrointestinal irritation.

PAR. 6. The respondent's advertisements disseminated as aforesaid with respect to both Phalene and Burtone constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations and material with respect to consequences which may result from the use of the preparations to which the advertisements relate, under the conditions prescribed in said advertisements and under such conditions as are customary and usual. In truth and in fact, both of said preparations contain the drugs Aloin, Cascarin, Phenolphthalein and Bile Salts and are potentially dangerous when taken by one suffering from abdominal pains, stomach ache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Their frequent or continued use may result in dependence on laxatives. Both of said preparations are irritant cathartics and their continued administration, as recommended by respondent may result in severe gastro-intestinal irritation.

PAR. 7. The use by the respondent of the foregoing false and misleading advertisements, disseminated as aforesaid, has the tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading advertisements and representations are true and to induce the purchasing public to purchase substantial quantities of respondent's preparations as a result of such erroneous and mistaken belief.

The aforesaid acts and practices of the respondents, 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 January 22, 1943, issued and served its complaint in this proceeding upon the respondent, J. H. Camp, trading as J. H. Camp and Drug Profits, Inc., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. No answer was filed by the respondent. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent, J. H. Camp, and Richard P. Whiteley, Assistant Chief Counsel of the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that said Commission may proceed upon said statement of facts, making its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs, and the respondent expressly waived the filing of a report upon the evidence by the Trial Examiner. Thereafter this proceeding came on for final hearing before the Commission on said

complaint and stipulation, said stipulation having been approved, accepted and filed and the Commission having duly considered same 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. The respondent, J. H. Camp, is an individual, trading as J. H. Camp and as Drug Profits, Inc., with his office and principal place of business located at Ravenswood, W. Va.

PAR. 2. The respondent is now and for more than one year last past has been engaged in the sale and distribution of certain preparations containing drugs designated by him as "Phalene" and "Burtone" and recommended by him for use in treatment of various ailments and conditions of the human body.

Respondent causes the said preparations, when sold by him, to be transported from his aforesaid place of business in the State of West Virginia, to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains, and 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 his aforesaid business, respondent has disseminated and has caused the dissemination of false advertisements concerning his said products by means of radio continuities 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 products by means of radio continuities for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of his said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. By and through the use of said advertisements disseminated as aforesaid, all subsequent to March 31, 1938, respondent represented that his products "Phalene" and "Burtone" were competent and effective laxatives and that his product "Burtone" could be taken and used with safety and without ill effects to the user under all conditions and circumstances and that continued use of said product is safe and harmless.

PAR. 5. The representations with respect to the product "Burtone" are false, misleading and deceptive. In truth and in fact, the use of said product is not safe and harmless and may not be taken and used with safety under all conditions and circumstances and cannot be used continually without ill effects to the user. Said preparation is an irritant laxative and contains the drugs aloin, cascarn, phenolphthalein and bile salts and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Its frequent or continued use may result in dependence on laxatives and the continued administration of this irritant cathartic as recommended in respondent's advertising may result in severe gastro-intestinal irritation.

PAR. 6. The respondent's advertisements, disseminated as aforesaid with respect to both "Phalene" and "Burtone," constitute false adver-

tisements for the further reason that they fail to reveal facts material in the light of such representations, and material with respect to consequences which may result from the use of the preparations to which the advertisements relate under the conditions prescribed by said advertisements and under such conditions as are customary and usual. In truth and in fact, both the said preparations contain the drugs aloin, cascarn, phenolphthalein and bile salts and are potentially dangerous when taken by one suffering from abdominal pains, stomach ache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Their frequent or continued use may result in dependence on laxatives. Both of said preparations are irritant cathartics and their continued administration as recommended by the respondent may result in severe gastro-intestinal irritation.

PAR. 7. The use by the respondent of the foregoing false and misleading advertisements, disseminated as aforesaid, has the tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading advertisements are true and to induce the purchasing public to purchase substantial quantities of respondent's preparations as a result of such erroneous and mistaken belief.

CONCLUSION

The foregoing 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 (no answer having been filed by the respondent) and a stipulation as to the facts entered into by the respondent, J. H. Camp, trading as J. H. Camp and Drug Profits, Inc., and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, the filing of report upon the evidence by the Trial Examiner having been expressly waived, 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, J. H. Camp, individually, and trading as J. H. Camp and Drug Profits, Inc., 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 or distribution of his medicinal preparations designated "Phalene" and "Burtone," or any other preparation or preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same or any other name or names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "com-

merce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication, that respondent's preparation "Burtone" is safe and harmless and may be taken continually without ill effects, or which advertisement fails to reveal that neither the preparation "Phalene" nor the preparation "Burtone" should be used by one suffering from abdominal pains, stomach ache, cramps, nausea, vomiting or other symptoms of appendicitis; *provided, however*, that such advertisement need contain only the statement, "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or both on the label and in the labeling, contain a warning to the above effect.

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 representation prohibited in paragraph I hereof with respect to "Burtone" or which fails to comply with the affirmative requirements set forth in paragraph 1 hereof with respect to both "Burtone" and "Phalene."

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.

Complaint

38 F. T. C.

IN THE MATTER OF

ERNEST O. RICH AND MICHAEL SIMEONE, DOING
BUSINESS AS RICH & COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT APPROVED SEPT. 26, 1914, AND
THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940

Docket 5144. Complaint, Mar. 29, 1944—Decision, June 27, 1944

Where two partners engaged in the manufacture, introduction into commerce, sale, transportation and distribution of wool products, as defined in the Wool Products Labeling Act of 1939, including, among others, ladies' suits and other garments; Sold such products misbranded in violation of said act and the rules and regulations thereunder by failing to affix thereto a stamp, tag, label or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool and non-wool fiber, and maximum percentage of adulterating matter; and proper identification of the manufacturer, seller, etc. subject to the act:

Held, That said acts and practices, under the circumstances set forth, were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce.

Mr. DeWitt T. Puckett for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Ernest O. Rich and Michael Simeone, individually, and as copartners, trading and doing business as Rich & Company, hereinafter referred to as respondents, have violated the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondents, Ernest O. Rich and Michael Simeone, are copartners, trading and doing business as Rich & Company and have their principal office and place of business at 270 West 39th Street, New York, N. Y.

PAR. 2. Respondents are engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of wool products, as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said Act and in the Federal Trade Commission Act. Many of respondent's said products are composed in whole or in part of wool, reprocessed wool, or reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said Act and the Rules and Regulations promulgated thereunder. Since July 15, 1941, respondents have violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of said wool