

Complaint

41 F. T. C.

IN THE MATTER OF

VALENTINE GREENEWALD, TRADING AS
PROFESSOR VALENTINE GREENEWALDCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5114. Complaint, Jan. 10, 1944—Decision, Oct. 1, 1945*

Where an individual engaged in interstate sale and distribution of a medicinal preparation formerly designated as "Nature Nervine", and thereafter as "Herbaline"—

- (a) Falsely represented through advertisements in newspapers, circulars, pamphlets, and other advertising literature, directly and by implication, that his said preparation was a competent and effective treatment for nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, depression, insomnia, palpitation of the heart, stomach troubles, lack of energy, bad dreams, weakness of mind, painful nerves and such mental conditions as dread and fear; that it formed blood, strengthened the nerves, built the brain, invigorated the body, promoted health generally, and had a beneficial effect on the nerve centers; and
- (b) Falsely represented through use of the trade name "Nature Nervine" that said preparation was a remedy of nature, that it exerted a beneficial effect upon the nerves, and was effective in the treatment of nervous disorders and conditions;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that said representations were true, and with capacity and tendency so to do and thereby to induce such public to purchase substantial quantities of his said preparation:

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. William L. Taggart 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 Valentine Greenewald, an individual trading as Professor V. Greenewald, 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. Respondent Valentine Greenewald is an individual

trading as Professor Valentine Greenewald with his place of business located at R. R. No. 1, Box 36, Covington, Ky.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the business of offering for sale, sale, and distribution of a medicinal preparation, formerly designated as "Nature Nervine" and now designated as "Herbaline," in commerce, between and among the various States of the United States and in the District of Columbia.

Respondent causes his said preparation, when sold, to be shipped and transported from his place of business in the State of Kentucky to the purchasers thereof located in various other States in 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 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 said business, the respondent has disseminated and is now disseminating, and has caused and is now causing 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 is now disseminating, and has caused and is now causing 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 by the Federal Trade Commission Act.

In said advertisements, disseminated by the United States mails, by advertisements inserted in newspapers and by means of circulars and pamphlets and other advertising literature, respondent represents and has represented, directly and by implication, that his preparation is a competent and effective treatment for nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, insomnia, palpitation of the heart, stomach troubles, depression, lack of energy, bad dreams, weakness of mind, painful nerves, and such mental conditions as dread and fear; that said preparation forms blood, strengthens the nerves, builds the brain, invigorates the body, promotes health generally and has a beneficial effect on the nerve centers.

By the use of the trade name "Nature Nervine" respondent has represented that said preparation is a remedy of nature and that its use exerts a beneficial effect upon the nerves and is effective in the treatment of nervous disorders and conditions.

Findings

41 F. T. C.

PAR. 4. The foregoing statements and claims disseminated by the respondent, as aforesaid, are false, misleading, and deceptive. In truth and in fact, respondent's preparation does not constitute a competent or effective treatment for, and has no significant therapeutic value in the treatment of nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, insomnia, palpitation of the heart, stomach troubles, depression, lack of energy, bad dreams, weakness of mind, painful nerves and such mental conditions as dread and fear.

It does not form blood, will not build the brain, strengthen the nerves, invigorate the body, nor will it promote health generally. The use of said preparation will have no beneficial effect on the nerve centers. It is not a remedy of nature and its use will not be beneficial to the nerves or effective in the treatment of nervous disorders and conditions.

PAR. 5. The use by the respondent of the foregoing false, misleading, and deceptive statements and representations has had, and now has, a tendency and capacity to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's preparation.

PAR. 6. 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 January 10, 1944, issued and subsequently served its complaint in this proceeding upon the respondent, Valentine Greenewald, an individual trading as Professor Valentine Greenewald, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Thereafter, respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and the answer thereto; 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 Valentine Greenewald is an individual trading as Professor Valentine Greenewald, with his place of business located at R. R. No. 1, Box 36, Covington, Ky.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the business of offering for sale, sale and distribution of a medicinal preparation, formerly designated as "Nature Nervine" and now designated as "Herbaline," in commerce, between and among the various States of the United States and in the District of Columbia.

Respondent causes his said preparation, when sold, to be shipped and transported from his place of business in the State of Kentucky to the purchasers thereof located in various other States in 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 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 said business, the respondent has disseminated and is now disseminating, and has caused and is now causing 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 is now disseminating, and has caused and is now causing 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 by the Federal Trade Commission Act.

In said advertisements, disseminated by the United States mails, by advertisements inserted in newspapers and by means of circulars and pamphlets and other advertising literature, respondent represents and has represented, directly and by implication, that this preparation is a competent and effective treatment for nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, depression, in somnia, palpitation of the heart, stomach troubles, lack of energy, bad dreams, weakness of mind, painful nerves and such mental conditions as dread and fear; that said preparation forms blood,

Order

41 F. T. C.

strengthens the nerves, builds the brain, invigorates the body, promotes health generally and has a beneficial effect on the nerve centers.

By the use of the trade name "Nature Nervine" respondent has represented that said preparation is a remedy of nature and that its use exerts a beneficial effect upon the nerves and is effective in the treatment of nervous disorders and conditions.

PAR. 4. The foregoing statements and claims disseminated by the respondent, as aforesaid, are false, misleading, and deceptive. In truth and in fact, respondent's preparation does not constitute a competent or effective treatment for, and has no significant therapeutic value in the treatment of nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, depression, insomnia, palpitation of the heart, stomach troubles, lack of energy, bad dreams, weakness of mind, painful nerves and such mental conditions as dread and fear.

It does not form blood, will not build the brain, strengthen the nerves, invigorate the body, nor will it promote health generally. The use of said preparation will have no beneficial effect on the nerve centers. It is not a remedy of nature and its use will not be beneficial to the nerves or effective in the treatment of nervous disorders and conditions.

PAR. 5. The use by the respondent of the foregoing false, misleading, and deceptive statements and representations has had, and now has, a tendency and capacity to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's preparation.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and the 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 of 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

conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, Valentine Greenewald, individually, trading as Professor Valentine Greenewald, or under any other name, 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 preparation formerly known as "Nature Nervine" and now as "Herbaline," or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same name 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 "commerce" is defined in the Federal Trade Commission Act, which represents directly or by inference:

- a. That respondent's preparation constitutes a competent or effective treatment for, or has any significant therapeutic value in the treatment of, nervousness, nervous afflictions, nervous dyspepsia, neurasthenia, nervous debility, exhaustion, body weakness, anemia, melancholia, depression, insomnia, palpitation of the heart, stomach troubles, lack of energy, bad dreams, weakness of mind, painful nerves, such mental conditions as dread and fear, or has any beneficial effect upon the nerve centers.

- b. That the said preparation forms blood, strengthens the nerves, builds the brain, invigorates the body or promotes health generally.

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 of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited by paragraph 1 hereof.

It is further ordered, That the respondent, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of his product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using the trade name "Nature Nervine" or any other name of similar import.

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

GEORGE F. HAUPTMAN, TRADING AS MARKET DRUG

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

Docket 5236. Complaint, Oct. 18, 1944—Decision, Oct. 1, 1945

Where an individual engaged in interstate sale and distribution of certain medicinal preparations designated by him as "Pep-o-tabs", consisting of brown and white tablets—

- (a) Falsely represented in advertisements in newspapers and cards, folders and circulars, directly and by implication, that said preparations, when used as directed by men over 35 years of age, would prevent them from feeling old, and would restore ambition, help Nature produce pep, vitality, and a new feeling of manly vigor;
- (b) Falsely represented through use of trade name "Pep-o-tabs" that use of said preparation would result in pep and a greater degree of vitality; and
- (c) Failed to reveal in aforesaid advertisements facts material in the light of such representations and material with respect to the consequences which might result from the use of said preparations under prescribed or customary conditions, in that the "Pep-o-tabs" preparation referred to as brown tablets is potentially dangerous because it might produce strychnine poisoning, irritation of the kidneys, and systemic phosphorous poisoning;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and thereby of inducing it to purchase substantial quantities of said preparation:

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. B. G. Wilson for the Commission.

Mr. Alexander M. Hauptman, of Philadelphia, Pa., 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 George F. Hauptman, an individual trading as Market Drug, 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 George F. Hauptman is an individual trading as Market Drug, with his office and principal place of business located at 5900 Market St., Philadelphia, Pa.

PAR. 2. Respondent is now and for more than two years last past has been engaged in the sale and distribution of certain medicinal