

## Complaint

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IN THE MATTER OF  
JOHN HANLEYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4714. Complaint, Feb. 24, 1942—Decision, Feb. 20, 1946*

Where an individual engaged in interstate sale and distribution of a mechanical device for use on automobile motors, formerly designated "Whirlgas Supercharger" and later "Whirlgas Turbinator"; through cards and circulars distributed to prospective purchasers and through advertisements in newspapers and periodicals, directly or by implication—

- (a) Falsely represented that his device acted as and performed the functions of a supercharger—which increases the pressure at which the explosive charge is supplied to engine cylinders—when, in fact, it tended to obstruct or restrict the intake at a point just beyond the carburetor, with directly the opposite effect to that produced by a supercharger; and
- (b) Falsely represented that the device increased the normal speed and flow of gas vapor entering the combustion chamber and increased the explosive power thereof; that its use resulted in a substantial saving in fuel and increase in power, reduced the carbon monoxide content of the exhaust, eliminated carbon formation, and caused the motor to operate at an even temperature, thus preventing vaporlock with resulting oil economy;

When in fact the only savings accomplished were in those cases in which, in response to said individual's directions, too rich a fuel mixture was made leaner, and in which the ensuing saving was due to the adjusting of the carburetor rather than to the device in question, and was equally obtainable without it; and whereby also carbon monoxide content of the exhaust was correspondingly decreased;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and thereby cause its purchase of substantial quantities of said device:

*Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. John W. Addison* and *Mr. J. Earl Cox*, trial examiners.  
*Mr. Merle P. Lyon* and *Mr. Clark Nichols* for the Commission.

*Mr. K. Hanley*, of Prospect, Ohio, and *Donithen & Michel*, of Marion, Ohio, 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 John Hanley, an individual, 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 John Hanley is an individual with his principal office and place of business located at 5719 Loraine Avenue, in the city of Detroit, State of Michigan.

PAR. 2. Respondent is now, and has been for more than one year last past, engaged in the business of offering for sale and selling and distributing a device under the trade name of Whirlgas Supercharger in commerce among and between the various States of the United States and in the District of Columbia.

Respondent has caused and now causes his said device, when sold, to be shipped and transported from his aforesaid place of business to purchasers thereof located in States other than the State of Michigan and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said device, 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 and for the purpose of inducing the purchase of his Whirlgas Supercharger, respondent has disseminated false and misleading statements and representations with respect to his said device, such representations being made by means of cards and circulars distributed to prospective purchasers and by insertion of advertisements in newspapers and periodicals of general circulation. Among the typical of the statements and representations appearing in said advertising matter are the following:

#### WHIRLGAS SUPERCHARGER

Whirlgas is a device of scientific construction, cone shaped, with vanes of a specific angularity, that may be inserted in intake manifold of any gasoline motor. It takes the mixture, with its normal flow of two miles per minute, as it passes from carburetor to motor, gives it a terrific, cyclonic whirl and turns it into a highly explosive vapor.

This vapor greatly improves motor action, resulting in a mileage increase per gallon of not less than 20% with one-tenth added horsepower, reduces deadly monoxide exhaust 40%, eliminates carbon formation, operates motor at even temperature, preventing vapor-lock and oil waste.

Engineering tests show that, before Whirlgas installation, the cylinders nearest carburetor receive too rich a mixture and those farthest away too lean. This is due to the large volume of air entering carburetor and attempting to mix thoroughly with small gasoline jet sprays in traveling a few inches to motor. It cannot be done; an imperfect mixture is the result.

Whirlgas supplies the same perfect vapor to all cylinders.

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PAR. 4. Respondent, through the use of the aforesaid statements and representations and others of similar import not specifically set out herein, represents that his said device acts as and performs the functions of a supercharger; that said device is the result of scientific investigation, experiment and research in the field of carburetion; that it will increase the normal speed and flow of gas vapor entering the combustion chamber and will increase the explosive power thereof; that its use will result in fuel economy of not less than 20 percent and a power increase of 10 percent; that the use of said device will reduce monoxide exhaust gas 40 percent, eliminate carbon formation, cause the motor to operate at an even temperature, thus preventing vapor-lock with resulting oil economy; and that said device will result in the distribution of a uniform gas mixture to each cylinder of the motor.

PAR. 5. The foregoing statements and representations are false, misleading, and deceptive. In truth and in fact, respondent's device is not a supercharger and does not perform any of the functions ordinarily associated with a supercharger. A supercharger is a device which increases the pressure at which the explosive charge is supplied to the engine cylinders. Respondent's device, by restricting the intake at a point just beyond the carburetor, tends to reduce such pressure and its effect is directly opposite to that of a supercharger. Said device is not the result of scientific investigation, experiment and research in the field of carburetion and is not accepted and recognized by scientists as an aid to efficiency in the operation of internal-combustion engines. Respondent's device will not increase the speed and flow of the gas vapor nor increase the explosive power thereof. Its use will not result in fuel economy of 20 percent, or in any other amount, nor will it increase the power of an engine 10 percent, or in any other amount, nor will it reduce the monoxide content of exhaust gases 40 percent or in any other amount, when used in connection with a carburetor that is properly adjusted. The use of said device will not cause the motor to operate at an even temperature and will not prevent vapor-lock nor will it result in oil economy. The installation of respondent's device will not result in the distribution of a uniform mixture to each cylinder of the motor.

PAR. 6. The use by the respondent of the aforesaid false, misleading, and deceptive statements and representations 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 said statements and representations are true and into the purchase of substantial quantities of respondent's device as a result of the erroneous and mistaken belief so engendered.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice 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 February 24, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, John Hanley, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondent's answer, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before trial examiners of the Commission theretofore duly designated by it, and such 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 the complaint, the answer thereto, testimony and other evidence, report of the trial examiners upon the evidence and the exceptions to such report, brief in support of the complaint (no brief having been filed by respondent), and oral argument; and the Commission, having duly considered the matter and being fully advised in the premises, on August 1, 1944, made its findings as to the facts and its conclusion drawn therefrom, and issued its order requiring the respondent to cease and desist from the practices set forth in the complaint.

Subsequently, upon request of the respondent, the Commission, on September 22, 1944, entered its order vacating and setting aside said findings as to the facts and conclusion and order to cease and desist and reopening the proceeding for the introduction of further testimony and other evidence in support of and in opposition to the allegations of the complaint. Thereafter, further testimony and other evidence were introduced before a trial examiner of the Commission theretofore duly designated by it and such testimony and other evidence were duly recorded and filed in the office of the Commission. Subsequently, the proceeding regularly came on for final hearing before the Commission upon the entire record, including the additional testimony and other evidence and the supplemental report of the trial examiner, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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. The respondent, John Hanley, an individual, has his principal office and place of business at 5719 Loraine Avenue, Detroit, Mich. He is now and for a number of years last past has been engaged in the sale and distribution of a mechanical device designed for use on automobile motors. The device was formerly designated by respondent as "Whirlgas Supercharger" but is now designated by him as "Whirlgas Turbinator".

PAR. 2. Respondent causes and has caused his device, when sold, to be transported from his place of business in the State of Michigan to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in his device 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 business and for the purpose of inducing the purchase of his device, respondent has made various representations with respect to the device, these representations being made by means of cards and circulars distributed to prospective purchasers, and by means of advertisements inserted in newspapers and periodicals of general circulation. Among and typical of these representations are the following:

#### WHIRLGAS SUPERCHARGER

Whirlgas is a device of scientific construction, cone shaped, with vanes of a specific angularity, that may be inserted in intake manifold of any gasoline motor. It takes the mixture, with its normal flow of two miles per minute, as it passes from carburetor to motor, gives it a terrific, cyclonic whirl and turns it into a highly explosive vapor.

This vapor greatly improves motor action, resulting in a mileage increase per gallon of not less than 20%, with one-tenth added horsepower, reduces deadly monoxide exhaust 40%, eliminates carbon formation, operates motor at even temperature, preventing vaporlock and oil waste.

Engineering tests show that, before Whirlgas installation, the cylinders nearest carburetor receive too rich a mixture and those farthest away too lean. This is due to the large volume of air entering carburetor and attempting to mix thoroughly with small gasoline jet sprays in traveling a few inches to motor. It cannot be done; an imperfect mixture is the result.

Whirlgas supplies the same perfect vapor to all cylinders. (Tr. pp. 4, 5.)

PAR. 4. Through the use of these statements and others of similar import, respondent has represented, directly or by implication, that his device acts as and performs the functions of a supercharger; that

the device increases the normal speed and flow of gas vapor entering the combustion chamber and increases the explosive power thereof; that the use of the device results in a substantial saving in fuel and in a substantial increase in power; and that the use of the device reduces the carbon monoxide content of the exhaust, eliminates carbon formation, and causes the motor to operate at an even temperature, thus preventing vapor-lock, with resulting oil economy.

PAR. 5. At the request of the Commission, respondent's device was tested by the National Bureau of Standards, and the results of the tests form a part of the record in this proceeding, together with the testimony of the Bureau of Standards expert who performed the tests. This evidence establishes that the device is incapable of accomplishing the results claimed for it by respondent. The device is not a supercharger, nor does it act as or perform the functions of a supercharger. A supercharger is a pump or other device which increases the pressure at which the explosive charge is supplied to the engine cylinders. Respondent's device tends to obstruct or restrict the intake at a point just beyond the carburetor, and its effect is directly opposite to that produced by a supercharger.

The device does not increase the normal speed or flow of gas vapor entering the combustion chamber, nor increase the explosive power thereof. It has no effect upon the formation of carbon. It does not cause the motor to operator at an even temperature, nor prevent vapor-lock (a condition which occurs as a result of heating the carburetor to the point where the gasoline in the carburetor becomes a vapor, thus locking the fuel line). The device does not save oil.

Nor does the device save gasoline, or increase the power of the motor, or reduce the carbon monoxide content of the exhaust. Respondent's directions for the installation of the device call for an adjustment of the carburetor so that a leaner fuel mixture will be supplied to the motor, and in those cases where the fuel mixture was formerly too rich, the adjusting of the carburetor may result in some increase in power and in some saving in gasoline, with a corresponding decrease in the carbon monoxide content of the exhaust. These results, however, would be due to the adjusting of the carburetor and not to respondent's device. They could be obtained equally well without the device.

While the record contains evidence contrary to these conclusions, the Commission, after careful consideration of such evidence, is of the opinion and finds that it is insufficient to meet the evidence introduced in support of the complaint.

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PAR. 6. The Commission therefore finds that the representations made by respondent with respect to his device were erroneous and misleading in the particulars set forth above.

PAR. 7. The use by respondent of these erroneous and misleading representations had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's device and the results which may be obtained through the use of the device and the tendency and capacity to cause such portion of the public to purchase substantial quantities of the device as a result of the erroneous and mistaken belief so engendered.

## CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice 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, the answer of respondent, testimony and other evidence introduced before trial examiners of the Commission theretofore duly designated by it, reports of the trial examiners upon the evidence and the exceptions thereon, and briefs in support of and in opposition to the complaint (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

*It is ordered,* That the respondent, John Hanley, an individual, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondent's mechanical device formerly designated "Whirlgas Supercharger" and now designated "Whirlgas Turbinator," or any other device of substantially similar construction or possessing substantially similar characteristics, under whatever name sold, do forthwith cease and desist from representing, directly or by implication:

1. That said device is a supercharger, or that it acts as or performs the functions of a supercharger.

2. That said device increases the normal speed or flow of gas vapor entering the combustion chambers of an automotive engine, or increases the explosive power of such vapor.

3. That said device increases the power of an automotive engine.

4. That said device saves gasoline or oil.

5. That said device reduces the carbon monoxide content of the exhaust from an automotive engine.

6. That said device has any effect upon the formation of carbon.

7. That said device causes a motor to operate at an even temperature, or that it prevents vapor-lock.

*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.

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IN THE MATTER OF  
THE LANE DRUG COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5389. Complaint, Oct. 11, 1945—Decision, Feb. 25, 1946*

Where a corporation engaged in the interstate sale and distribution of a product designated "Calcium Pantothenate Tablets"; through advertisements in newspapers and periodicals and through circulars, leaflets and other advertising material—including such statement as "Anti-Gray Hair Vitamin," "Start taking this anti-gray hair vitamin today and see gray hair fade away." "Tests by Good Housekeeping Bureau produced positive result of hair color return in 22 out of 25 experimental cases"—

Falsely represented that calcium pantothenate is the anti-gray hair vitamin; and that use of its product containing said vitamin would restore the original natural color to gray hair, prevent falling hair, restore vitality and luster to the hair, improve the condition of the scalp, nourish the hair roots and grow hair on bald heads;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and to induce it to purchase said product because of such mistaken belief:

*Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

*Mr. Jesse D. Kash* for the Commission.

*Benesch, Friedlander & Morris*, of Cleveland, Ohio, 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 The Lane Drug 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, The Lane Drug Co., is a corporation, organized and existing under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 397 Phillips Avenue, Toledo, Ohio.

PAR. 2. Respondent is now, and for more than one year last past, has been engaged in the sale and distribution of a vitamin product designated Calcium Pantothenate Tablets.