

Complaint

IN THE MATTER OF

ALLEN PRODUCTS CO., INC.

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

Docket 5255. Complaint, Dec. 1, 1944—Decision, Mar. 21, 1946

Where a corporation engaged in the interstate sale and distribution of a preparation designated by it "Allen's Nijara"; through advertisements in newspapers, cards, folders, circulars and radio continuities, directly and by implication—

Falsely represented that said preparation, used as directed, was a cure or remedy and constituted a competent and effective treatment for rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinus trouble and would provide relief from the pains accompanying such conditions; was rich in health-giving vitamins and minerals and was a vitamin-mineral concentrate;

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

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. Octave Bigoness, of Washington, D. C., 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 Allen Products Co., Inc., a corporation, 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 Allen Products Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 602 Fifth Street, N.W., Washington, D. C.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of a preparation designated "Allen's Nijara" in commerce between and among the various States of the United States and in the District of Columbia.

Respondent causes its said preparation, when sold, to be shipped from its aforesaid place of business in the city of Washington, D. C.,

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to purchasers thereof located in the various 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 its 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 its said business and for the purpose of inducing the purchase of its said preparation, respondent was disseminated and is disseminating, and has caused and is now causing, the dissemination of, false advertisements concerning its 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 its said preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false, deceptive, and misleading statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth by United States mails, by advertisements inserted in newspapers, by means of cards, folders, circulars, and in radio continuities, are the following:

Complaining joints are merely asking for Allen's Nijara. Yes, folks, Allen's Nijara may bring relief from rheumatic disorders. It has done so in hundreds of cases. Why not in yours? If you suffer from Rheumatism, Arthritis, Neuritis, Sinus trouble, Sciatica, Gout or Lumbago, we suggest that you try Allen's Nijara. * * * And Nijara is rich in health-giving vitamins and minerals. Nijara can also be used as a concentrated food tablet to give you the balanced diet so necessary in wartime. Try Nijara for Arthritis, Sinus trouble, Sciatica, Gout or Lumbago. Or you can use Allen's Nijara as a concentrated vitamin mineral tablet.

NEW FOOD PRODUCT FOR RHEUMATISM. Soothing Pain Relief. Now * * * amazing relief from rheumatism, arthritis, neuritis and sinus trouble with ALLENS NIJARA—a dietary concentrate. * * * Try this amazing remedy and be convinced.

"ALLEN'S NIJARA" has given amazing pain relief from RHEUMATISM, ARTHRITIS, NEURITIS, SCIATICA, GOUT, LUMBAGO AND SINUS TROUBLE.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning, not specifically set out herein, the respondent represents and has represented, directly and by implication, that said preparation, used as directed, is a cure

or remedy and constitutes a competent and effective treatment for rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinus trouble and will provide relief from the pains accompanying such conditions; and that said preparation is rich in health-giving vitamins and minerals and is a vitamin-mineral concentrate.

PAR. 5. The foregoing representations are false, misleading and deceptive. In truth and in fact, the use of respondent's preparation designated "Allen's Nijara" has no therapeutic value in the treatment of rheumatism, arthritis, neuritis, sciatica, gout, lumbago, sinus trouble and will not relieve pains accompanying such conditions. Said preparation is not rich in vitamins or minerals and is not properly characterized as a vitamin-mineral concentrate.

PAR. 6. The use by the respondent of the foregoing false and misleading advertising disseminated as aforesaid 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 false and misleading representations are true, and to induce the purchasing public to purchase substantial quantities of said preparation as a result of such erroneous and mistaken belief.

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 1, 1944, issued and subsequently served its complaint in this proceeding upon respondent, Allen Products Co., Inc., a corporation, charging it 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 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 Allen Products Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 602 Fifth St. NW., Washington, D. C.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of a preparation designated "Allen's Nijara" in commerce between and among the various States of the United States and in the District of Columbia.

Respondent causes its said preparation, when sold, to be shipped from its aforesaid place of business in the city of Washington, D. C., to purchasers thereof located in the various 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 its 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 its said business and for the purpose of inducing the purchase of its said preparation, respondent has disseminated and is disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its 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 its said preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false, deceptive and misleading statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth by United States mails, by advertisements inserted in newspapers, by means of cards, folders, circulars, and in radio continuities, are the following:

Complaining joints are merely asking for Allen's Nijara. Yes, folks, Allen's Nijara may bring relief from rheumatic disorders. It has done so in hundreds of cases. Why not in yours? If you suffer from Rheumatism, Arthritis, Neuritis, Sinus trouble, Sciatica, Gout or Lumbago, we suggest that you try Allen's Nijara. * * * And Nijara is rich in health-giving vitamins and minerals. Nijara can also be used as a concentrated food tablet to give you the balanced diet so neces-

sary in wartime. Try Nijara for Arthritis, Sinus trouble, Sciatica, Gout or Lumbago. Or you can use Allen's Nijara as a concentrated vitamin mineral tablet.

NEW FOOD PRODUCT FOR RHEUMATISM. Soothing Pain Relief. Now * * * amazing relief from rheumatism, arthritis, neuritis and sinus trouble with ALLENS NIJARA—a dietary concentrate. * * * Try this amazing remedy and be convinced.

ALLEN'S NIJARA has given amazing pain relief from RHEUMATISM, ARTHRITIS, NEURITIS, SCIATICA, GOUT, LUMBAGO AND SINUS TROUBLE.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning, not specifically set out herein, the respondent represents and has represented, directly and by implication, that said preparation, used as directed, is a cure or remedy and constitutes a competent and effective treatment for rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinus trouble and will provide relief from the pains accompanying such conditions; and that said preparation is rich in health-giving vitamins and minerals and is a vitamin-mineral concentrate.

PAR. 5. The foregoing representations are false, misleading, and deceptive. In truth and in fact, the use of respondent's preparation designated "Allen's Nijara" has no therapeutic value in the treatment of rheumatism, arthritis, neuritis, sciatica, gout, lumbago, or sinus trouble and will not relieve pains accompanying such conditions. Said preparation is not rich in vitamins or minerals and is not properly characterized as a vitamin-mineral concentrate.

PAR. 6. The use by the respondent of the foregoing false and misleading advertising, disseminated as aforesaid, 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 false and misleading representations are true, and to induce the purchasing public to purchase substantial quantities of said preparation as a result of such erroneous and mistaken belief.

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 it 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 Allen Products Co., Inc., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its preparation designated as "Allen's Nijara" or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, 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 advertisement represents directly or by implication:

(a) That "Allen's Nijara" or any other of respondent's preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, have any therapeutic value in the treatment of rheumatism, arthritis, neuritis, sciatica, gout, lumbago, or sinus trouble or that said preparation will provide relief from the pains accompanying such conditions.

(b) That "Allen's Nijara" or any other of respondent's preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, are rich in vitamins or minerals or are vitamin-mineral concentrates.

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 "Allen's Nijara," or any other of respondent's preparations as described in this order, in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

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.

Commissioner Davis absent on official business and not participating. Commissioner Freer not participating.

Complaint

IN THE MATTER OF

CHARLES OF THE RITZ DISTRIBUTORS CORPORATION

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

Docket 5293. Complaint, Mar. 10, 1945—Decision, Mar. 21, 1946

Where a corporation engaged in the interstate sale and distribution of a cosmetic preparation designated "Charles of the Ritz Throat Cream"; through advertisements in newspapers and periodicals, and circulars, leaflets, and other advertising material—

Falsely represented that said preparation would keep the throat smooth, firm, and young looking;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby induce its purchase thereof:

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.

Mock & Blum, of New York City, 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 Charles of the Ritz Distributors Corp., 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 Charles of the Ritz Distributors Corp., is a corporation organized, existing, and doing business under the laws of the State of New York, with its office and principal place of business at 9 University Place, New York, N. Y.

PAR. 2. Respondent is now and for several years last past has been engaged in the sale and distribution of a cosmetic preparation designated Charles of the Ritz Throat Cream. Said respondent causes said cosmetic preparation, when sold, to be transported from the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a course of trade in said