

Complaint

IN THE MATTER OF

WALTER B. JACKSON AND JUANITA G. JACKSON, TRADING AS JACKSON RESEARCH LABORATORIES

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

Docket 5493. Complaint, May 9, 1947—Decision, July 14, 1948

Where a husband and wife, partners, engaged in the mixing and interstate sale and distribution of insecticides including one designated by the letters "D. P. T."; in advertisements thereof in newspapers and through circulars and other advertising material—

(a) Represented that their said "D. P. T.", when used as directed, would repel fleas, lice or ticks, and kill moths and bedbugs, and was suitable for use on clothing and fabrics;

The facts being that, being composed of 84 percent mineral oil, it was not suitable for use on clothing and other fabrics, and said other representations were likewise false, misleading and deceptive;

(b) Represented through the use of the words "Research Laboratories" as a trade name that they were engaged in scientific research and maintained a staff of trained and qualified scientists and chemists who made tests and conducted experiments with insecticides;

The facts being neither of said individuals was a qualified chemist, or engaged in making such tests or scientific experiments; their activities were limited to mixing patented commercial ingredients according to a fixed formula; and they did not maintain a staff or own, operate or control a laboratory as above represented;

(c) Falsely represented through similarity of the letters "D. P. T.", trade name of their product, that preparation in question contained "D. D. T."; with the result that purchasers confused it with "D. D. T.";

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that said representations were true, and with result of causing it to purchase their said preparation:

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.

In said proceeding in which complaint charged that respondents' preparation, when used as directed, would not, as represented, kill moths and bedbugs, and in which no evidence was adduced with respect to said charges, no findings were made with relation thereto.

Before *Mr. J. Earl Cox*, trial examiner.

Mr. Charles S. Cox 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

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Trade Commission, having reason to believe that Walter B. Jackson, trading as Jackson Research Laboratories, 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, Walter B. Jackson, is an individual doing business under the name of Jackson Research Laboratories with his principal office and place of business located at M and M Building, Houston 2, Tex., and branch offices at 117 South Seventh Street, St. Louis 2, Mo., and 303 North Peters Street, New Orleans, La.

PAR. 2. Respondent is now, and has been for more than 2 years last past, engaged in the business of selling and distributing an insecticide preparation designated by the letters, "D. P. T.", consisting of a mixture of mineral oil, thanite, rotenone and perfume, with directions for its use as follows:

IMPORTANT DIRECTIONS

This wonderful new insecticide will kill and repel flies, mosquitoes, German roaches, ants, moths, fleas, ticks, jiggers, carpet beetles, water bugs, lice, bedbugs, silver fish, centipedes, sandfleas, night bugs and many other insects; when used as directed. Remember D. P. T. is a new invention, completely unlike regular repellents and insecticides. Think of it differently—because it is made differently—you use it differently and it gives far different results. One application of D. P. T. will last from 4 to 10 days, if used as directed. D. P. T. is harmless to humans and animals when used as directed. Before applying to screen doors or window screens brush the dust off the screens. If you don't have an old brush any five or ten cent brush will do. Pour a little D. P. T. in a small dish, saturate the tip of brush in D. P. T. and brush on screens. If mesh fills up, brush until clear. Go over your screens twice to make sure that you haven't missed certain spots. Make the film of D. P. T. as thick as possible and D. P. T. will do the rest.

This wonderful new insecticide can be applied to any painted surface. It actually prevents your screens from rusting.

To rid your home of crawling insects, brush around table legs, to prevent insects from crawling up on table. Brush or squirt D. P. T. around cupboard shelves, kitchen sinks or in bath room around base boards or any place where insects may gather. To eradicate the premises of bedbugs, ticks, lice and fleas, use a low pressure spray gun. Spray D. P. T. on door jams, window and bed frames and swabbing into tufts and crevices of mattress. Also spray on floors or any place where these insects may be.

To eliminate fleas, gnats, ticks and lice and jiggers from dogs, cats, and other animals rub a few drops of D. P. T. into each square foot of fur. Apply as often as necessary. To eliminate roaches and spiders squirt or brush D. P. T. into cracks also into crevices behind base boards, shelves, sink pipes and roach runs. Insects cannot live after walking on surfaces that have been properly sprayed or brushed with D. P. T.

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If you fail to get results you are not applying D. P. T. correctly. Re-read your directions. D. P. T. is sold on a performance guarantee. D. P. T. is a powerful new insecticide. Do not apply D. T. P. to wallpaper.

Manufactured by
JACKSON RESEARCH LABORATORIES
St. Louis—New Orleans—Houston
M & M Building Houston 2, Texas

Respondent causes his said preparation when sold to be transported from his place of business in the States of Texas, Louisiana, and Missouri to the purchasers thereof at their respective points of location 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 substantial 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 business, and for the purpose of inducing the purchase of his said preparation, respondent has made various statements and representations concerning the nature and effectiveness thereof by means of advertisements in newspapers having a general circulation throughout the United States, by means of circulars sent to prospective purchasers, and by various other means. Among and typical of the statements and representations so made are those disseminated on August 6, 1945, in the New Orleans Times-Picayune, a daily newspaper of New Orleans, La., as follows:

HAVE YOU TRIED IT??

Sold on Performance
Guarantee

Insects cannot live after walking on surfaces that have been properly treated with D. P. T.

Think of it Differently because it is made Differently—you use it Differently and it gives you far Different Results.

APPLY D. P. T. WHERE
INSECTS GATHER AND
D. P. T. WILL DO THE
REST

IN THIS SPACE
APPEARS A
PICTURE OF A
BOTTLE OF
"D. P. T."

This Wonderful New
Discovery will

Kill and Repel Flies, Mosquitoes, German Roaches, Ants, Moths, Fleas, Ticks, Chiggers, Carpet Beetles, Water Bugs, Lice, Bedbugs, Silver Fish, Centipedes, Sand Fleas, Night Bugs and many other insects; when used as directed.

WILL GIVE AMAZING
RESULTS
ONE BOTTLE WILL LAST
FOR WEEKS

Your Druggist, Grocer
or Hardware Store
Has D. P. T.

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PAR. 4. Through the use of the statements and representations herein above set forth, and other similar thereto not specifically set out herein, respondent has represented, as follows:

- (a) That "D. P. T.," when used as directed, will repel fleas, lice and ticks;
- (b) That "D. P. T.," when used as directed, will kill moths and bedbugs;
- (c) That by stating that "D. P. T." will kill and repel moths and carpet beetles, respondent impliedly represents that it is suitable for use on clothing and fabrics which are in need of protection from moths or carpet beetles;
- (d) That by using the words "Research Laboratories" as a part of his trade name and in his advertisements respondent represents that he maintains scientifically equipped laboratories wherein tests and experiments with insecticides are conducted by trained and qualified scientists; and
- (e) That by using the letters "D. P. T.," as the trade name for the preparation herein described, respondent has caused said preparation to appear to contain dichlore, diphenyl and trichloroethane, commonly known as "D. D. T."

PAR. 5. The statements and representations used and disseminated by the respondent in the manner above described are false, misleading, and deceptive. In truth and in fact:

- (a) Respondent's preparation "D. P. T.," when used as directed, will not repel fleas, lice and ticks;
- (b) Respondent's preparation "D. P. T.," when used as directed, will not kill moths and bedbugs;
- (c) Respondent's preparation, "D. P. T.," contains oil which will stain any fabric to which it is applied, and it is, therefore, not suitable for use on clothing or fabrics;
- (d) Respondent does not own or maintain research laboratories in which tests and experiments with insecticides are conducted by trained and qualified scientists; and
- (e) The preparation "D. P. T." does not contain diclore, diphenyl and trichloroethane, commonly known as "D. D. T."

PAR. 6. The use by the respondent of the foregoing false, misleading, and deceptive statements and representations, disseminated as aforesaid, has had, and now has, the capacity and tendency to mislead and deceive, and does mislead and deceive, a substantial number of the purchasing public into the mistaken and erroneous belief that all of such statements and representations are true, and induces a substantial number of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's preparation, as aforesaid.

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 May 9, 1947, issued and subsequently served its complaint in this proceeding upon the respondent Walter B. Jackson, an individual, trading as Jackson Research Laboratories, 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. At a hearing before a trial examiner of the Commission on October 13, 1947, it was stipulated by and between the attorney supporting the complaint and respondent Walter B. Jackson and his wife, Juanita G. Jackson, that said complaint could be considered as having been issued against Mrs. Juanita G. Jackson in the first instance, without the necessity of amending same to include her name and without the further necessity of serving Mrs. Juanita G. Jackson with a copy of an amended complaint, and that the original complaint be considered as amended to include the name of Mrs. Juanita G. Jackson with that of Walter B. Jackson trading as Jackson Research Laboratories. Testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofor duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon the complaint, testimony and other evidence, recommended decision of the trial examiner, and brief in support of the complaint (no brief having been filed by respondents and no oral argument 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 respondents, Walter B. Jackson and Juanita G. Jackson, are individuals and copartners trading and doing business as Jackson Research Laboratories, with their principal place of business located at Room 836, M & M Building, Houston, Tex. For more than 4 years last past, they have also maintained places of business at 117 South Seventh Street, St. Louis, Mo., and at 303 North Peters Street, New Orleans, La. At present, the New Orleans office has been closed and the St. Louis office moved to 4543 Swan Avenue. At each of these

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places of business the respondents have been, and are, engaged in mixing, selling, and distributing insecticides, including one designated by the letters "D. P. T."

PAR. 2. In the course and conduct of the aforesaid business, respondents cause their products, when sold, to be transported from their respective places of business in the States of Texas, Missouri, and Louisiana to purchasers thereof at their respective points of location in various other states and maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the United States.

PAR. 3. For the purpose of inducing the purchase of their preparation D. P. T., respondents advertise in newspapers distributed throughout the United States and by means of circulars and other advertising material circulated and distributed by them among the purchasing public throughout the United States. Among and typical of the statements and representations disseminated and caused to be disseminated are the following:

HAVE YOU TRIED IT??

Sold on Performance

Guarantee

Insects cannot live after walking on surfaces that have been properly treated with D. P. T.

Think of it Differently because it is made Differently—you use it Differently and it gives you far Different Results.

APPLY D. P. T. WHERE INSECTS GATHER AND D. P. T. WILL DO THE REST

IN THIS SPACE
APPEARS A
PICTURE OF A
BOTTLE OF
"D. P. T."

This Wonderful New
Discovery will

Kill and Repel Flies, Mosquitoes, German Roaches, Ants, Moths, Fleas, Ticks, Chiggers, Carpet Beetles, Water Bugs, Lice, Bedbugs, Silver Fish, Centipedes, Sand Fleas, Night Bugs and many other insects; when used as directed.

WILL GIVE AMAZING
RESULTS
ONE BOTTLE WILL LAST
FOR WEEKS

Your Druggist, Grocer
or Hardware Store
Has D. P. T.

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JACKSON RESEARCH LABORATORIES

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PAR. 4. Through the use of the above statements and others of similar import and meaning not set out herein, respondents represent that their preparation D. P. T., when used as directed, will repel fleas, lice, or ticks, will kill moths and bedbugs, and is suitable for use on clothing and fabrics. In truth and in fact, respondents' preparation D. P. T., when used as directed, will not repel fleas, lice, or

ticks, and, being comprised of 84 percent mineral oil, it is not suitable for use on clothing or other fabrics. Such statements and representations are therefore false, misleading, and deceptive.

PAR. 5. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their preparation, respondents use the words "Research Laboratories" as a trade name and the letters "D. P. T." as a trade name for their product. Through the use by the respondents of the words "Research Laboratories" in their trade name and the use of the letters "D. P. T." in the trade name of their preparation, respondents represent that they are engaged in scientific research and maintain a staff of trained and qualified scientists and chemists who make tests and conduct experiments with insecticides, and own, control, and operate a laboratory for that purpose, and that their preparation designated "D. P. T." contains dichloro-diphenyl-trichloroethane, commonly known as D. D. T. Neither of the respondents is a qualified chemist and neither engages in making tests or scientific experiments with insecticides. They do not maintain a staff of scientists or chemists qualified or capable of conducting scientific research, and they do not own, operate, or control a laboratory for that purpose. Their activities are limited to mixing patented, commercial ingredients according to a fixed formula which is composed of—

84 percent mineral oil
8 percent Pralytex 10
8 percent Diro 20.

Said formula contains no dichloro-diphenyl-trichloroethane, commonly known as D. D. T. Purchasers have confused respondents' preparation with D. D. T., due to the similarity of the combination of letters "D. P. T." and "D. D. T." Said statements and representations are therefore false, misleading, and deceptive.

PAR. 6. The use by the respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations made are true, and causes a substantial portion of said purchasing public, because of such erroneous and mistaken belief, to purchase respondents' preparation.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of the public and constitute unfair and deceptive acts

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and practices in commerce within the intent and meaning of the Federal Trade Commission Act. No evidence was adduced with respect to the charges in the complaint that respondents' preparation D. P. T., when used as directed, will not kill moths and bedbugs. Consequently, no findings have been made with respect thereto.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, and brief in support of the complaint (no brief having been filed by respondents and oral argument not having been requested); and the Commission having made its findings as to the facts and conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Walter B. Jackson and Juanita G. Jackson, individually and as copartners, trading as Jackson Research Laboratories or under any other name or names, their 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 their preparation known as D. P. T., or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from directly or by implication:

1. Representing that said preparation will repel fleas, lice, or ticks.
2. Representing that said preparation is suitable for use on clothing or fabrics.
3. Using the letters "D. P. T.," or any other combination of letters which simulates the term "D. D. T.," in or as a part of the trade name of said preparation, or in any other manner to designate, describe, or refer to any preparation which does not contain dichloro-diphenyl-trichloroethane, commonly known as "D. D. T."
4. Using the words "Research" or "Laboratories," either singly or in conjunction with each other, or any other word or words of similar import or meaning, in their trade name or in advertisements; or representing through any other means or device, or in any manner, that a staff of chemists or scientists engaged in research is maintained, em-

ployed, or controlled or that a laboratory equipped for the compounding of insecticides, or for research in connection therewith, is owned, operated or controlled unless and until a qualified staff of scientists or chemists is maintained, employed, or controlled or such a laboratory is actually owned, operated, or directly and absolutely controlled.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with it.

IN THE MATTER OF

HAROLD S. SCHWARTZ, JEROME G. BECKER, LOUIS S. SCHWARTZ, AND LOUIS C. SCHNITZ, TRADING AS ILLINOIS MERCHANDISE MART

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

Docket 5245. Complaint, Nov. 6, 1944—Decision, July 21, 1948

Where four partners engaged in the interstate sale and distribution of various types of household merchandise, wearing apparel, and novelties; through catalogs, order forms, coupons and other advertising material, directly or by implication—

- (a) Falsely represented that prices stated and advertised for their merchandise were special, reduced, special introductory, or cut-rate prices for a limited time only through such statements as “. . . Sensational Merchandise Values Special to Illinois Merchandise Mart customers . . .”;
- (b) Represented that certain billfolds were constructed of top-grain or outer split bovine leather, namely, of genuine grain leather of the highest quality, and had a value of \$4.50, that the price of \$1.98 therefor was a special introductory price for a limited time only; and that an identification plate and key tag with gilt chain were given free with each purchase thereof;

The facts being that none of said billfolds were constructed in whole or part of such leather; many were made of inner split cowhide and also contained components of other materials such as imitation leather, calfskin, or sheepskin; many contained no cowhide of any nature but were constructed wholly of calfskin, sheepskin, imitation leather, and other fabrics; \$1.98 had been their regular price for more than 5 years; and the so-called “free” were included only in combination with the purchase of a billfold;

- (c) Represented that certain simulated pearl necklaces had a value of \$4.50 each but were offered at \$2.98 as a special close-out price for a limited time only, and that a simulated birthstone ring was given free; through such statements as “Free . . . Send no money to get these glamorous pearls and free birthstone ring! Please rush to me at once the set of single-strand pearls . . . Include one simulated birthstone ring absolutely free . . . I enclose \$2.98”;
- (d) Represented that a telescope offered by it for 98 cents was precision made and 10 power and had a value of \$10, and that an airplane chart included therewith was given free only to those ordering promptly, through such statements as “10 Power Telescope. America's biggest 10 Power Telescope value. Don't confuse it with small ‘weak vision’ telescopes. It is precision made . . . Free! Only 98¢ . . .”;

- (e) Represented that 98¢ was a special, reduced, or close-out price for a pearl-handle steel knife and that the oilstone included therewith was given “free”;

The facts being that said necklace, telescope, and knife had been regularly and continuously offered and sold at said purported special, reduced prices for 5 years or more; the telescope was useful only as a toy, with a maximum