

IN THE MATTER OF
THE NORITO COMPANY ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6494. Complaint, Jan. 12, 1956—Decision, Mar. 27, 1956

Order requiring drug distributors in Chicago to cease advertising falsely the therapeutic properties, nature, method of operation, etc. of its "Norito-Plus Tablets" represented to be a specific treatment for all kinds of arthritis and rheumatism.

Mr. Morton Nesmith for the Commission.
Nash & Donnelly, of Chicago, Ill., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On January 12, 1956, the Federal Trade Commission issued its complaint in this proceeding, charging the Respondents with unfair and deceptive acts and practices in commerce by the use of false, misleading and deceptive representations in the sale and distribution in commerce of their drug product, designated "Norito-Plus Tablets", in violation of the Federal Trade Commission Act.

On February 6, 1956, counsel for Respondents submitted their answer to the complaint herein, admitting all material allegations of said complaint to be true. Under the provisions of Section 3.7 (2) of the Commission's Rules of Practice, such an answer constitutes a waiver of hearing as to the facts alleged in the complaint, and the Hearing Examiner is directed to issue an initial decision containing appropriate findings and conclusions and an appropriate order. Accordingly, on the basis of the complaint and admission answer, the Hearing Examiner finds the facts to be as follows:

1. Respondent, The Norito Company, is an Illinois corporation, having its office and principal place of business located at 225 North Michigan Avenue, Chicago, Illinois. Respondent I. R. F. Spiegel is an individual having the same office and principal place of business as the corporate respondent, and serving as president and a director thereof. In such capacity, Respondent Spiegel, during the time mentioned herein, formulated, directed and controlled the practices of the corporate respondent, including those here involved.

2. Respondents are now, and have been for more than one year last past, engaged in the business of offering for sale, selling and

1024

Decision

distributing in commerce a drug product, as "commerce" and "drug" are defined in the Federal Trade Commission Act, designated "Norito-Plus Tablets", of which the formula and directions for use are as follows:

Formula:

	<i>Gr.</i>
Sodium Salicylate -----	1 $\frac{1}{4}$
Salicylamide -----	3
Caffeine Alkaloid -----	$\frac{1}{4}$

Directions for use:

Take 2 tablets followed by full glass of water, every 3 hours 4 times daily, in indicated conditions; in responsive cases when not needed for pain, gradually reduce number of tablets taken.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce between and among the various states of the United States, their volume of business therein being substantial.

3. In the course and conduct of their business, Respondents have disseminated and caused the dissemination of advertisements concerning said product by the United States mails and by various means in commerce, including, but not limited to, advertisements inserted in newspapers and magazines of general circulation and in circulars and leaflets, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product; and also advertisements concerning said product by various means, including but not limited to the means aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce.

4. Through the use of the statements appearing in said advertisements Respondents represented, directly or by implication, that the use of Norito-Plus Tablets, as directed:

(1) Is an adequate, effective and reliable treatment for all kinds of arthritis and rheumatism;

(2) Will arrest the progress of, correct the underlying causes of, and cure all kinds of arthritis and rheumatism;

(3) Is an adequate and effective substitute for laboratory-made ACTH and will relieve ACTH deficiency in the body;

(4) Will stimulate the pituitary gland in the human body to produce more ACTH and thereby increase the production of cortisone-like substances;

(5) Will erect a "pain-block" in the thalamus to prevent pain impulses from reaching the brain;

(6) Will afford complete and permanent relief of all pain of arthritis and rheumatism, and prevent its recurrence; and

Order

52 F. T. C.

(7) Will expel pain-continuing pain-wastes (which Respondents claim gather in affected areas) quicker.

5. In truth and in fact the use of Respondents' product "Norito-Plus Tablets" without regard to the amount taken:

(1) Is not an adequate, effective or reliable treatment for any kind of arthritis or rheumatism;

(2) Will not arrest the progress of, correct the underlying causes of, or cure any kind of arthritis or rheumatism;

(3) Is not an adequate or effective substitute for laboratory-made ACTH and will not relieve ACTH deficiency in the body;

(4) Will not stimulate the pituitary gland in the human body to produce more ACTH and will not increase the production of cortisone-like substances in the human body;

(5) Will not erect a "pain-block" in the thalamus or prevent pain impulses from reaching the brain;

(6) Will not afford any relief of the pains of arthritis or rheumatism in excess of temporary relief of the minor pains and will not prevent its recurrence; and

(7) Cannot "expel pain-continuing pain-wastes" because pain does not cause "pain-wastes."

6. Respondents' use in their advertising of the said false and misleading statements and representations has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and, because of such belief, to purchase said product.

CONCLUSION

Respondents' acts and practices 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. Accordingly, the Federal Trade Commission has jurisdiction over Respondents and over their acts and practices as herein found, and this proceeding is in the public interest. Therefore,

It is ordered, That Respondents, The Norito Company, a corporation, and its officers, and I. R. F. Spiegel, individually and as an officer and director of said corporation, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of Norito-Plus Tablets or any other product of substantially the same composition or possessing substantially similar properties whether sold under the same name or under any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, by means of the United States mails, or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) that Norito-Plus Tablets, in any amount, however taken,

(1) will constitute an adequate, effective or reliable treatment for any kind of arthritis or rheumatism;

(2) will arrest the progress of, correct the underlying causes, or cure any kind of arthritis or rheumatism;

(3) will constitute an adequate or effective substitute for laboratory-made ACTH and relieve ACTH deficiency in the body;

(4) will stimulate the pituitary gland in the human body to produce more ACTH and will increase the production of cortisone-like substances in the human body;

(5) will erect a "pain-block" in the thalamus or prevent pain impulses from reaching the brain;

(6) will afford any relief of the pains of arthritis or rheumatism in excess of temporary relief of minor pains, or that said preparation will prevent the recurrence of pain;

(7) will expel "pain-continuing pain-wastes";

(b) that pain causes pain-wastes;

2. Disseminating or causing to be disseminated any advertisements by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of the drug preparation Norito-Plus Tablets, which advertisements contain any of the representations prohibited in Paragraph 1 of this order.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 27th day of March, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That respondents The Norito Company, a corporation, and I. R. F. Spiegel, individually and as an officer and director of said corporation, shall, within sixty (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 the order to cease and desist.

IN THE MATTER OF
ARMOUR AND COMPANY ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6409. Complaint, Aug. 30, 1955—Decision, Mar. 30, 1956

Order dismissing, for lack of jurisdiction, complaint charging packing companies with violating the Oleomargarine amendment to the Federal Trade Commission Act by suggesting in advertising that their Cloverbloom "99" Margarine was butter, contained butter, or was produced the same as butter.

Mr. Morton Nesmith for the Commission.

Mr. Henry O. Kavina, of Chicago, Ill., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

On August 30, 1955, the Federal Trade Commission issued its complaint in this proceeding, alleging that certain advertisements of Respondents' Cloverbloom "99" Oleomargarine were misleading in material respects and constituted false advertisements as such term is defined in Section 15 (a) (2) of the Federal Trade Commission Act, in that such advertisements deceptively suggest that Respondents' oleomargarine is a dairy product. The language of the complaint follows rather closely the amendment to the Federal Trade Commission Act of July 1, 1950, commonly known as the Oleomargarine Act.

On September 30, 1955, Respondents filed an answer to the above charges, contending in Part I thereof that each Respondent was, at all times mentioned in the complaint, a packer within the meaning of the Packers and Stockyards Act of 1921 (7 U.S.C.A. Sec. 181, and particularly Secs. 182, 183 and 191). Based upon such affirmative pleading, Respondents contend that the Federal Trade Commission is without jurisdiction over them.

In order to resolve the jurisdictional issue thus raised in Part I of Respondents' answer, counsel supporting the complaint and counsel for the Respondents entered into a stipulation as to the facts plead by Respondents, wherein it was agreed that the ultimate facts plead in Part I of Respondents' answer might be taken as fully proved. In view of this stipulation, establishing that Respondents are packers within the meaning of the Packers and Stockyards Act, the issue for present determination is whether the Federal Trade Commission has jurisdiction over the Respondents insofar as their advertisements of oleomargarine are concerned.