

Decision

IN THE MATTER OF
WOLVERINE LABORATORIES, INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6829. Complaint, July 8, 1957—Decision, Oct. 25, 1957*

Consent order requiring distributors in Detroit, Mich., to cease representing falsely through advertising mats furnished to dealer-purchasers—in payment for use of which in advertising they participated—and through display cards and circulars also furnished for dealers' use, that their preparation "Alpha Tablets" constituted an effective treatment for all kinds of arthritis, rheumatism, neuritis, and neuralgia, and afforded complete and permanent relief from the pains and discomforts thereof; that it was a new discovery and a new medicine; that the alfalfa ingredient was of value in such treatment; and through use of the words "Manufacturers" and "Laboratories" on stationery and in advertising literature, that they manufactured the product.

Harold A. Kennedy, Esq., for the Commission.
Respondents, *pro se*.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on July 8, 1957, charging them with having violated the Federal Trade Commission Act as set forth in said complaint. After issuance and service of the complaint, all respondents entered into an agreement, dated August 5, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director and the Assistant Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to

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challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders of the Commission and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order and it appearing that the agreement and order cover all the allegations of the complaint and provide for appropriate disposition of this proceeding, the order and agreement are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice and the hearing examiner accordingly makes the following findings for jurisdictional purposes and order:

1. Respondent Wolverine Laboratories, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 2454 Fenkel Street, in the City of Detroit, State of Michigan. The individual respondents, Lawrence R. O'Connor and Elaine J. O'Connor, are respectively president-treasurer and vice-president-secretary of said corporate respondent and their address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act. This proceeding is in the public interest.

ORDER

It is ordered, That respondents Wolverine Laboratories, Inc., a corporation, and its officers, and Lawrence R. O'Connor and Elaine J. O'Connor, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation "Alpha Tablets,"

or any preparation of substantially similar 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:

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

(a) Is an adequate, effective or reliable treatment for any kind of arthritis, rheumatism, neuritis or neuralgia.

(b) Is an adequate, effective or reliable treatment for, or will afford complete or permanent relief of, the aches, pains or discomforts of any kind of arthritis, rheumatism, neuritis or neuralgia, or has any beneficial effect in any of such conditions or disorders in excess of affording temporary relief of the minor aches and pains thereof.

(c) Is a new discovery or a new medicine.

(d) Possesses any value in the treatment of any kind of arthritis, rheumatism, neuritis or neuralgia, or in the relief of the aches, pains and discomforts thereof, by virtue of the alfalfa ingredient therein.

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

It is further ordered, That respondents Wolverine Laboratories, Inc., a corporation, and its officers, and Lawrence R. O'Connor and Elaine J. O'Connor, individually and as officers of said corporation, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Alpha Tablets or any other preparation or product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using the word "Laboratories," or any other word of similar import or meaning, in respondents' corporate name, or representing in any other manner, that respondents own, operate or control a laboratory.

(b) Representing, directly or by implication, through the use of words "Manufacturers" or "Manufactured," alone or in conjunction with other words, or in any other manner, that respondents manufacture the products which they sell or distribute.

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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 25th day of October, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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.

Complaint

IN THE MATTER OF
TOPPS CHEWING GUM, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECS. 2(a) AND 2(d) OF THE CLAYTON ACT*Docket 6747. Complaint, Mar. 26, 1957—Decision, Oct. 26, 1957*

Consent order requiring a Brooklyn, N.Y., manufacturer of bubble gum and "Clor-Aid" chiclet type of gum containing chlorophyll, to cease discriminating in price in violation of Secs. 2(a) and 2(d) of the Clayton Act by such practices as (a) selling its "Bazooka" brand bubble gum and picture card bubble gum to some jobbers at a 5% discount from the prices charged others; and (b) paying a chain of food stores \$2,200 as compensation for advertising, etc., in connection with its products, while not making comparable offers to the chain's retail competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that Topps Chewing Gum, Inc., is violating and has violated the provisions of subsections (a) and (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

COUNT I

Charging violation of subsection (a) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PARAGRAPH 1. Respondent, Topps Chewing Gum, Inc., hereinafter referred to as respondent, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 254 36th Street, Brooklyn, New York.

PAR. 2. Respondent is now, and since 1947 has been, engaged in the manufacture and sale of chewing gum products, including gum commonly referred to as "bubble gum," and a chiclet type of gum containing chlorophyll sold under the trade name "Clor-Aid." Respondent sells said chewing gum products to different purchasers, including jobbers and retailers, located in the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business respondent has engaged in commerce, as "commerce" is defined in the Clayton Act, as amended in that Respondent ships its products, or causes them