
IN THE MATTER OF

GENERAL NUTRITION CORPORATION TRADING AS
NATURAL SALES COMPANY, ET AL.

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

*Docket C-1517. Complaint, Apr. 4, 1969—Decision, Apr. 4, 1969**

Consent order requiring a Pittsburgh, Pa., distributor of drug preparations to cease making exaggerated claims concerning the efficacy of its vitamins and mineral products, and disseminating advertising which lists untested ingredients.

*Published as amended by Commission's order of June 20, 1969, which amended the last paragraph of the order to clarify an ambiguity as to the filing of compliance reports.

Complaint

75 F.T.C.

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 General Nutrition Corporation, a corporation, also trading as Natural Sales Company, and David B. Shakarian, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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 General Nutrition Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 921 Penn Avenue in the city of Pittsburgh, State of Pennsylvania. The said corporate respondent conducts its business under its own name and also under the name Natural Sales Company and formerly did business also under the name "Vitamin Sales Division."

David B. Shakarian is the chairman of the board and the president of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution of preparations which come within the classifications of foods and drugs as those terms are defined in the Federal Trade Commission Act.

The designation used by respondents for said preparations, the formulae thereof and directions for use as stated on the labels are as follows:

1. GERI-GEN

Each fluid ounce (2 tablespoonfuls) contain:

Thiamine (B-1)	7.5	mg.	7½ M.D.R.
Riboflavin (B-2)	7.5	mg.	6¼ M.D.R.
Niacinamide	100	mg.	10 M.D.R.
Pyridoxine (B-6)	1	mg.	
Panthenol	4	mg.*	
Vitamin B-12	3	mcg.	
Methionine	100	mg.	
Choline Bitartrate	100	mg.*	
Iron (as in iron ammonium citrate)	100	mg.	10 M.D.R.

Plus Yeast Extract

Alcohol 12% by volume.

M.D.R.—Minimum Daily Requirement for adults.

*Need in human nutrition not established. Designed especially for ease of assimilation and digestibility by the system.

DOSAGE:

As a therapeutic tonic in Iron, Thiamine, Riboflavin, Niacinamide deficiencies: 1 tablespoonful at each meal or as directed by a physician. As a dietary supplement: 1 tablespoonful at one or two mealtimes daily.

2.

Each tablet contains:

Thiamine Mononitrate	5	mg.	5 M.D.R.
Riboflavin	5	mg.	4½ M.D.R.
Niacinamide	30	mg.	3 M.D.R.
Ascorbic Acid (Vitamin C)	75	mg.	2½ M.D.R.
Ferrous Sulfate, Exc. 168.2 mg. (providing 50 mg. of Iron)			5

Plus dietary supplementation with:

Calcium Pantothenate	2	mg.
Pyridoxine	0.5	mg.
Vitamin B-12 Activity (Cobalamin Concentrate) ..	3	mcg.
Inositol	20	mg.*
Methionine	25	mg.
Choline Bitartrate	25	mg.*
Debittered Brewer's Dried Yeast	50	mg.

M.D.R.—Minimum Daily Requirement for adults.

*Need in human nutrition not established.

DOSAGE:

As a therapeutic tonic in Thiamine, Riboflavin, Niacinamide, Ascorbic Acid (Vitamin C), Iron deficiencies: 1 tablet at each meal or as directed by physician.

As a dietary supplement: 1 tablet a day preferably during or after a meal.

3.

HEMOTREX

vitamin and iron supplement

Two tablets supply:

Desiccated Liver, Dried and Defatted	600	mg.
Vitamin B-12 Activity (From Cobalamin Conc.)	30	mcg.
Ferrous Sulfate Anhydrous	600	mg.
Vitamin C (Ascorbic Acid)	150	mg.

Excipients and binders added.

For the treatment of iron deficiency anemia, 2 tablets daily. For special treatment of Vitamin B-12 deficiency conditions take as directed by physician.

Two tablets supply 22 times the minimum daily requirement of iron and 5 times the minimum daily requirement of Vitamin C. Minimum daily requirements for Vitamin B-12 have not been established.

PAR. 3. Respondents cause the said preparations, when sold, to be transported from their place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparations by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in catalogs, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations; and have disseminated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the said advertisements disseminated as hereinabove set forth are those which are reproduced and attached to this complaint.*

PAR. 6. Through the use of the statements in the advertisements referred to in Paragraphs Four and Five, and others similar thereto not specifically set out herein, respondents have represented, and are now representing, directly and by implication:

1. By reference to symptoms, and otherwise, that the presence of iron deficiency anemia or iron deficiency of any degree can be self-diagnosed.

2. By reference to symptoms, and otherwise, that iron deficiency anemia or iron deficiency of any degree can generally be determined without medical tests conducted by or under the supervision of a physician.

3. By reference to symptoms, and otherwise, that deficiencies of vitamins B-1, B-2, B-12, C, niacin, and certain other B vitamins can be self-diagnosed.

4. By reference to symptoms, and otherwise, that deficiencies of vitamins B-1, B-2, B-12, C, niacin, and certain other B

*Pictorial advertisements omitted in printing.

vitamins can generally be determined without medical tests conducted by or under the supervision of a physician.

5. That the symptoms of tiredness, listlessness, lack of normal appetite, "depleted" feeling, "run-down" feeling, and easy fatigability are generally reliable indications of iron deficiency anemia, and that Geri-Gen Liquid and Geri-Gen Tablets are effective in the prevention, relief, and treatment of such symptoms.

6. That the ingredients other than iron in Geri-Gen Liquid, Geri-Gen Tablets, and Hemotrex contribute to the effectiveness of these preparations in the prevention, treatment, and relief of iron deficiency anemia and iron deficiency of any degree.

7. That the ingredients other than iron in Geri-Gen Liquid, Geri-Gen Tablets, and Hemotrex, contribute to the effectiveness of the preparations in the prevention, treatment, and relief of the symptoms caused by iron deficiency anemia and iron deficiency of any degree.

8. That the B Complex vitamins and vitamin C are not stored in the body and must be replaced daily.

PAR. 7. In truth and in fact:

1. Self-diagnosis of iron deficiency anemia or iron deficiency of any degree is not possible by a person lacking medical training.

2. The determination of iron deficiency anemia or iron deficiency of any degree is generally possible only by means of appropriate medical tests performed by or under the supervision of a physician.

3. Self-diagnosis of a deficiency of vitamin B-1, B-2, B-12, or of C, or of niacin, or of any other vitamin is not possible by a person lacking medical training.

4. The determination of a deficiency of vitamin B-1, B-2, B-12, or of C, or of niacin, or of any other vitamin is generally possible only by means of appropriate medical tests performed by or under the supervision of a physician.

5. A symptom such as tiredness, listlessness, lack of normal appetite, "depleted" feeling, "run-down" feeling or easy fatigability, or any combination of such symptoms, is not a generally reliable indication of iron deficiency or vitamin deficiency, and neither Geri-Gen Liquid nor Geri-Gen Tablets is of benefit in the treatment or relief of these or any other subjective symptom or symptoms in persons other than the small minority whose symptoms result from a deficiency of one or more of the vitamins, or iron, or other mineral provided by that preparation nor will either of these preparations be of benefit in the prevention of

these or any other subjective symptom or symptoms which might occur as a result of any cause other than a deficiency of one or more of the vitamins, or iron, or other mineral provided by either preparation.

6. None of the ingredients, other than iron, contributes to the effectiveness of Geri-Gen Liquid, Geri-Gen Tablets, or Hemotrex in the treatment or relief of iron deficiency anemia or iron deficiency of any degree, and none of the ingredients, other than iron, in any of these preparations contributes to their effectiveness in the prevention of iron deficiency anemia or iron deficiency of any degree.

7. None of the ingredients, other than iron, contributes to the effectiveness of Geri-Gen Liquid, Geri-Gen Tablets, or Hemotrex in the treatment, relief or prevention of symptoms caused by iron deficiency anemia or iron deficiency of any degree.

8. The B Complex vitamins and vitamin C are stored in the body and these vitamins need not be replaced daily. Deficiencies of any of the B Complex vitamins or vitamin C are rare because of the presence of such vitamins in abundant quantities in foods and nutrient liquids.

The aforesaid advertisements referred to in Paragraph Five above were, and are, misleading in material respects and constitute "false advertisements," as that term is defined in the Federal Trade Commission Act.

PAR. 8. Furthermore, the statements and representations in said advertisements have the capacity and tendency to suggest, and do suggest, to persons reading such advertisements, that there is a reasonable probability that Geri-Gen Liquid, Geri-Gen Tablets, and Hemotrex will be effective in the treatment, relief, and prevention of such subjective symptoms as tiredness, listlessness, lack of normal appetite, "depleted" feelings, "run-down" feeling, and easy fatigability.

In the light of such statements and representations, said advertisements are misleading in a material respect and, therefore, constitute false advertisements, as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts; (1) that in the great majority of persons suffering from one or more of such subjective symptoms as tiredness, listlessness, lack of normal appetite, "depleted" feeling, "run-down" feeling, and easy fatigability, such symptoms are not caused by a deficiency of one or more of the ingredients contained in Geri-Gen Liquid, Geri-Gen Tablets or Hemotrex; (2)

the ingredients in such preparations would be of no benefit in the treatment or relief of these or other subjective symptoms in the great majority of persons, and (3) the taking of such preparations would not prevent the development of such symptoms from other causes.

PAR. 9. Furthermore, the references to the presence of vitamins and other minerals in addition to iron in Geri-Gen Liquid, Geri-Gen Tablets, and Hemotrex, and other statements and representations in said advertisements, have the capacity and tendency to suggest, and do suggest, to persons reading such advertisements that there is a reasonable probability that an individual with iron deficiency will also suffer from a deficiency of one or more of the vitamins or a deficiency of one or more of the other minerals in said preparations.

In the light of such references to ingredients and such other statements and representations, said advertisements are misleading in a material respect, and, therefore, constitute false advertisements, as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material fact that, in the great majority of cases of iron deficiency, there is no need for additional vitamins or for any additional mineral other than iron.

PAR. 10. Furthermore, the listing of ingredients in the declarations of ingredients, and other references to ingredients in said advertisements of Geri-Gen Liquid, and Geri-Gen Tablets, have the capacity and tendency to suggest, and do suggest, to persons reading such advertisements that all of the ingredients listed in said declarations of the ingredients, or otherwise referred to, are of significant value as dietary supplements.

In the light of such listing of ingredients in the declaration of ingredients, and other references to ingredients, said advertisements are misleading in a material respect and, therefore, constitute false advertisements, as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts that for certain of the ingredients (1) the need in human nutrition has not been established, a fact disclosed with respect to certain of the ingredients on the labels of said preparations, or (2) their presence is without nutritional significance, a fact disclosed with respect to certain of the ingredients by an advertisement for respondents' product "Gerex".

PAR. 11. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitute, un-

fair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent General Nutrition Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 921 Penn Avenue, in the city of Pittsburgh, State of Pennsylvania. The corporate respondent conducts its business under its own name and also under the name Natural Sales Company and formerly did business also under the name "Vitamin Sales Division."

Respondent David B. Shakarian is the Chairman of the Board and the President of the corporate respondent and his address is the same as that of said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents General Nutrition Corporation, a corporation, also trading as Natural Sales Company, or under any other name or names, and its officers, and David B. Shakarian, individually and as an officer 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 or distribution of Geri-Gen Liquid, Geri-Gen Tablets or Hemotrex, or any other food or drug preparation containing vitamins and/or minerals, do forthwith cease and desist from:

1. 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:

(a) The use of such preparations will be of benefit in the prevention, relief or treatment of tiredness, listlessness, lack of normal appetite, "depleted" feeling, "run-down" feeling, easy fatigability or any other symptom, unless such representation is expressly limited to a symptom or symptoms caused by a deficiency of one or more of the vitamins or iron provided by such preparations; and, further, unless such advertisement also discloses clearly and conspicuously, in immediate or close proximity, and with equal prominence, to any such representations:

(1) That, in the great majority of persons suffering from any such symptom or symptoms, the preparations will be of no benefit in the prevention, treatment or relief of such symptom or symptoms; and

(2) That the presence of iron deficiency anemia or iron deficiency of any degree cannot be self-diagnosed and can be determined only by means of medical or laboratory tests conducted by or under the supervision of a physician; and

(3) That the presence of a deficiency of the B vitamins, or of any vitamin, cannot be self-diagnosed and can be determined only by means of medical or laboratory tests conducted by or under the supervision of a physician.

(b) Any B Complex Vitamin or Vitamin C is not stored in the body or must be replaced daily.

(c) Any ingredient, other than iron, in Geri-Gen Liquid, Geri-Gen Tablets or Hemotrex contributes to the effectiveness of these or similar preparations in the prevention, treatment or relief of iron deficiency anemia or of iron deficiency or of symptoms represented, directly or by implication, to be caused by iron deficiency or iron deficiency anemia;

(d) An individual with iron deficiency anemia or an iron deficiency may also suffer from a deficiency of one or more of the other minerals or of one or more of the vitamins in Geri-Gen Liquid, Geri-Gen Tablets or Hemotrex, unless the advertisement also discloses clearly and conspicuously, in immediate or close proximity and with equal prominence, that in the great majority of cases of iron deficiency anemia or iron deficiency there is no need for additional vitamins or for any additional mineral other than iron;

(e) The presence of iron deficiency anemia or iron deficiency of any degree can be self-diagnosed;

(f) The presence of iron deficiency anemia or iron deficiency of any degree can generally be determined without medical or laboratory tests conducted by or under the supervision of a physician;

(g) The presence of a deficiency of the B vitamin, or of any vitamin, can be self-diagnosed;

(h) The presence of a deficiency of the B vitamins, or of any vitamin, can generally be determined without medical tests conducted by or under the supervision of a physician.

Provided, however, That the reference in any advertisement of respondents' vitamin and/or mineral products to a deficiency of vitamins and/or minerals, either directly or by inference, shall not be deemed to constitute a violation of subsections (e), (f), (g) or (h) of Section 1 hereof so long as such advertisement also contains an equally clear and conspicuous statement which reads "If, after medical tests, your doctor has found that you need vitamin and/or mineral supplements, let him recommend those which you may need."

Provided further, however, That neither (1) the identification of respondents' vitamin and/or mineral products by names which

are acceptable in labeling to the Food and Drug Administration; or (2) the listing of the ingredients or enumeration of the formulas of such products expressed as percentages of such unit as may be determined as appropriate in labeling by the Food and Drug Administration; shall be considered to be violative of subsections (c), (d), (e), (f), (g) or (h) hereof.

2. 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 lists, or otherwise refers to as an ingredient, any ingredient the need for which in human nutrition has not been established, or an ingredient whose presence in the preparation is without nutritional significance, unless the advertisement also discloses clearly and conspicuously, in immediate or close proximity, and with equal prominence: (1) that the need for such ingredient in human nutrition has not been established; or (2) that the presence of such ingredient in such preparation is without nutritional significance, as the case may be.

3. 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 contains statements which are inconsistent with, negate or contradict any of the affirmative disclosures required by paragraphs 1 or 2 of this order.

4. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited by paragraphs 1, 2 or 3 hereof, or which fails to comply with the affirmative requirements of paragraphs 1 and 2 hereof.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, on the date that this order shall become final in accordance with the terms of Paragraph 7 of the Consent Agreement, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Complaint

75 F.T.C.

IN THE MATTER OF

WASHINGTON GAS & ELECTRIC APPLIANCE COMPANY
INC., ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1518. Complaint, Apr. 7, 1969—Decision, Apr. 7, 1969*

Consent order requiring three affiliated Washington, D.C., distributors of air conditioning and heating units to cease using or simulating the trade names of any public utility or competitors, using dummy addresses to falsify the size of their operations, and disparaging the installed equipment of competitors.

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 Washington Gas & Electric Appliance Company, Inc. and Allison Air Conditioning & Heating Service, corporations, and Sidney Grossman, individually and as an officer of said corporations, and Abatt Air Conditioning & Heating Company, Inc., a corporation, hereinafter referred to as respondents, have 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 Washington Gas & Electric Appliance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 2206 14th Street, NW., Washington, D.C.

Respondent Allison Air Conditioning & Heating Service is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2212 14th Street, NW., Washington, D.C.

Respondent Abatt Air Conditioning & Heating Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its