

Complaint

IN THE MATTER OF

A & S PHARMACEUTICAL CORP.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 AND SEC. 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-4036; File No. 0123051

Complaint, February 19, 2002--Decision, February 19, 2002

This consent order addresses claims on certain packaging and labeling for aspirin tablets produced by Respondent A&S Pharmaceutical Corporation that such products are all or virtually all made in the United States. The order, among other things, prohibits the respondent from misrepresenting the extent to which any over-the-counter drug product is made in the United States, while permitting the respondent to represent that such products are made in the United States as long as all, or virtually all, of the ingredients or component parts of such products are made in the United States and all, or virtually all, of the labor in manufacturing such products is performed in the United States.

Participants

For the Commission: *Laura D. Koss, Walter C. Gross, Joni Lupovitz, Elaine D. Kolish and Keith Anderson.*

For the Respondent: *Dr. Arnold Lewis, pro se.*

COMPLAINT

The Federal Trade Commission, having reason to believe that A & S Pharmaceutical Corporation ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Connecticut corporation with its principal office or place of business at 480 Barnum Avenue, Bridgeport, Connecticut 06608.

Complaint

2. Respondent has manufactured, labeled, offered for sale, sold, and distributed aspirin tablets to the public, including but not limited to private label aspirin brands.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused to be disseminated packaging and labeling for certain of its aspirin products, including but not necessarily limited to the attached Exhibits A through G. The packaging and labeling contain the following statements or depictions:
 - A. **Food Lion Aspirin Tablets, Exhibit A**

“DISTRIBUTED BY FOOD LION, INC. . . .
Made in U.S.A.”
 - B. **Price Chopper Coated Aspirin Tablets, Exhibit B**

“**Made in U.S.A.** . . .
**DISTRIBUTED BY THE
PRICE CHOPPER, INC. . . .**”
 - C. **Berkley & Jensen Aspirin, Exhibit C**

“**DISTRIBUTED BY
BJWC . . .
Made in U.S.A.**”
 - D. **FormuCare Aspirin Tablets, Exhibit D**

“**Made in U.S.A.**
Mfd. for Amway Corp.”

Complaint

E. AAFES Aspirin, Exhibit E

“Manufactured in the **U.S.A.** for:
Army & Air Force Exchange Service”

F. Western Family Aspirin, Exhibit F

“Proudly Distributed By: **WESTERN FAMILY
FOODS, INC.** . . .



G. Fred’s Aspirin, Exhibit G

“DISTRIBUTED BY: **FRED’S, INC.** . . .
Made in U.S.A.”

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that certain of its aspirin products are made in the United States, *i.e.*, that all, or virtually all, of the ingredients of such products are made in the United States, and that all, or virtually all, of the labor in manufacturing such products is performed in the United States.

6. In truth and in fact, a significant portion of the ingredients of certain of respondent’s aspirin products is, or has been, of foreign origin. The active ingredient, bulk aspirin compound, that respondent processed into aspirin tablets is or was made outside the United States. Therefore, the representation set forth in Paragraph 5 was, and is, false or misleading.

Complaint

7. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 52.

THEREFORE, the Federal Trade Commission this nineteenth day of February 2002, has issued this complaint against respondent.

By the Commission.

A & S Pharmaceutical
Exhibits

012 3051

**BERKLEY
JENSEN**
Aspirin

Order this online for
easy installation

500 Tablets

IN ANY CASE IF THE JUDICIAL BRANCH
ALLOWS THE CAR IS REGISTERED AND INSURED

1 Worcester Plaza
Boston, MA 02104
1-800-824-1344

2025년 05월 22일 05:30 9월 5일

FORMULACARE

Aspirin
TABLETS, 325 mg each

**PAIN RELIEVER/
FEVER REDUCER**

*Ultra thin coating
for easy swallowing*

DO NOT TAKE IF THE PRINTED SEAL
AROUNDS THE CAP OF THIS BOTTLE HAS MISSING.

IMPORTANT: Aspirin should not be given to children under 16 years of age, except on advice from your doctor. Aspirin should not be given to children under 16 years of age, except on advice from your doctor. Aspirin should not be given to children under 16 years of age, except on advice from your doctor.

Directions: If you have a fever, take 2 or 3 tablets every 4 to 6 hours. If you have a headache, take 2 or 3 tablets every 4 to 6 hours. If you have a toothache, take 2 or 3 tablets every 4 to 6 hours. If you have a sore throat, take 2 or 3 tablets every 4 to 6 hours. If you have a cold, take 2 or 3 tablets every 4 to 6 hours. If you have a flu, take 2 or 3 tablets every 4 to 6 hours. If you have a fever, take 2 or 3 tablets every 4 to 6 hours. If you have a headache, take 2 or 3 tablets every 4 to 6 hours. If you have a toothache, take 2 or 3 tablets every 4 to 6 hours. If you have a sore throat, take 2 or 3 tablets every 4 to 6 hours. If you have a cold, take 2 or 3 tablets every 4 to 6 hours. If you have a flu, take 2 or 3 tablets every 4 to 6 hours.

Warnings: Do not take Aspirin if you have a history of stomach ulcers, bleeding, or other serious conditions. Do not take Aspirin if you are pregnant or breastfeeding. Do not take Aspirin if you are taking other medications. Do not take Aspirin if you have a fever, headache, or other symptoms of a serious condition. Do not take Aspirin if you have a fever, headache, or other symptoms of a serious condition.

Each bottle contains 100 tablets.
Keep out of reach of children.
Store in a cool, dry place.
Made in U.S.A.

ATLANTIC
T-5570

Compare to the active
ingredient in Bayer®

BERKLEY JENSEN Aspirin

Pain Reliever
Fever Reducer

Ultra Thin Coating For
Easy Swallowing

500 Tablets

DO NOT USE IF THE PRINTED SEAL
AROUND THE CAP IS BROKEN OR MISSING.



INDICATIONS: For the temporary relief of headache, pain and fever in cases resulting from colds, influenza, sore throat, toothache, neuralgia, rheumatism, and other minor ailments.

DIRECTIONS: Aspirin 2 tablets every 4 hours as needed. Do not exceed 12 tablets in 24 hours unless directed by a doctor. If used for more than 10 days, consult a doctor.

ALCOHOL WARNING: If you consume 3 or more alcoholic drinks every day, ask your doctor whether you should take Aspirin or other pain relievers. These medicines may cause stomach bleeding.

WARNING: Doctors and managers should not use this medicine for children due to the syndrome known as Reye's syndrome, a rare but serious illness reported to be associated with aspirin. Do not use this product for pain for more than 10 days or for fever for more than 3 days unless directed by a doctor. It may cause serious side effects. If new symptoms occur or if a reaction to sweating is present, consult a doctor. Because there could be signs of a serious condition. As with any drug, if you are pregnant or nursing a baby, consult the advice of a health professional before using this product. It is especially important not to use Aspirin during the last 3 months of pregnancy unless specifically directed to do so by a doctor because it may cause problems in the unborn child or complications during delivery.

Keep this and all drugs out of the reach of children. In case of accidental overdose, contact a health professional immediately.

EACH TABLET CONTAINS: Aspirin, 325 mg.

Also contains hydroxypropyl methylcellulose, povidone, polyethylene glycol, and other inactive ingredients.

Do not use in children under 16.

This product is not for sale in the United States.

Keep this and all drugs out of the reach of children.

DISTRIBUTED BY
Berkley Jensen
Parsippany, NJ 07054
1-800-454-1234

L44503D-001 22299-0000 Made in U.S.A.



PORMUCARE

Aspirin
TABLETS, 325 mg each

**PAIN RELIEVER/
FEVER REDUCER**

*Ultra thin coating
for easy swallowing*

DO NOT USE IF THE TRUSTED SEAL
AROUND THE CAN IS BROKEN OR MISSING.

INDICATIONS: For the temporary relief of headache, neuralgia, fever, and minor aches and pains of various origin.

CAUTION: Adults: 2 tablets every 4 hours as needed. Do not exceed 12 tablets. Avoid heavy alcohol intake for 30 days. Do not use if you are pregnant or nursing.

ADVERSE REACTIONS: 1. Some patients may experience drowsiness, dizziness, or upset stomach. 2. Some patients may experience allergic reactions such as skin rash, hives, or asthma.

WARNINGS: 1. Aspirin may cause stomach bleeding. 2. Aspirin may cause kidney damage. 3. Aspirin may cause liver damage. 4. Aspirin may cause heart disease. 5. Aspirin may cause asthma.

PRECAUTIONS: 1. Do not take more than 12 tablets in 24 hours. 2. Do not take more than 12 tablets in 24 hours. 3. Do not take more than 12 tablets in 24 hours. 4. Do not take more than 12 tablets in 24 hours. 5. Do not take more than 12 tablets in 24 hours.

CONTRAINDICATIONS: 1. Do not take if you are pregnant or nursing. 2. Do not take if you have a history of stomach bleeding. 3. Do not take if you have a history of kidney disease. 4. Do not take if you have a history of liver disease. 5. Do not take if you have a history of heart disease. 6. Do not take if you have a history of asthma.

HOW TO USE: 1. Take 2 tablets every 4 hours as needed. 2. Take 2 tablets every 4 hours as needed. 3. Take 2 tablets every 4 hours as needed. 4. Take 2 tablets every 4 hours as needed. 5. Take 2 tablets every 4 hours as needed.

HOW TO STORE: 1. Store in a cool, dry place. 2. Store in a cool, dry place. 3. Store in a cool, dry place. 4. Store in a cool, dry place. 5. Store in a cool, dry place.

HOW TO ORDER: 1. Call 1-800-555-1234. 2. Call 1-800-555-1234. 3. Call 1-800-555-1234. 4. Call 1-800-555-1234. 5. Call 1-800-555-1234.

HOW TO RETURN: 1. Return to the manufacturer. 2. Return to the manufacturer. 3. Return to the manufacturer. 4. Return to the manufacturer. 5. Return to the manufacturer.

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ASPIRIN

24 JUNE 1967

250 TABLETS/BOX and
(5 grams) EACH

[illegible]

111

ASPIRIN

250 TABLETS (5 grains) Each

[illegible]

Decision and Order

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent violated the said Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent A&S Pharmaceutical Corporation is a Connecticut corporation with its principal office or place of business at 480 Barnum Avenue, Bridgeport, Connecticut 06608.

Decision and Order

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

ORDER

I.

IT IS ORDERED that respondent, A & S Pharmaceutical Corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any over-the-counter drug in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, shall not misrepresent, in any manner, directly or by implication, the extent to which any such product is made in the United States. For purposes of this Order, "drug" shall mean drug as defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55, and "over-the-counter" shall mean available without a prescription.

PROVIDED, however, that a representation that any such product is made in the United States will not be in violation of this order so long as all, or virtually all, of the ingredients or component parts of such product are made in the United States and all, or virtually all, of the labor in manufacturing such product is performed in the United States.

II.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

Decision and Order

- A. All labeling, packaging, advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

III.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall deliver a copy of this order to all current and future officers and directors, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than

Decision and Order

thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VI.

This order will terminate on February 19, 2022, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of this order if such complaint is filed after the order has terminated pursuant to this Part. Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent A&S Pharmaceutical Corporation (“A&S”).

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement’s proposed order.

This matter concerns “Made in U.S.A.” claims on packaging and labeling for A&S’s aspirin tablets sold at retail bearing private brand names. The Commission’s complaint alleges that respondent misrepresented on packaging and labeling that certain of these products, manufactured for customers such as Food Lion, Price Chopper, and BJ’s Wholesale Club, are all or virtually all made in the United States. According to the complaint, these products are actually made with significant foreign content. The products’ active ingredient, bulk aspirin compound, that respondent processed into aspirin tablets is or was made outside the United States. The imported bulk aspirin compound comprises a substantial percentage of total manufacturing costs and imparts the crucial analgesic quality to the OTC products at issue. The Commission’s complaint does not allege that all of A&S’s private label aspirin brands or products are mislabeled, but only that certain products for certain customers have been improperly labeled.

The proposed consent order contains a provision that is designed to remedy the charges and to prevent the respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits A&S from misrepresenting the extent to which any over-the-counter drug product is made in the United States. The proposed order would allow A&S to represent that

Analysis

such products are made in the United States as long as all, or virtually all, of the ingredients or component parts of such products are made in the United States and all, or virtually all, of the labor in manufacturing such products is performed in the United States.

Part II of the proposed order requires the respondent to maintain materials relied upon in disseminating any representation covered by the order. Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation that may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF

LNK INTERNATIONAL, INC.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 AND SEC. 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4037; File No. 0123058**Complaint, February 19, 2002--Decision, February 19, 2002*

This consent order addresses claims on certain packaging and labeling for aspirin and acetaminophen tablets produced by Respondent LNK International, Inc. that such products are all or virtually all made in the United States. The order, among other things, prohibits the respondent from misrepresenting the extent to which any non-prescription drug product containing an analgesic is made in the United States, while permitting the respondent to represent that such products are made in the United States as long as all, or virtually all, of the ingredients or component parts of such products are made in the United States and all, or virtually all, of the labor in manufacturing such products is performed in the United States. The order also permits the respondent to represent that a product containing imported active ingredient(s) is "Processed in the United States with Foreign Ingredients" when describing a product that has been "significantly processed" in the United States.

Participants

For the Commission: *Laura D. Koss, Walter C. Gross, Joni Lupovitz, Elaine D. Kolish* and *Keith Anderson*.

For the Respondent: *Fred Sonnenfeld, Sonnenfeld & Richman*.

COMPLAINT

The Federal Trade Commission, having reason to believe that LNK International, Inc. ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a New York corporation with its principal office or place of business at 60 Arkay Drive, Hauppauge, New York 11788.