

Complaint

IN THE MATTER OF

THE J. B. WILLIAMS COMPANY, INC., ET AL.

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

Docket 8547. Complaint, Dec. 7, 1962—Decision, Sept. 28, 1965

Order requiring a New York City manufacturer of drug preparations and its advertising agency, to cease misrepresenting the effectiveness of its "Geritol" liquid and tablets by falsely representing in television commercials and newspaper advertising that all cases of tiredness, loss of strength, run-down feeling, nervousness and irritability indicate a deficiency of iron and that the common effective remedy for these symptoms is "Geritol"; and also to affirmatively state that in the great majority of cases of tiredness the symptoms are not caused by such iron or vitamin deficiency.

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 The J. B. Williams Company, Inc., a corporation, and Parkson Advertising Agency, 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 The J. B. Williams Company, Inc., is a corporation, organized and existing under the laws of the State of New York, with its office and principal place of business located at 400 Park Avenue, in the city of New York, State of New York.

Respondent Parkson Advertising Agency, Inc., is a corporation, organized and existing under the laws of the State of New York, with its office and principal place of business located at 400 Park Avenue, in the city of New York, State of New York.

PAR. 2. Respondent The J. B. Williams Company, Inc., is now, and has been for some time last past, engaged in the sale and distribution of preparations containing ingredients which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

The designations used by respondent The J. B. Williams Company, Inc., for the said preparations, the formulae thereof and directions for use are as follows:

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1. *Designation:* "Geritol Liquid"*Formula (Per Oz.):*

Thiamine (B ₁)	5 mg.
Riboflavin (B ₂)	5 mg.
Niacinamide	100 mg.
Panthenol	4 mg.
Pyridoxine (B ₆)	1 mg.
Vitamin B ₁₂	3 mcg.
Methionine	100 mg.
Choline Bitartrate	100 mg.
Iron (as in iron ammonium citrate)	100 mg.

Directions: As a high potency tonic (Iron, Thiamine, Riboflavin, Niacin deficiencies): 1 tablespoonful at each meal or as directed by physician. As a dietary supplement: 1 tablespoon daily at breakfast or any mealtime.

2. *Designation:* "Geritol Tablets"*Formula (One Tablet):*

Thiamine (B ₁)	5 mg.
Riboflavin (B ₂)	5 mg.
Vitamin C	75 mg.
Niacinamide	30 mg.
Calcium Pantothenate	2 mg.
Pyridoxine (B ₆)	0.5 mg.
Vitamin B ₁₂	3 mcg.
Inositol	20 mg.
Methionine	25 mg.
Choline Bitartrate	25 mg.
Iron	50 mg.
Debittered Brewer's Yeast	50 mg.

Directions: As a high potency tonic (Thiamine, Riboflavin, Niacin, Vitamin C or Iron deficiencies):

Three (3) tablets daily — one at each mealtime or as directed by a physician.

As a dietary supplement:

One (1) tablet daily at breakfast or any meal of your choice.

PAR. 3. Respondent The J. B. Williams Company, Inc., causes the said preparations, when sold, to be transported from a place of business in the State of New Jersey to purchasers thereof located 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 course of trade in said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondent Parkson Advertising Agency, Inc., is now, and for some time last past has been, the advertising agency of The J. B. Williams Company, Inc., and now prepares and places, and for some time last past has prepared and placed, for publication adver-

tising material, including the advertising hereinafter referred to, to promote the sale of the said preparations. In the conduct of its business, at all times mentioned herein, respondent Parkson Advertising Agency, Inc., has been in substantial competition, in commerce, with other corporations, firms and individuals in the advertising business.

PAR. 4. In the course and conduct of their business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the preparations referred to in Paragraph Two, above, 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 newspapers and other advertising media, and by means of television broadcasts transmitted by television stations located in various States of the United States and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, 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, but not all-inclusive thereof, of the statements and representations contained in said advertisements, including audio-visual representations in television broadcasts, disseminated as hereinabove set forth, are the following:

* * * if you *often* have that tired and run-down feeling * * * and if you take vitamins yet still feel wornout, remember * * * your trouble may be due to iron-poor blood. And vitamins *alone* can't build up iron-poor blood. But GERITOL can! (Television)

* * * Here's how to feel stronger fast * * * Especially after a fever, flu, or virus. Have you been feeling tired and rundown more often than usual? Your trouble may be due to iron-poor blood. And this is often especially true after a fever, the flu or virus. During such an illness you may be on a liquid diet or eat light foods. As a result you may continue to feel a lack of strength and energy after your illness, because the essential iron in your blood is reduced and your resistance is low. (Newspaper)

* * * GERITOL begins to strengthen iron-poor blood in twenty-four hours. Check with your doctor. And if you feel rundown because of iron-poor blood * * * especially after a fever, flu or virus * * * take GERITOL every day. You'll

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feel stronger fast * * * in just seven days * * * or your money back from the GERITOL folks. (Television)

* * * * *

In only one day GERITOL-iron is in your bloodstream carrying strength and energy to every part of your body. (Television)

* * * * *

GERITOL * * * the high-potency, vitamin iron-rich tonic to help you FEEL STRONGER! (Television)

* * * * *

* * * have you been suffering from the flu, a cold or sore throat? (Television)

* * * * *

PROVED BY MEDICAL TESTS!

Patients diagnosed with iron-deficiency anemia frequently were pale, nervous, irritable and easily tired. After patients took GERITOL daily, doctors reported definite clinical improvement—further confirmed by laboratory tests. Remember, ordinary maintenance vitamins can't do it! But the high-potency combination of vitamins plus iron in GERITOL can help you regain your strength and energy. (Newspaper)

* * * * *

Vitamins alone can't build up iron-poor blood. But GERITOL can! Because GERITOL contains 7 important vitamins and, in addition, supplies the therapeutic amount of iron needed to build iron-rich red blood. Just 2 GERITOL tablets, or 2 tablespoons of GERITOL liquid, contain twice the iron in a pound of calves' liver! It is this rich source of iron, combined with high-potency vitamins, including essential B vitamins in 3 to 5 times the minimum daily requirements, that make GERITOL such an effective strength-building tonic. (Newspaper)

* * * * *

I know you'll feel stronger fast * * * in just 7 days * * * or your money back! (Television)

* * * * *

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

1. That the use of Geritol Liquid and Geritol Tablets will be of benefit, safe and effective in the treatment and relief of an established or existing deficiency of iron and iron deficiency anemia, and tiredness, loss of strength, run-down feeling, nervousness and irritability.

2. That Geritol Liquid and Geritol Tablets, and each of them, will increase the strength and energy of every part of the body within 24 hours.

3. That Geritol Liquid and Geritol Tablets, and each of them, will promote convalescence from a cold, flu, fever, virus infection, sore throat and other winter illnesses.

4. That the vitamins contained in both Geritol Liquid and Geritol Tablets contribute to the effectiveness of these preparations in the treatment or relief of an established or existing deficiency of iron or iron deficiency anemia.

5. That the purchase price of Geritol Liquid and Geritol Tablets will be refunded unconditionally if the purchaser is not satisfied with the product.

PAR. 7. In truth and in fact:

1. Neither Geritol Liquid nor Geritol Tablets will be of benefit in the treatment of tiredness, loss of strength, run-down feeling, nervousness or irritability except in a small minority of persons whose tiredness, loss of strength, run-down feeling, nervousness or irritability is due to an established or existing deficiency of one or more of the vitamins provided by these preparations or to an established or existing deficiency of iron or to iron deficiency anemia.

Furthermore, the statements and representations in said advertisements have the capacity and tendency to suggest, and do suggest, to persons viewing or hearing such advertisements that in cases of persons of both sexes and all ages who experience tiredness, loss of strength, run-down feeling, nervousness or irritability there is a reasonable probability that these symptoms in such cases will respond to treatment by the use of these preparations; and have the capacity and tendency to suggest, and do suggest, that in cases of persons of both sexes and all ages who have an established or existing deficiency of iron or who have iron deficiency anemia the preparations can be used safely and effectively in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia and their symptoms. 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 that in the great majority of persons, or of any age, sex or other group or class thereof, who experience tiredness, loss of strength, run-down feeling, nervousness or irritability, these symptoms are not caused by an established or existing deficiency of one or more of the vitamins provided by Geritol Liquid or Geritol Tablets or by an established or existing deficiency of iron or iron deficiency anemia, and that in such persons the said preparations will be of no benefit; and they are additionally misleading in a material respect because they fail to reveal the material fact, when representing that the preparations will be effec-

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tive in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia, in adults, and when ascribing symptoms of tiredness, loss of strength, run-down feeling, nervousness or irritability, in adults, to an established or existing deficiency of iron or to iron deficiency anemia, that, in women of any age beyond the usual child-bearing age and in men of all ages, an established or existing deficiency of iron or iron deficiency anemia is almost invariably due to bleeding from some serious disease or disorder and in the absence of adequate treatment of the underlying cause of the bleeding the use of the preparations may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

2. Neither Geritol Liquid nor Geritol Tablets will increase the strength or energy of any part of the body within 24 hours.

3. Neither Geritol Liquid nor Geritol Tablets will be of benefit in promoting convalescence from a cold, flu, fever, virus infection, sore throat or other winter illnesses.

4. The vitamins supplied in neither Geritol Liquid nor Geritol Tablets are of any benefit in the treatment or relief of an established or existing deficiency of iron or iron deficiency anemia.

5. The purchase price of Geritol Liquid or Geritol Tablets is not refunded unconditionally, but there are terms and conditions which must be complied with by a purchaser in order for him to secure a refund, which terms and conditions are not disclosed in the advertising.

The aforesaid advertisements set forth and 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. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Mr. Bruce J. Brennan and Mr. Daniel J. Manelli for the Commission.

Mr. H. Thomas Austern, Mrs. James H. McGlothlin, Mr. George Blow, and Mr. Gerry Levenberg, attorneys for respondents, *Covington & Burling*, Union Trust Building, Wash. 5, D.C.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

MAY 8, 1964

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