

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
JORDAN, McGRATH, CASE & TAYLOR,)	DOCKET NO. C-3684
a corporation.)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Jordan, McGrath, Case & Taylor, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent Jordan, McGrath, Case & Taylor, Inc., is a New York corporation with its principal office or place of business at 445 Park Avenue, New York, New York 10022.

PARAGRAPH TWO: Respondent, at all times relevant to this complaint, was an advertising agency of Ciba-Geigy Corporation or CIBA Self-Medication, Inc., and prepared and disseminated advertisements to promote the sale of Doan's analgesic products. Doan's analgesic products are "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PARAGRAPH THREE: 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.

PARAGRAPH FOUR: Respondent has disseminated or caused to be disseminated advertisements for Doan's analgesic products, including, but not necessarily limited to, the attached Exhibits A and B. These advertisements contain the following statements and depictions:

- A. If nothing seems to help, try Doan's. It relieves back pain no matter where it hurts. Doan's has an ingredient these pain relievers don't have.

[Depiction of large package of Doan's in front of smaller packages of Bayer, Aleve, Advil, and Tylenol]. [Superscript: Magnesium Salicylate]. Doan's. The Back Specialist. [Superscript: The Back Specialist]

[Exhibit A: "Activity - Pets" 15-Second Television]

- B. There are hundreds of muscles in the back. Any one can put you in agony. That's when you need Doan's. *[Depiction of box of Doan's superimposed over boxes of Bayer, Tylenol, Aleve and Advil]. Doan's has an ingredient the leading brands don't. It relieves back pain no matter where it hurts. There are hundreds of muscles in the back. Doan's relieves them all. [Superscript: The Back Specialist]*

[Exhibit B: "Muscles - Male" 15-Second Television]

PARAGRAPH FIVE: Through the use of the statements and depictions contained in the advertisements referred to in PARAGRAPH FOUR, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondent has represented, directly or by implication, that Doan's analgesic products are more effective than other analgesics, including Bayer, Advil, Tylenol, and Aleve, for relieving back pain.

PARAGRAPH SIX: Through the use of the statements and depictions contained in the advertisements referred to in PARAGRAPH FOUR, including, but not necessarily limited to, the advertisements attached as Exhibits A and B, respondent has represented, directly or by implication, that at the time it made the representation set forth in PARAGRAPH FIVE, respondent possessed and relied upon a reasonable basis that substantiated such representation.

PARAGRAPH SEVEN: In truth and in fact, at the time it made the representation set forth in PARAGRAPH FIVE, respondent did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in PARAGRAPH SIX was, and is, false and misleading.

PARAGRAPH EIGHT: Respondent knew or should have known that the representation set forth in PARAGRAPH SIX was, and is, false and misleading.

PARAGRAPH NINE: 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 and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission on this eighteenth day of September, 1996, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A-B attached to paper copies, but not available in electronic format.]