

Complaint

IN THE MATTER OF
RALADAM COMPANY

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1496. Complaint, Feb. 29, 1928—Decision, Apr. 13, 1929.

Where a corporation engaged in the sale of an alleged obesity cure in tablet form, with ingredients, among others, of thyroid and certain powerful laxatives, and with a medicinal virtue based, as claimed, principally upon the former,

Represented in advertisements in newspapers, magazines, periodicals, and other publications of general circulation, and on labels or in circulars and printed matter wrapped about, folded within or attached to the boxes or containers of said tablets, that said preparation was a safe, convenient, pleasant, effective, and scientific method for the treatment of obesity, resulting from and based on many years of scientific research in the United States and abroad;

The facts being that thyroid, popularly believed of great value for the reduction of fat, is a powerful agent liable to produce radical, harmful changes to the users, that the preparation is not the result of any scientific research, knowledge, or accuracy, and can not be used safely by any purchaser without previous consultation with a competent medical adviser, or without discomfort, inconvenience, or dangerous or harmful results, except under the direction of such a person, will not act with uniformity in all cases, or be generally effective for reducing excess flesh without imperiling the health of a substantial number, and, used without further information or advice than furnished by it, is liable to create the laxative habit in the user thereof and to have an injurious effect upon the person concerned;

With the tendency and capacity to mislead and deceive the purchasing public into believing the preparation in question to constitute a scientific and accurate treatment for reducing, resulting from many years of scientific research, and to afford a safe, convenient, effective, and dependable remedy for use by any and all purchasers, and to induce the purchase thereof in such beliefs:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. E. J. Hornibrook for the Commission.

Stevenson, Butzel, Eaman & Long and *Mr. R. M. Connor*, of Detroit, Mich., and *Mr. Robert E. Cantwell, jr.*, of Chicago, Ill., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Michigan corporation engaged in the manufacture of

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a medical preparation in the form of tablets, to be taken internally, for the removal of excess flesh and in the sale thereof under the name "Marmola Prescription Tablets" in wholesale lots to wholesalers and jobbers in the several States (aside from the sale of a small portion at retail), and with office and principal place of business at Detroit, with advertising falsely or misleadingly and misbranding or mislabeling in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth in the sale of said pretended obesity cure, alleged in the advertisements thereof and in a pamphlet packed and shipped to retailers with each box thereof, to be effective by reason, principally, of the inclusion among its ingredients of "Desiccated Thyroid,"¹ in its advertisements in newspapers, magazines, periodicals, and other publications of general circulation in the United States and the several parts thereof and in the matter upon the labels of the containers or in circulars enclosed therein, states and asserts (1) that the preparation of its said compound "is the result of, and is based upon, scientific research, knowledge and accuracy; (2) that its medical properties are safe, pleasant and effective in their action in the removal of excess flesh from the human body; (3) that the same may be used by purchasers thereof without discomfort, inconvenience or danger of harmful results to the physical health of such users of said compound; (4) and that said Marmola is a scientific method for the treatment of obesity and is based on many years of scientific research in the United States of America and in foreign lands."

In truth and in fact, however, as alleged by the complaint, "scientific research has not so far progressed that any person or persons may be able to prescribe or prepare for use in said tablets so to be sold to the public, an amount of said thyroid, or a combination of other ingredients with said thyroid":

(1) That will act with a reasonable degree of uniformity upon the bodies of all users thereof;

(2) That will be sufficient to be generally effective for the reduction of the excess flesh of the users thereof, without imperiling the health of a substantial portion of such users and without danger of bringing to such substantial portion injurious results to physical health requiring the service of skillful physicians successfully to neutralize or counteract such injurious results;

(3) That may safely be used by any individual purchaser thereof, without previous consultation with a competent medical adviser and reliance upon his continuing observation and advice.

¹ As set forth in the complaint the ingredient thyroid "is made from the thyroid gland of food animals and is claimed by respondent and popularly believed to be of value and effectiveness in the reduction of the fatty portions of the human body."

It is the truth and a fact, and all physicians and other students of thyroid as a remedial agent are of the opinion, that:

(1) Thyroid, when introduced into the human body, is a powerful agent liable at all times to produce radical changes of conditions that will be harmful to the user thereof.

(2) Such harmful changes may safely be guarded against in any case only by the previous and continuing investigation, observation and advice of a competent physician.

(3) The use of thyroid for the reduction of excess flesh under the direction of a competent physician is fraught with possible injury and calls for constant professional observation, medical skill and care.

(4) The use indiscriminately by all purchasers of said tablets, without other information, guidance or advice than is furnished by respondent as aforesaid, can be made harmless and safe only by reducing the amount of said thyroid so used in said tablets so greatly as to be ineffectual as such remedial agent.

"In and throughout the several States of the United States," as alleged, "are many persons who are seeking some safe and dependable means whereby they may quickly and permanently rid their bodies of excess fat or of portions of the flesh which they now bear and of which they desire to be rid" and "said statements and representations so made by respondent in said advertisements, labels and pamphlets have the tendency and capacity to mislead and deceive the purchasing public into the belief that said compound as such remedial agent for the reduction of excess fat or other flesh", is a scientific method of treatment, the result of many years of scientific research in the United States and abroad and constitutes a safe, effective, and dependable remedy which may be used by all purchasers without inconvenience, sacrifice, or danger of harmful results to the health; all to the prejudice of the public and of respondent's competitors, "engaged in offering for sale, and selling, printed professional advice, books of information and instruction, and other methods and means and certain remedies and appliances for dissolving or otherwise removing excess flesh of the human body."

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Raladam Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act.

Respondent having entered its appearance and filed its answer to said complaint, hearings were had before a trial examiner therefore duly appointed and testimony was heard and evidence re-

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ceived in support of the charges stated in the complaint and in opposition thereto. Thereafter this proceeding came on regularly for decision and the Commission having duly considered the record and being now fully advised in the premises makes this its report stating its findings as to the facts and conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Raladam Co. is a corporation organized and existing under and by virtue of the laws of the State of Michigan, having been incorporated in January, 1927, and maintains its office and principal place of business in the city of Detroit, State of Michigan.

PAR. 2. Respondent is engaged in the sale of an alleged obesity cure, or remedy, which it has named Marmola, and which it sells under the trade name, Marmola Prescription Tablets. The retail price of Marmola is \$1 per box. Respondent does an annual business in the sale of Marmola of \$600,000. Marmola is manufactured for respondent by Parke, Davis & Co., of Detroit, under a formula furnished and owned by the respondent. It is put up in tablet form and is for use by human beings, the same being taken into the mouth and swallowed.

PAR. 3. The respondent offers for sale and sells Marmola Prescription Tablets to wholesale druggists and jobbers in every State of the United States, and such wholesale druggists or jobbers resell the same to retail druggists located in the various States of the United States, who in turn resell the same to the consumers or purchasers thereof. The respondent causes the said Marmola Prescription Tablets to be transported from the city of Detroit in the State of Michigan, into and through other States of the United States to the purchasers thereof at their respective points of location or places of business.

PAR. 4. The respondent in the course and conduct of its business as aforesaid, is in competition with other persons, partnerships, or corporations in and throughout the several States of the United States, who are likewise engaged in offering for sale and selling printed professional advice, books of information and instruction, and other methods, means, remedies and appliances for dissolving or otherwise removing excess flesh of the human body.

PAR. 5. Respondent in the course and conduct of its business causes its Marmola Prescription Tablets to be put up in a cardboard container upon which said container appear the words "Marmola is recommended as a treatment for the reduction of excessive fat",

and among other words and figures upon said container appear, under the heading, "Directions", the following:

Take one tablet after each meal and at bedtime with enough water to swallow easily. If preferred, tablet may be broken into pieces before taking. This treatment should be faithfully taken as directed from 60 to 90 days in order to obtain the best results.

Inclosed in the package in which Marmola Prescription Tablets reach the consuming public is the formula from which Marmola is made. Among the ingredients of Marmola are thyroid and three powerful laxatives called phenolphthalein, cascara sagrada, and phytolacca. Each tablet contains one-half grain of thyroid. If one follows the directions contained inside and outside the package he will consume two grains of thyroid per day. Respondent's principal claim for the medicinal quality and virtue of Marmola is based on the fact that said tablets contain said thyroid, which ingredient is made from the thyroid gland of food animals and is claimed by respondent and popularly believed to be of great value and effectiveness in the reduction of the fatty portions of the human body.

PAR. 6. Respondent in the aid of selling said Marmola causes the same to be advertised in newspapers, magazines, periodicals, and other publications of general circulation in the United States and the several States thereof, and in printed matter upon labels attached to or in circulars wrapped about or folded within the box in which such tablets are finally packed, and in printed matter attached to cartons or other containers used in packing and shipping same to purchasers.

In the aforesaid advertisements the respondent causes to be set forth the following representations:

1. That the preparation of said Marmola is the result of, and is based upon, scientific research, knowledge, and accuracy;

2. That its medical properties are safe, pleasant, and effective in their action in the removal of excess flesh from the body;

3. That the same may be used by purchasers thereof without discomfort, inconvenience, or danger of harmful results to the physical health of the users of such compound;

4. That the said Marmola is a scientific method for the treatment of obesity and is based on many years of scientific research in the United States of America and in foreign lands.

PAR. 7. Each and all of the representations mentioned in paragraph 6 hereof are false and misleading in—

1. That the preparation of said Marmola is not the result of, nor is it based upon scientific research, knowledge, or accuracy;

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2. Its medical properties are not safe, pleasant, and effective in their action in the removal of excess flesh from the human body unless administered under the direction of a competent medical adviser.

3. The same may not be used by purchasers thereof without discomfort, inconvenience, or danger of harmful results unless administered under the direction of a competent medical adviser.

4. Marmola is not a scientific method for the treatment of obesity and is not based on many years of scientific research in the United States of America and in foreign lands, or upon any scientific research;

5. Marmola will not act with uniformity upon the bodies of all users thereof;

6. Marmola will not be generally effective for the reduction of the excess flesh of the users thereof without imperiling the health of a substantial number of such users;

7. Marmola may not be safely used by any purchaser thereof without previous consultation with a competent medical advisor and under his continuing observation and advice;

8. The thyroid in Marmola when introduced into the human body is a powerful agent liable at all times to produce radical changes of conditions that will be harmful to the users thereof;

9. Such harmful changes may be safely guarded against in any case where Marmola is taken only by the previous and continuing investigation, observation, and advice of a competent physician;

10. The use of said Marmola Tablets for the purpose of reducing or removing excess flesh, without further information, guidance, or advice than is furnished by respondent, is liable to have an injurious effect upon the person so using it.

11. The use of Marmola as directed, i. e., 4 tablets a day for a period of 60 to 90 days would be likely to create in the user thereof what is known in medical science as the "laxative habit".

PAR. 8. In and throughout the several States of the United States are many persons who are seeking some safe and dependable means whereby they may quickly and permanently rid their bodies of excess fat or portions of the flesh which they now bear and of which they desire to be rid. Said statements and representations made by respondent in said containers, directions, advertisements, labels, pamphlets, and other printed matter as described in paragraphs 5 and 6 hereof, have the tendency and capacity to mislead and deceive the purchasing public into the belief that said Marmola as such remedial agency for the reduction of excess fat or other flesh is a

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scientific and accurate method of treatment; is the result of many years of scientific research in the United States and foreign countries; is a safe, effective, and dependable remedy that may be used by any and all purchasers thereof without inconvenience, sacrifice, or danger of harmful results to physical health, and have the capacity and tendency to induce users thereof to purchase same in such belief.

CONCLUSION

The practice of said respondent under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and respondent's competitors and are unfair methods of competition in commerce and constitute a violation of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of respondent thereto, the testimony, evidence, briefs, and argument of counsel, and the Commission having made its findings as to the facts and its conclusions that respondent has been and is now using unfair methods of competition in commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes",

It is now ordered, That respondent Raladam Co., its officers, agents, representatives, and employees, in connection with the advertising, offering for sale and sale in commerce among the several States of the United States of the product "Marmola", do cease and desist from directly or indirectly:

1. Representing that "Marmola" is a scientific and accurate method for treating obesity;
2. Representing that the formula from which "Marmola" is made is a scientific formula;
3. Representing that "Marmola" is the result of scientific research;
4. Representing that "Marmola" can be taken without the advice and direction of competent medical authority as a safe and harmless remedy in the treatment of obesity;

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5. Representing that "Marmola" can be taken with no harmful result to physical health without the advice and direction of competent medical authority.

6. From representing "Marmola" as a remedy for the treatment of obesity unless such representation is accompanied by a statement that "Marmola" can not be taken with safety to physical health except under the direction and advice of competent medical authority.

It is further ordered, That the respondent, Raladam Co., shall, within 60 days after service upon it of a copy of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF

HOOSIER MANUFACTURING COMPANY, UNION SOAP COMPANY, CRESCENT SOAP COMPANY, C. A. WOCHER, ROBERT WANDS, AND ROSE K. WANDS

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1480. Complaint, Oct. 10, 1927—Decision, Apr. 25, 1929

Where three corporations, operated as a common enterprise by as many individuals, the stockholders, officers, and directors thereof; and said individuals, engaged in the manufacture of soap containing nearly 2 per cent free alkali and 20 per cent sodium silicate and, by reason of said ingredients' effect upon the skin, not suitable for toilet or bath, and in the sale thereof, under different brand names and designations, to house-to-house peddlers and other vendees, in three cake lots, in small, fancy paper boxes,

- (a) Conspicuously labeled the aforesaid boxes with the legend "FOR THE TOILET BATH SHAMPOOING", "BATH AND SHAMPOO SOAP", or "FOR THE TOILET BATH SHAMPOO" and offered and sold their product as and for a toilet and bath soap, with the capacity and tendency to mislead and deceive substantial numbers of the purchasing and consuming public into believing said product to be intended and suitable for such use, with no injurious effect, and to cause them to purchase the same in such belief; and
- (b) Conspicuously labeled wrappers and containers of large quantities of their soap containing no product derived from the fruit of the lemon tree "NATURE'S LEMON-COCOA SOAP" and so sold the same, with the capacity and tendency to deceive and mislead substantial numbers of the trade and consuming public in respect of the composition thereof, and to cause them to purchase the same as and for a soap containing as a substantial ingredient a product derived from said fruit;

With the capacity and tendency to unfairly divert trade and business from their competitors, and to the injury and prejudice of the trade, consuming public, and said competitors:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Henry Miller for the Commission.

Mr. Chester L. Zecheil, of Indianapolis, Ind., for respondents.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondents Hoosier Manufacturing Co., Union Soap Co., and Crescent Soap Co., Indiana corporations, and respondents C. A. Wocher, Rose K. Wands, and Robert Wands, president, vice president, and secretary and treasurer of the aforesaid corporations and owners of