

Complaint

14 F. T. C.

IN THE MATTER OF
DAVID V. BUSHCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket, 1596. Complaint, April 19, 1929—Decision, June 23, 1930*

Where an individual engaged in the sale of instructions for reducing which consisted in sum and substance of prescribing a diet limited to fruit juices, and the drinking of water, for a number of days, and were sold for \$2.98 plus postage, under a money back promise; falsely and misleadingly and with intent to deceive, represented and stated, in advertising and describing the method involved, that it was amazing, new and nature's method, furnishing all needed nutrition, involving no fasting or starving, external agencies, exercises or appliances, and absolutely yielding satisfactory results, regardless of the particular individual's excess flesh, within a few days, that customers would find their fat melting away like magic, weigh what they should, and become slim, buoyant and energetic, and that many persons had formerly gladly paid \$25 for said instructions; with effect of misleading those desiring to reduce into believing that he had a new, marvelous and unfailing remedy for excess weight, and with capacity and tendency to mislead and deceive persons who might otherwise have sought and obtained services, products, means, and methods of competitors, offered without such false and misleading assertions and representations in regard thereto; all to the prejudice of the public and competitors:

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

Mr. Eugene W. Burr for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent individual, engaged in the sale of courses of instruction for reducing weight, and with offices in Chicago, with advertising falsely or misleadingly as to nature of product, 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, for about two years last past, in advertising his aforesaid course, which consisted, broadly, in the drinking of water and fruit juices, and otherwise abstaining from food,¹ made such statements as "NATURE'S METHOD

¹ Respondent's instructions, captioned "INSTRUCTIONS ON HOW TO REDUCE" sent to the customer after payment by him of respondent's charge, as set forth in the complaint, are reproduced in the findings at p. 93.

of REDUCING. * * * I want to tell you all about this amazing method of reducing which I have discovered. * * * My amazing new method will make your excess fat melt away like magic—give you a normal, youthful figure—make you slim, buoyant, energetic, as nature intended you to be. * * * No starving—no exercising, no drugs—no external agencies—no mechanical appliances. You simply follow my instructions for a few days until your excess pounds disappear * * * Your health will improve. You will feel energetic and full of life. You will look better and feel better than you have felt in years”, and other similar statements, together with a caution to the reader not to undervalue the method by reason of its low cost and simplicity.

The effect of the foregoing practices, as alleged, “is to mislead individuals who desire to reduce their bodily weight into the belief that respondent has a new, marvelous and unfailing remedy for excess bodily weight, whereas this belief is ill-founded and erroneous and respondent’s aforesaid advertising and offers are misleading and false, and are issued with the purpose of deceiving as large a number of the public as possible to the financial gain of respondent”; and said false and misleading assertions have the capacity and tendency to mislead and deceive persons who might otherwise seek and obtain the services, products, means and methods of competitors, of whom there are many, offering professional advice, books of information and instructions, and other means and methods for reducing, without making any such false and misleading assertions and representations as above set forth; all to the prejudice of the public and respondent’s competitors.

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 charging him with unfair methods of competition in commerce in violation of the provisions of the said act.

The respondent, after having entered his appearance in person and having duly filed his answer, subsequent to the setting of the matter for trial, made application for leave to withdraw his said answer and to file a substitute answer in lieu thereof. The said application was duly granted and said substitute answer was received as the answer in this proceeding. Thereby respondent availed himself of Rule III (2) of the Commission’s Rules of Practice, expressly refraining from contesting the proceeding and waiving a hearing therein.

Findings

14 F. T. C.

Pursuant to said mentioned rule of the Commission, and being fully advised in the premises, the Commission now makes its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, David V. Bush, having offices in the city of Chicago, was, for a period of two years prior to the issuance of complaint herein, engaged in the business of offering, through advertising in various newspapers and magazines having circulation in various States of the United States, for a stated money consideration, instructions for the reduction of the bodily weight of individuals applying for his said instructions. To persons sending to the respondent the said requested money consideration, respondent during said period, sent his said instructions for weight reduction through the mails from the city of Chicago to the places of residence of his said customers in various States in all sections of the United States.

PAR. 2. In advertising his said instructions for sale the respondent used, among other representations, the following false and misleading statements, which were declared by him to be descriptive of the treatment outlined in his instructions offered for sale as aforesaid:

NATURE'S METHOD OF REDUCING
IT WORKS OR IT COSTS NOTHING!

I want to tell you all about this amazing method of reducing which I have discovered. It is simply wonderful. I am delighted with it. My friends are delighted with it. Everyone who hears about it becomes enthusiastic!

I don't care how stout you are. I don't care how many times you have tried to reduce and failed. My amazing new method will make your excess fat melt away like magic—give you a normal, youthful figure—make you slim, buoyant, energetic, as nature intended you to be, or the treatment won't cost you a single penny!

No starving—no exercising, no drugs—no external agencies—no mechanical appliances. You simply follow my instructions for a few days until your excess pounds disappear—until the scales tell you that you weigh exactly what you should.

This method is so simple that anyone, even a child, can understand how it works and why it works. It is so logical, so reasonable, so sensible that the moment you hear about it you will know instantly that it works.

SEND NO MONEY

Merely send me your name and address. When the postman brings you my complete instructions "How to Reduce", simply pay him the special low price of only \$2.98 plus a few cents postage. If at the end of two weeks you are not completely satisfied—if you do not lose weight rapidly and easily—then simply

tell me so and your money will be instantly refunded. You risk nothing—*write to-day*. David V. Bush, Dept. H.-U882, 225 N. Michigan Blvd., Chicago, Ill.

Don't be led astray by the fact that these instructions are so simple. This is nature's method of reducing and all of nature's methods are simple. The simple methods are the best methods—the surest methods—the pleasantest methods. In judging a method, the important thing is, "Does it work?" This method of reducing *does work*.

Above all, don't make the fatal mistake of undervaluing this method because you get it for such a small sum of money. It's difficult for you to realize now how immensely valuable these instructions may be to you. But you will realize it in a short time if you follow the instructions carefully.

Thousands of men and women in my classes paid \$25 each for this same system of reducing. When they saw what wonderful results they got—how quickly they reduced—how much better they looked and felt—they decided that the price was cheap. I gave them my reducing instructions in lecture form. I am giving you the very same instructions in printed form at a great saving of money.

Read my instructions over carefully. Follow them faithfully, in just a short time you will begin to lose weight quicker and easier than you ever thought possible. Your figure will become normal, youthful. Your health will improve. You will feel energetic and full of life. You will look better and feel better than you have felt in years!

PAR. 3. In consideration of the receipt of the said monetary payment required, as above described, from his customers respondent furnished to said customers certain mimeographed material containing *Instructions on how to reduce*, the text of which is as follows:

If you want to take off five to ten pounds go one, two, or three days (more if you please, but not for too many days, because you will take off too much weight) without any cooked foods, meats or any other food except juices of fruits, drinking copious draughts of water—at least two quarts a day. More would be better. By drinking fruit juices you get all of the nutrition necessary for the body; hence you are not fasting or starving. Juices of fruits contain all of the natural minerals, salts, and sugars the body needs as well as the sixteen essentials for nourishment. Hence you may drink all the fruit juices you please, such as orange juice, grapefruit juice, grape juice (not more than two small glasses a day because there is too much sugar in grape juice), cider, pineapple juice, or juices which you may make in season from berries, pears, and peaches. Do not take the syrup or juices from canned peaches, pears, or berries because they contain too much sugar. Thus you may drink all the fruit juices you desire, with two or three quarts of water a day and it is guaranteed that you will take off from one to fifteen pounds within three to ten days. Remember you are not to eat anything aside from what is prescribed above. Also remember, *you are not fasting because in the juices of fruits you have all the nourishment the body requires*.

The said mimeographed material described in the hereinabove paragraph and the said advertising material described in paragraph 2 hereof contain other deceptive and misleading statements.

PAR. 4. The effect of respondent's methods and practices hereinabove described, during the said period, was to mislead individuals

who desire to reduce their bodily weight into the belief that respondent had a new, marvelous and unfailing remedy for excess bodily weight, whereas this belief is ill-founded and erroneous and respondent's aforesaid advertising and offers were misleading and false, and were issued with the purpose of deceiving as large a number of the public as possible to the financial gain of respondent.

PAR. 5. That, to meet the demands of said many persons so seeking a safe and dependable means of ridding their bodies of excess fat or flesh, there were many competitors of respondent offering to the public professional advice, books of information and instructions, and other means and methods for the accomplishment of such results; many of said competitors of respondent have not made any of the false and misleading assertions and representations made by respondent, as above alleged, as to the means and methods so offered by them, or any like or equivalent false and misleading assertions and representations. That said false and misleading assertions and representations so made and published by respondent as herein described have had the capacity and tendency to mislead and deceive persons who might otherwise have sought and obtained the services, products, means and methods of said competitors, into purchasing said instructions of respondent above described.

PAR. 6. That the acts and practices of the respondent above alleged, were all to the prejudice of the public and of the competitors of respondent, and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the aforesaid Federal Trade Commission Act.

CONCLUSION

The acts and things done by respondent under the conditions and the circumstances described in the foregoing findings are to the injury and prejudice of the public and are unfair methods of competition in interstate commerce, and constitute a violation of the 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 considered by the Federal Trade Commission upon the complaint of the Commission, the substitute answer of respondent and the Commission having made its findings as to the facts, together with its conclusion that respondent has violated the provisions of an act of Congress approved September 26,

1914, entitled "An act to create a Federal Trade Commission, to define its power and duties, and for other purposes",

It is now ordered, That the respondent, David V. Bush, his agents and representatives do cease and desist, in offering, selling, and transporting his course of instructions for the reduction of bodily weight in interstate commerce, from the following methods of competition, to wit:

From any manner representing, declaring, publishing and/or advertising with reference to his method or system for bodily weight reduction or with reference to his course of instructions therefor, in the following ways or to the following effect or any of them, to wit: That respondent's method for bodily weight reduction is nature's method of reducing, that it is amazing, wonderful or new; that it does not involve processes of starving, that the said alleged results will be obtained by customers within a few days, or that upon following respondent's said instructions his customers will find that their fat melts away like magic and that each of them weighs what he should weigh, that said customers will necessarily become slim, buoyant and energetic; that many persons in respondent's classes paid \$25 each for the respondent's said instructions or course for bodily weight reduction; that the juice of fruits as recommended by respondent for use by his customers for bodily weight reduction contain all the nutrition and nourishment required by or for the body; that the person following respondent's said course is not thereby fasting or starving and/or that respondent's said course is efficacious in all cases; and that respondent shall cease and desist from making other misleading statements of the same character and meaning in regard to his said course of bodily weight reduction.

It is further ordered, That the respondent, David V. Bush, shall within 30 days after the service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

IN THE MATTER OF
BERNARD BERNARD, CLARA LOUISE GLOVER, DOING
BUSINESS UNDER THE NAME OF L. GLOVER, AND
R. B. NEWELL

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

Docket 1591. Complaint, Apr. 1, 1929—Decision, June 24, 1930

Where certain individuals engaged in the sale of courses in physical culture; in advertising a so-called height increasing course, together with certain articles and appliances incidental and accessory thereto, in newspapers, magazines, periodicals, and other publications of general circulation, and in enrollment and other blanks, catalogues, pamphlets, letters, circulars, and other matter,

- (a) Falsely represented that growth in height does not finally cease at physical maturity, but may be caused to continue at any time, and that scientific research had disclosed that it could be prolonged in youth or renewed later and height increased through certain advice and instruction, physical exercises, diets, and appliances, so that any short, mature person or short person about to cease growing could so increase his height as to be tall and on an equality with people naturally so, the facts being that such growth almost universally terminates at age of physical maturity, i. e., from 18 to 22 years, usually, and that no such scientific discovery had been made;
- (b) Falsely represented that said course, appliances, and accessories enabled pupils following and using same and diet prescribed, easily, safely, and certainly to increase their height sufficiently to become as tall as people naturally taller and thereby overcome the handicap and humiliation of lack of stature and employed "before and after" and other pictures suggesting increase in height from 62 to 72 inches, and such statements as "No need to envy and look up to the big fellows" or "to have the disadvantage of the little man", the facts being that no such results had been brought about for pupils and that the utmost that could be accomplished by said course was to enable them to acquire correct postures and thus appear of greater height; and
- (c) Referred to said course as that of "Glover, a height increasing specialist", and as having the approval and indorsement of an eminent specialist in the science and art of physical culture and especially in that branch thereof concerned with increase in height, namely, Dr. Bernard Bernard, indicated recipient, by initials appended, of high professional degrees, the facts being that no such Glover as referred to was connected with the business, the name L. Glover was a mere trade or business name, and said "eminent specialist" was none other than one of the individuals engaged in conducting the business, whose connection therewith was not revealed;