

Complaint

IN THE MATTER OF

J. A. STRANSKY AND L. G. STRANSKY, COPARTNERS
TRADING UNDER THE FIRM NAME AND STYLE OF J.
A. STRANSKY MANUFACTURING 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 1612. Complaint, Apr. 25, 1929—Decision, June 30, 1930

Where a firm engaged in the manufacture and sale of a so-called "vaporizer and decarbonizer" for automobiles,

(a) Made such statements in advertisements directed to securing salesmen or agents to purchase and sell said device, as, "New patented fuel vaporizer guaranteed to save up to 50 per cent in gasoline; 40 miles per gallon made with Ford car", "Ford runs 57 miles on gallon of gasoline", "enables Ford cars to make as high as 61 miles to the gallon", "Why not buy gasoline for 10 cents per gallon, new invention, cuts fuel bill 25 to 50 per cent"; and others of similar tenor, published along with alleged unsolicited testimonials, the facts being that said representations were exaggerated and much in excess of possible accomplishment through said device; and

(b) Falsely represented said device would remove carbon, prevent spark trouble, overheating, and make engine start more easily;

With capacity and tendency to mislead and deceive purchasers and prospective purchasers:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. PGad B. Morehouse 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 respondents, partners engaged in the manufacture and sale of a device, designated as a "vaporizer and decarbonizer" for automobiles, and with principal place of business at Pukwana, S. Dak., with advertising falsely or misleadingly, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, as charged, in advertising their aforesaid device in newspapers, magazines, periodicals, and other publications of general circulation and in order blanks, catalogues, pamphlets, letters, etc.,

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state or represent that the device in question will bring about extraordinary gasoline mileage, claiming from 40 to 57 miles to the gallon for Fords, with other cars showing equally remarkable gains,¹ that it will remove carbon from parts injuriously affected thereby will prevent spark plug trouble and overheating, and will make the engine easier to start, the facts being that the possible effects from the use of the device, as regards mileage, "are very slight under any conceivable conditions, as compared with the effects" above asserted, the beneficial results in many instances being caused only by readjustment of the original appliances upon the automobile, made simultaneously with the attachment of the device, that upon cars requiring no readjustments, the attachment of the device was followed by no appreciable beneficial results in increase of power or saving of gasoline, and that other claims above set forth as to carbon, etc., are unfounded and deceptive. .

The use by respondents of said trade practice and method of competition, to wit: The making and publication of said false, deceptive, and misleading statements, representations, and promises, as above set forth, as alleged, has the tendency and capacity to and probably will mislead and deceive the public and prospective purchasers into the erroneous belief that the same were true, and that purchasers and users of the device will realize therefrom the benefits claimed and thereby to induce the purchase thereof and divert from competitors' purchasers who might otherwise have bought competitive devices from them; all to the prejudice of the public and respondents' 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, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission issued and served a complaint upon the

¹ Among other numerous claims made by respondents, as quoted in the complaint, the following are set forth below:

1. "Five hundred dollars per month selling a new patented Fuel Vaporizer guaranteed to save up to 50 per cent in gasoline; 40 miles per gallon made with Ford car."
2. "Ford runs 57 miles on gallon of gasoline."
3. "Ford makes 40 to 57 miles to gallon; other cars show equally remarkable gains; increases power 25 per cent to 50 per cent."
4. "Fifty-seven miles per gallon made with new patented gasoline vaporizer."
5. "Why not buy gasoline at 10 cents per gallon? New invention. Cuts fuel bills 25 per cent to 50 per cent."
6. "An automobile goes 27 miles on air by using an automatic device which was installed in less than five minutes. The automobile was only making 30 miles on a gallon of gasoline, but after this remarkable invention was installed it made better than 57."

respondents, J. A. Stransky and L. G. Stransky, trading as J. A. Stransky Manufacturing Co., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondents, after having filed their answer and after the case was set down for the taking of testimony in due course before an examiner of the Commission, stipulated and agreed as the facts involved, and further stipulated and agreed that the Commission might thereupon proceed to make its report, state its findings as to the facts (including all reasonable inferences which it might draw from the said stipulated facts), make its conclusion based thereon, and enter its order disposing of the proceeding without presentation of argument or filing of briefs.

Thereupon this proceeding came on for final hearing on the complaint, answer and agreed statement of facts, and the Commission having duly considered the record and being fully advised in the premises, makes this its report stating its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. J. A. Stransky and L. G. Stransky are copartners, trading under the firm name and style of J. A. Stransky Manufacturing Co., with their principal place of business located in the city of Pukwana, in the State of South Dakota. They are now, and for more than one year last past have been, engaged in the manufacture of a device designated by them as a "vaporizer and decarbonizer" for automobiles, and in the sale and distribution thereof in commerce between and among the various States of the United States. They cause said product, when sold, to be shipped from their place of business located in the State of South Dakota to purchasers thereof located in other States of the United States. In the course and conduct of their business the said copartners were, at all times herein referred to, in competition with other partnerships, firms, corporations, and individuals likewise engaged in the sale and distribution in interstate commerce of similar devices or products.

PAR. 2. In the course and conduct of their business as described in paragraph 1 hereof, J. A. Stransky and L. G. Stransky, copartners, caused the product of their manufacture to be shipped in interstate commerce through the United States mails, by parcel post, and otherwise, from their place of business located in the State of South Dakota to purchasers thereof located in other States of the United States. In soliciting the sale of and selling their product in interstate com-

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merce, and as a means of securing the services of salesmen or agents to purchase and sell their product, the said copartners caused advertisements to be inserted in newspapers, magazines and other publications having circulation between and among various States of the United States, the said advertising matter containing such phrases and statements as "\$500 per month selling a new patented fuel vaporizer guaranteed to save up to 50 per cent in gasoline; 40 miles per gallon made with Ford car"; "Ford runs 57 miles on gallon of gasoline"; "Ford makes 40 to 57 miles to gallon; other cars show equally remarkable gains; increases power 25 per cent to 50 per cent"; "57 miles per gallon made with new patented gasoline vaporizer"; "Why not buy gasoline for 10 cents per gallon. New invention. Cuts fuel bills 25 per cent to 50 per cent"; "an automobile goes 27 miles on air by using an automatic device which was installed in less than 5 minutes. The automobile was only making 30 miles on a gallon of gasoline, but after this remarkable invention was installed it made better than 57."

In soliciting the sale of and selling their product in interstate commerce, and as a further means of obtaining the services of salesmen or agents located in various States of the United States, the aforesaid partners also caused circular letters, leaflets, post cards, and other advertising matter to be distributed in interstate commerce, wherein appeared such statements as: "Ford runs 57 miles on gallon of gasoline * * * 40 to 57 miles on 1 gallon of gasoline"; "You are losing half the power of your gasoline"; "Makes more miles per gallon than any other device on the market, regardless of price"; "How it saved up to 50 per cent, etc."; together with alleged unsolicited testimonials printed under the headings: "You will notice in testimonials mileage varies from 20 to 57 miles per gallon"; "this will tell you how you can save 50 per cent on your gasoline"; "will tell you how this wonderful invention is saving car owners from 25 to 50 per cent of their gasoline bills"; "this wonderful little device cuts the cost of gasoline in half * * * It made it possible for an auto to go 60 miles on a gallon of gasoline"; "here is a guaranteed, proven device that saves him 25 per cent to 50 per cent of the one thing what he must have, the thing that he uses every time he drives—gasoline"; "an amazing new invention makes practically any car give twice its regular mileage. One car did 56 miles on a gallon"; "enables Ford cars to make as high as 61 miles to the gallon of gasoline"; when in truth and in fact, the aforesaid representations were exaggerated and much in excess of what was possible of accomplishment as the result of the use of said device, and were not founded in truth and in fact. The aforesaid

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copartners also made use in the advertising matter distributed by them in interstate commerce of statements to the effect that the alleged vaporizer and decarbonizer "would remove carbon, prevent spark trouble, prevent overheating and make engines start easier"; when in truth and in fact, the said vaporizer and decarbonizer did not destroy or put an end to carbon deposits, or prevent spark plug trouble or overheating, or cause the engine to start easier.

PAR. 3. The foregoing statements, representations, and practices of respondents and each of them have had and do have the capacity and tendency to mislead and deceive purchasers and prospective purchasers of the aforesaid vaporizer and decarbonizer offered for sale and sold by the respondents throughout the various States of the United States.

CONCLUSION

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and of respondents' competitors, are unfair methods of competition in commerce and constitute a violation 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".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents and agreed statement of facts, filed herein, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions 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 the respondents, J. A. Stransky and L. G. Stransky, trading as J. A. Stransky Manufacturing Co., their agents and employees, in soliciting the sale of and selling, and advertising their product in interstate commerce, and as a means of securing the services of salesmen or agents to purchase and sell their product known as the Stransky vaporizer or the Stransky decarbonizer, do cease and desist from making the following statements or representations:

1. "Five hundred dollars per month selling a new patented fuel vaporizer guaranteed to save up to 50 per cent in gasoline; 40 miles per gallon made with Ford car."

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2. "Ford runs 57 miles on gallon of gasoline."
3. "Ford makes 40 to 57 miles to gallon; other cars show equally remarkable gains; increases power 25 per cent to 50 per cent."
4. "Fifty-seven miles per gallon made with new patented gasoline vaporizer."
5. "Why not buy gasoline for 10 cents per gallon. New invention. Cuts fuel bills 25 per cent to 50 per cent."
6. "An automobile goes 27 miles on air by using an automatic device which was installed in less than five minutes. The automobile was only making 30 miles on a gallon of gasoline, but after this remarkable invention was installed, it made better than 57."
7. "Ford runs 57 miles on gallon of gasoline * * * 40 to 57 miles on 1 gallon of gasoline."
8. "You are losing half the power of your gasoline."
9. "Makes more miles per gallon than any other device on the market, regardless of price."
10. "How it saved the 50 per cent, etc."
11. "This will tell you how you can save 50 per cent on your gasoline."
12. "Will tell you how this wonderful invention is saving car owners from 25 to 50 per cent on their gasoline bills."
13. "This wonderful little device cuts the cost of gasoline in half * * * It made it possible for an auto to go 60 miles on a gallon of gasoline."
14. "Here is a guaranteed, proven device that saves him 25 per cent to 50 per cent of the one thing that he must have, the thing that he uses every time he drives—gasoline."
15. "An amazing new invention makes practically any car give twice its regular mileage. One car did 56 miles on a gallon."
16. "Enables Ford cars to make as high as 61 miles to the gallon of gasoline."
17. "That the alleged vaporizer and decarbonizer would remove carbon, prevent spark trouble, prevent overheating, and make engines start easier."

It is further ordered, That respondents aforesaid, in soliciting the sale of, selling, and advertising their said product in interstate commerce, do cease and desist from the use of all other like or similar statements and representations of untrue import or effect.

It is further ordered, That the said respondents, within 60 days from and after the date of the service upon them of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which they are complying and have complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF
BOAL'S ROLLS CORPORATIONCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1712. Complaint, Oct. 23, 1929—Decision, June 30, 1930*

Where a corporation engaged in the manufacture and sale of medicinal products, including a laxative, qualities of which were due to the presence therein of phenolphthalein, cascara and senna and not to any fruit ingredient and which was not a preventative for influenza and constipation; made such statements in the advertisements thereof as "to prevent constipation and the flu", and described and labeled the same as a "Delicious fruit laxative composed of figs and other fruit" or "A luscious laxative, real fruit medicated for constipation", together with an illustration of a bowl of various kinds of fruits; with the capacity and tendency to mislead and deceive the purchasing public into believing said product to be a natural fruit laxative and a preventative for constipation and influenza:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Robert H. Winn for the Commission.

Mr. Edward S. Rogers, of New York City, 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 New York corporation engaged in the manufacture, advertisement, and sale of medicinal products in interstate commerce, and with principal place of business in Chicago, with advertising falsely or misleadingly as to qualities and composition of product, and misbranding or mislabeling in regard thereto, 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 advertising its product in newspapers and other publications made such statements as "Why experiment? Tonight take a Boal's Roll. To prevent constipation and the flu", and in a circular sent out with samples of said product described the same as a "Delicious fruit laxative composed of figs and other fruit" and labeled the containers thereof with depictions of a bowl of various fruits other than figs and raisins, together with the statement "Boal's Rolls. A