

Syllabus

IN THE MATTER OF

DR. RODNEY MADISON LABORATORIES, INC., AND DR. RODNEY MADISON, AN INDIVIDUAL AND AS PRESIDENT OF THE DR. RODNEY MADISON LABORATORIES, INC.

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

Docket 1507. Complaint, Mar. 24, 1928—Decision, Feb. 24, 1931

Where a corporation engaged in the manufacture and sale of an electric belt for attachment to the ordinary house current, and for treatment of human diseases and ailments, and an individual, its president, organizer, majority stockholder, and an active promoter of the sale of said device, whose name, with prefix Dr. was, with his consent, included in that of said corporation; in describing said device in leaflets, sales contracts, and directions for use,

- (a) Represented that said article was based upon and made practical application of biological, electrical and chemical discoveries and theories of well known scientists and created a magnetic field, with therapeutic value and effect, and that said device applied to the body cured and benefited through magnetism the diseases, ailments and defects thereof, including high blood pressure, rheumatism, neuritis, kidney trouble, stomach trouble, pulmonary tuberculosis, and numerous others specified, facts being that such device was based upon no such discoveries and theories and made no practical application thereof, was incapable of transmitting sufficient energy in any form to the body to be of therapeutic value or effect, and was not a proper treatment for nor of assistance in, the cure of, any disease through magnetism or otherwise, and the so-called "control box" attached to the belt was merely a subterfuge to induce purchase by the public; and
- (b) Falsely represented that said individual was a graduate of a college of medicine, a noted inventor, an experienced, skillful and distinguished physician, and descendant of the family of James Madison, fourth President of the United States;

With capacity and tendency to divert trade from competitors to said corporation and to mislead and deceive the purchasing public in respect to the qualities possessed by the aforesaid device and results from the use thereof, and into believing the indorsement and recommendation of such device by said individual to be those of a skilled and distinguished physician, etc., as above indicated:

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. E. J. Hornibrook for the Commission.

Mr. John W. Kern and *Mr. W. D. Fitzpatrick* of Indianapolis, Ind., for William F. Taylor, receiver; the former also appearing for Rodney Madison, individually and as president of Rodney Madison Laboratories, Inc.

Complaint

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SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, the Dr. Rodney Madison Laboratories, Inc., an Indiana corporation engaged in the manufacture or assembling of electro magnetic devices purporting to have curative and therapeutic value and action, and in the sale thereof under the name "Vitrona" to purchasers at different points in different States, and with principal office and place of business in Indianapolis, and respondent Rodney Madison, an individual and president thereof and similarly engaged, with misrepresenting product, misrepresenting business status or advantages as to professional training, achievements or identity, and advertising falsely or misleadingly in said respects, and 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.

Respondents, as charged, engaged as above set forth, in their advertising, correspondence, circulars, booklets and other literature, and through employees, agents and solicitors make many false, misleading, and deceptive statements and representations, including the following:

That the device in question, applied to the body, will cure and benefit diseases, ailments and defects thereof, a great number of which are specified by name, and is based upon and makes practical application of biological and chemical discoveries and theories of well known scientists, facts being it has no curative or therapeutic value, action or effect whatsoever and is neither based on nor makes practical application of any scientific discovery or theory whatsoever.

That respondent Rodney Madison is a graduate of a college of medicine and surgery, holder of a degree of doctor of medicine and an experienced, skillful and distinguished physician of long and honorable career and is also a noted inventor and descendant of the family of James Madison, the fourth President of the United States, facts being aforesaid statements are false in every respect and said individual is neither qualified nor authorized to practice medicine or surgery.

Respondents, further, as charged, in their aforesaid advertisements and other literature set forth letters purporting to be testimonials from disinterested persons who had been cured by or benefited from respondents' said device, facts being said testimonials in most cases were "from interested persons either connected with respondent corporation as employees, agents, solicitors or stockholders or related

by marriage or blood to said employees, agents, solicitors or stockholders."

Aforesaid false, misleading and deceptive representations, as charged, "used by respondents in advertising and other literature and by agents, solicitors and employees, all as in this complaint before set out, have the capacity and tendency to and do cause the public to purchase and use respondents' device in the belief that said statements and representations are true," and said acts and practices of respondents, as alleged "are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition."

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 respondents, Dr. Rodney Madison Laboratories, Inc., and Dr. Rodney Madison, an individual and as president of the Dr. Rodney Madison Laboratories, Inc., charging them with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act.

The respondent, Dr. Rodney Madison, having entered his appearance and filed his answer to the complaint herein and the respondent, Dr. Rodney Madison Laboratories, Inc., although having been duly and legally served with a copy of the complaint herein, appearing not and no one appearing for it, hearings were had before a trial examiner duly appointed and testimony was heard and evidence received in support of the charges stated in the complaint and in opposition thereto. Thereafter this matter came on regularly for final hearing on the briefs of counsel and oral argument, and the Commission having duly considered the record and being now fully advised in the premises makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Dr. Rodney Madison Laboratories, Inc., is a corporation organized and existing under the laws of the State of Indiana. Its principal office and place of business was at 830 State Life Building, in the city of Indianapolis, of said State.

Findings

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PAR. 2. The respondent, Dr. Rodney Madison Laboratories, Inc., was engaged in the business of manufacturing and assembling a device which it claims has curative and therapeutic values and action when used as a treatment for the diseases and ailments of the human body and in the sale of said device under the name "Vitrona" to purchasers located in the State of Indiana and in the States of Connecticut, Michigan and New Jersey and respondents caused such of its devices as were sold to such purchasers in said States of Connecticut, Michigan and New Jersey to be packed in the city of Indianapolis, State of Indiana, and shipped therefrom to such purchasers in the States of Connecticut, Michigan and New Jersey. Such purchasers ordered the same from respondents through the U. S. mails and paid for the same by check at the time of purchase. They were called by respondents "representatives" but received no commission or other compensation from respondents as such representatives.

PAR. 3. The respondent, Dr. Rodney Madison, is one of the organizers of respondent corporation and was and still is its president. He owns the majority of the voting stock. He permitted and authorized the respondent corporation to use the name "Dr. Rodney Madison" as a part of its corporate name and permitted and authorized the claims and representations in the advertisements hereinafter described. In the aid of the sale of the said product of respondent corporation, he lectured in the States of Indiana and Connecticut.

PAR. 4. Respondents in the sale of said "Vitrona" device were in competition with other individuals and corporations engaged in interstate commerce between and among various States of the United States in the sale of sundry medical and surgical devices and many electrical appliances made for the purpose of treating and curing human ailments and diseases.

PAR. 5. In the course and conduct of said business the respondents advertised said device in newspapers published in the city of Indianapolis, Indiana, and also through a four-page leaflet styled the "Vitrona Herald", of which two editions were published, each of which numbered about seventy thousand copies; one edition of said "Vitrona Herald" was published in May, 1927, and was circulated largely in Indianapolis and immediate vicinities. The second edition, known as the "Autumn 1927 Edition", was circulated in the State of Indiana and was sent by respondents to their said customers in Connecticut, Michigan and New Jersey with each shipment of the "Vitrona" device for the purpose of circulating them among purchasers and prospective purchasers in said States. Respondents caused to be shipped with each of said orders of the said purchasers

a number of sales contracts to be used by said purchasers in the sale and promotion of the sale of the said "Vitrona". The respondents packed with each of the said devices when so shipped to said purchasers in Connecticut, Michigan and New Jersey, a booklet styled "Vitrona the Vitalizer The Secret of Life and the Basis of Physical Existence", also a card containing directions for using "Vitrona". In said "Vitrona Herald" and in said sales contract and in said directions for use and in said "Vitrona the Vitalizer The Secret of Life" respondents made the following false, misleading and deceptive statements and representations:

(a) That said device when applied to the human body will cure and benefit by magnetism its diseases, ailments and defects, among which are high blood pressure, rheumatism, neuritis, goiter, constipation, varicose veins, kidney trouble, eczema, nervous disorders, asthma, stomach trouble, insomnia, neuralgia, ulcers, bronchitis, tumors, prostrate troubles, pulmonary tuberculosis;

(b) That said device is based upon and makes practical application of biological, electrical and chemical discoveries and theories of well known scientists; that it creates a magnetic field which has therapeutic value and effect;

(c) That respondent, Rodney Madison, is a graduate of a college of medicine and an experienced and skillful physician;

(d) That respondent, Rodney Madison, is a noted inventor and distinguished physician of long and honorable career and a descendent of the family of James Madison, the fourth President of the United States.

PAR. 6. (a) The device "Vitrona" consists of a belt, circular in form and about 3 inches in diameter, covered with leather or rubber, and containing some six hundred turns of insulated copper wire; attached to this belt is a cord which connects with what respondents designate, a control box and then with the ordinary house lighting, 110 volts, 60-cycle alternating current of electricity. Respondents represent that the control box regulates the strength of the magnetic field created by "Vitrona" device. It does not control the strength of this magnetic field, but is merely a subterfuge to induce the public to buy the "Vitrona" device. The device "Vitrona" when used as directed or otherwise is incapable of transmitting sufficient energy in any form to the human body which is or can be of therapeutic value or effect and will not cure by magnetism or other forces or benefit or aid in the cure, nor is it proper treatment for any of the diseases, afflictions or ailments of the human body mentioned in subdivision (a) of paragraph 5, or any other diseases or ailment of the human body.

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(b) In truth and fact said device is not based upon biological, electrical or chemical discoveries and theories of well known or other scientists and makes no practical application of any scientific discovery or theory whatever.

(c) and (d) Respondent, Rodney Madison, is not a graduate of a medical or surgical college, is not an experienced or skilled physician, is not a physician, is not qualified or authorized to practice medicine or surgery in any State of the United States, is not a noted inventor and is not a descendent of the family of the late James Madison, fourth President of the United States.

PAR. 7. The use by respondents of the representations in their advertising as set forth in subdivisions (a), (b), (c), and (d) of paragraph 5 had and have the capacity and tendency to divert trade from said competitors to respondent corporation and to mislead and deceive the purchasing public into the belief that said device when applied to the human body will cure and benefit its diseases, ailments and defects; that said device is based upon and makes practical application of biological, electrical and chemical discoveries and theories of well known scientists; that respondent, Rodney Madison, is a graduate of a college of medicine and surgery and is a skilled, distinguished physician of long and honorable career and is authorized by law to practice medicine and surgery and that he is a noted inventor and a descendent of the family of the said late James Madison, and that he endorses and recommends the use of "Vitrona" apparatus as such personage.

CONCLUSION

The practices of the said respondents under the conditions and the circumstances described in the foregoing findings are to the prejudice of the public and of respondents' competitors, and 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 respondent Dr. Rodney Madison, the testimony and evidence submitted, the trial examiner's report upon the facts and the exceptions of the Commission's attorney and the exceptions of respondent Dr. Rodney Madison's attorney thereto, and the Commission having

made its findings as to the facts and its conclusions 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 respondent Dr. Rodney Madison Laboratories, Inc., its officers, directors, agents, employees and successors, and respondent Dr. Rodney Madison cease and desist from advertising, representing, claiming or otherwise stating in connection with the sale of the device "Vitrona" in commerce between and among the various States of the United States, or between any State and the District of Columbia, or in the District of Columbia;

(a) That said device when applied to the human body will cure or aid in the cure or benefit any of its diseases, ailments or defects or that when so applied or otherwise it has any curative or therapeutic value, action or effect whatsoever;

(b) That the magnetic field of said device magnetizes any part of the body or sets up electric currents in any part of the body;

(c) That said device is based upon, and makes practical application of biological, chemical or electrical discoveries and theories of well known or other scientists or that it makes any practical application of any scientific discovery or theory whatsoever for treatment, cure or prevention of the diseases or ailments of the human body;

(d) That respondent Dr. Rodney Madison is a graduate of a college of medicine and surgery or that he is a holder of a degree of doctor of medicine or that he is an experienced or skillful physician or that he is a distinguished physician or that he has had a long or honorable career as a physician or that he is a noted inventor or that he is a descendent of the family of the late James Madison, the fourth President of the United States;

It is further ordered, That the respondents Dr. Rodney Madison Laboratories, Inc., and Dr. Rodney Madison shall within 30 days after the service upon them of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF
 AMERICAN BUSINESS BUILDERS, INC., W. M. OSTRANDER,
 AN INDIVIDUAL AND AS PRESIDENT, AND SETH
 MOYLE, AN INDIVIDUAL

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

Docket 1680. Complaint, Mar. 22, 1930¹—Decision, Feb. 24, 1931

Where a corporation engaged in the sale of its so-called "Ostrander System for Becoming a Real Estate Specialist," with about 35,000 students and doing business in competition with some 185 resident schools in colleges and institutions teaching courses in real estate, and also with the home study courses of the American Real Estate Institute of the National Ass'n of Real Estate Boards; and two individuals, its president and vice president; in advertising and describing said course and service in newspapers, popular magazines, booklets bearing such captions as "How to Become a Real Estate Specialist" and "Success Stories," letters, circulars, bulletins, mass meetings for avowed purpose of building sales organizations for development projects, lantern slides, and otherwise,

- (a) Represented that said president, operating under said "System," with little education, no experience nor influence, and only \$5 capital had made \$100,000 in less than five years as a real estate specialist, and described the course as affording "complete instruction for becoming a real estate specialist," and expert, and as "the most complete * * * ever prepared," " * * * complete course in real estate education, training and service. Nothing * * * overlooked. Nothing * * * omitted," making such statements as "My practical proved-out time-tested methods make it easy for you to get started in a profitable business * * * such clear * * * instruction that you can not go wrong," a money-back bond eliminated risk to the subscriber, and it would give \$1,000 for proof of any other course or service which had helped as many people make as much in as short a time, facts being that aforesaid individual's success, described in glowing terms in its advertisements along with similar opportunities allegedly open to people in all walks of life, irrespective of age or training, was accomplished long prior to publication of such statements, through use of said system, based on long distance selling, group advertising and the unusual and disapproved practice of charging advance fees on sale of property, that following official investigation such practice was abandoned by said individual, who had not been actively engaged in real estate business for many years preceding statements here in question, course would not fit beginner to be a successful real estate specialist, giving a comprehensive knowledge of real estate salesmanship, was not complete as advertised, and would not establish a person in business and was objectionable in advocating "ballyhoo" methods of selling

¹ Amended complaint.