

Syllabus

IN THE MATTER OF
CURRIER'S TABLETS, INC.COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 2095. Complaint, Mar. 14, 1933—Decision, June 26, 1934*

Where a corporation engaged in the manufacture of a medicine for ailments and diseases of the stomach and digestive organs, the ingredients in which constituted at one time a popular stock combination with drug houses as a reputed remedy for gastric ulcer or irritation, but was discredited among the medical profession because of its untoward effects, and in the sale of said remedy by and through mail order, selected druggists, who acted as its exclusive agents in their particular localities, and, finally, through such druggists as desired to handle its said product, and sale direct to ultimate consumers who were not able to purchase from a druggist dealer; in describing the same in newspaper and radio advertising, and in bulletins and circulars distributed to druggist dealers—

Falsely represented that said tablets never failed to rid sufferers of gas pains, indigestion, ulcers, heartburn, acidosis and constipation, were guaranteed to rid one of stomach troubles and bring instant and positive relief, constituted a "positive remedy" for gastritis, acute indigestion, hyperacidity, stomach ulcers, or any ailments caused by an excessive acid condition, regardless of the patient's condition, contained nothing that could possibly hurt one, a child could take a whole bottle without the slightest ill effects, X-ray pictures proved that they had rid 2,441 sufferers of gas pains and ulcers, and their discovery had startled the civilized world;

The facts being that the combination concerned merely provided temporary relief, might actually aggravate conditions and do more harm than good, involved actual danger to the user through presence of certain ingredients, and, for self-medication, constituted a dangerous combination in that it might actually harm one taking it without expert medical advice, and in that any possible temporary relief might give a false hope to a person with some serious disease needing immediate medical attention, and preparation did not possess such therapeutic value so that it could truthfully be designated or referred to as a cure or safe remedy for sufferers from stomach troubles, ulcers, acidosis, indigestion, nausea, or similar diseases, on fifteen days' trial or otherwise, nor give lasting relief;

With effect of inducing the consuming public to purchase said product in the erroneous belief that it was a remedy or cure for aforesaid various ailments and other diseases of the stomach, and use thereof would relieve or completely restore health to the persons suffering therefrom, and of diverting trade from and otherwise injuring competitors, and with tendency so to divert:

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

Complaint

19 F. T. C.

Mr. Everett F. Haycraft and Mr. Marshall Morgan for the Commission.

Kelby & Lawson and Davis & Thorne, of Los Angeles, Calif., 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 Delaware corporation engaged in the sale and distribution in the various States of products described as remedies for stomach troubles, ulcers, acidosis, indigestion, nausea and other ailments or diseases, and with principal office and place of business in Los Angeles, with advertising falsely or misleadingly as to qualities or properties of product, and using endorsements or testimonials falsely or misleadingly, in that respondent (1) falsely represents through pamphlets, catalogs, leaflets, letters, circulars, radio broadcasts and otherwise that his said products or tablets constitute a cure or safe remedy for sufferers from stomach troubles, ulcers, acidosis, indigestion, nausea and other similar ailments or diseases,¹ the facts

¹ As alleged in the complaint, such false and misleading statements and representations included the following:

"I Guarantee to rid you of stomach troubles, gas pains 15-day trial or no pay Currier's Famous Stomach Tablets never fail to rid sufferers of gas pains, indigestion, ulcers, nausea, heartburn, acidosis, constipation. Agnes Riley of Monrovia, Calif., writes: 'My husband in bed with terrible gas pains and ulcers was given up. After taking 3 Currier's Tablets he began to improve. Now he is well and at work.' I don't care how old and severe your stomach trouble, I guarantee Currier's Tablets to bring you instant and positive relief or they are free to you. Write now for my free book, 'Facts How Currier's Tablets Quickly Rid Thousands of Sufferers From Stomach Trouble,' and my special 15-day trial or no pay. Currier's Tablets, Inc., Dept. 800, 1480 Vine St., Los Angeles!"

"Stomach troubles healed! X-ray pictures prove rids 2,441 sufferers of gas pains, ulcers, indigestion; accept full 15-day trial offer."

"Friends, almost in every case, gastritis, acute indigestion, hyperacidity, stomach ulcers are caused by an excess acid condition of the stomach. If you have been suffering from stomach trouble for any length of time, caused by this condition, I want to say to you that I am bringing to you a message which is of vital importance to you. This message concerns the famous Currier's Stomach Tablets which are a positive relief remedy for these conditions. In fact, Currier's Tablets, Inc. are so sure that these tablets will relieve you that they absolutely guarantee them to bring you relief, regardless of your present condition, within 15 days, or your money will be refunded to you immediately. Also, please do not confuse Currier's Tablets with the ordinary stomach remedy, or anything that you have ever heard about or tried before. The discovery of the formula for Currier's Stomach Tablets has startled the civilized world, and I say to you that it makes it absolutely unnecessary for anyone to continue to suffer from these conditions. May we say to you also that it is not the object of this radio broadcast to have you send for Currier's Tablets. We are broadcasting this message in the hope that you who are suffering will hear this message and let us know where you are so that we may send to you, by mail, this priceless information concerning Currier's Tablets. Full detailed information will be sent to you without any obligation if you will take the trouble to go to your telephone now and call Hollywood 7934, or if you will write a letter or a postal card to Currier's Messenger, c/o K. N. X., Hollywood, California."

"Currier's Stomach Tablets are absolutely guaranteed to relieve gastritis, acute indigestion, hyperacidity, stomach ulcers, or any of these ailments caused by an excess acid

being they do not possess such therapeutic value or medicinal qualities so they may be truthfully so represented, designated or referred to, and in that respondent (2) distributes circulars, booklets or pamphlets in which various persons give or purport to give testimonials to the effect that they had been suffering from stomach troubles or other various diseases and had been completely cured or restored to health by use of respondent's said tablets, notwithstanding fact that respondent was without knowledge as to the disorder, diseases or ailments from which such persons were actually or had been suffering; with capacity and tendency to mislead and deceive, or with effect of misleading and deceiving the purchasing public into believing that tablets in question constituted remedies or cures for the various ailments and diseases for which represented as above set forth, and that their use would relieve, cure or completely restore to health persons suffering therefrom, and of inducing purchase of its said tablets in reliance upon such erroneous belief, and of diverting trade from and otherwise injuring competitors of respondent, and with tendency so to induce and divert; all to the prejudice of the public and 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 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the respondent, Currier's Tablets, Inc., charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

Respondent thereupon entered its appearance by counsel and on April 20, 1933, filed its answer to said complaint. By such answer respondent generally and specifically denied the various allegations in said complaint. Thereafter hearings with respect to the charges in the complaint were held before an examiner of the Commission thereunto duly appointed, at which evidence was offered in support of and in opposition to the complaint.

Thereupon the taking of testimony was closed, briefs were filed on behalf of the Commission and the respondent, respectively, and

condition, within 15 days, regardless of your present condition, or your money will be refunded to you immediately. Friends, this is an absolute guarantee.

"Currier's Tablets are harmless. There is not one thing in Currier's Tablets that can possibly hurt you. A child could take the whole bottle without the slightest of ill effects."

"Can stomach ulcers be healed? Most emphatically 'Yes'. * * * "Can Currier's Tablets possibly harm me? Emphatically No!"

Findings

19 F. T. C.

oral argument was waived on behalf of respondent. And the Commission having now duly considered the record, and being fully advised in the premises, makes this its report stating its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Currier's Tablets, Inc., is a corporation organized under the laws of the State of Delaware, with its principal place of business in the city of Los Angeles, State of California. Since its organization in 1928, respondent has been engaged in the manufacture and sale of a remedy known as Currier's Tablets designed by respondent for treatment of human beings suffering from various ailments and diseases of the stomach and digestive organs. These tablets have been advertised and sold by respondent as relieving gastritis, acute indigestion, hyperacidity, stomach ulcers or any ailments due to excess acid condition, and as healing those suffering from gas pains, ulcers and indigestion. Respondent has been selling its said product to drug stores and to the consuming public located in the various States of the United States. The drug stores selected to handle respondent's product were furnished with booklets and circulars describing it. Ultimate consumers were reached by mail and through the medium of radio, magazine and newspaper advertising. Respondent causes its said product, Currier's Tablets, when sold to be transported in interstate commerce by mail and by other means of transportation from its place of business at Los Angeles, Calif., into and through States of the United States other than the State of California to the vendees at their respective points of location.

Respondent has been and is now in active competition with various persons, partnerships and other corporations, also engaged in the sale in commerce among the several States, of similar preparations designed for the treatment of persons suffering from like diseases and ailments.

PAR. 2. Respondent's methods of sale have included the following, among others:

For three and one-half years prior to August 1932, respondent conducted a mail order business in connection with the sale and distribution of its products. Mail order business was obtained largely through the medium of radio advertising. Newspaper advertising in papers of general circulation throughout the country was also resorted to with a view to obtaining mail order business. Copy was continued in papers so long as it was found to pay. Respondent

spent \$1,200 a month for newspaper and magazine advertising throughout the United States. The last advertising of this character was carried in the "Pathfinder" magazine in February 1932. The last radio advertising, consisting of a dealer program, occurred in February 1933.

In August 1932 respondent adopted the plan of selecting drug stores in various cities and towns of the United States to act as its selling agents, constituting some one druggist in a city or town as its exclusive agent. Eight or nine hundred drug stores in this way acted as exclusive agents for respondent. These drug store agencies were, in turn, replaced by a plan whereby any drug store that wanted to sell the tablets could buy them. Bulletins and circulars describing respondent's product were distributed to the drug stores handling it, three booklets being sent with each bottle. This practice was followed for some months and then changed to that of sending booklets upon request. Respondent's last announced policy was that of distributing entirely through drug stores, mail order business being continued only in the case of customers unable to buy through a store.

PAR. 3. In offering for sale and selling in interstate commerce its product called Currier's Tablets, respondent, among others, has made the following statements and representations: That Currier's Famous Stomach Tablets never fail to rid sufferers of gas pains, indigestion, ulcers, heartburn, acidosis and constipation; that Currier's Tablets are guaranteed to rid one of stomach troubles; are guaranteed to bring instant and positive relief; that X-ray pictures prove Currier's Tablets rid 2,441 sufferers of gas pains and ulcers; that the discovery of the formula for Currier's stomach tablets has startled the civilized world; that Currier's Tablets are absolutely guaranteed to relieve gastritis, acute indigestion, hyperacidity, stomach ulcers; or any ailments caused by an excess acid condition regardless of the patient's condition; that Currier's Tablets are harmless; that there is not one thing in them that could possibly hurt one, and a child could take a whole bottle without the slightest ill effects; that stomach ulcers can most emphatically be healed and that Currier's Tablets cannot possibly harm one.

PAR. 4. The tablets manufactured and sold by respondent are composed of the following ingredients in the proportions indicated:

Bismuth subnitrate.....	36%
Magnesium oxide.....	31%
Sodium bicarbonate.....	25%
Excipients and oil of peppermint.....	q. s.

Bismuth subnitrate is an insoluble material which will coat over the mucous membrane of the stomach and intestines, reduce the nor-

Findings

19 F. T. C.

mal secretions of the intestinal tract, and tend to promote constipation, also reducing appetite. This compound is a dangerous agent in that it may split up in the intestinal tract, with the resulting formation of nitrous acid or nitrite which may be absorbed and cause a dangerous collapse. If there is an ulcer or an abraded area in the stomach or intestines, the bismuth subnitrate may be absorbed, which might lead to bismuth poisoning, and especially if the dosage be not carefully controlled. Bismuth poisoning is similar to mercury poisoning and is a very dangerous condition. The use of bismuth subnitrate as a medicinal agent by physicians has generally been abandoned because of the dangers of this action.

Magnesium oxide is a mild alkali which may neutralize free hydrochloric acid in the stomach. If improperly used, as is likely in self-medication, it may interfere with normal digestion.

Sodium bicarbonate is a strong alkaline drug, which will also neutralize hydrochloric acid in the stomach and thus relieve irritation which may be due to excess hydrochloric acid. But it stimulates more secretion of acid, and is likely to exaggerate or aggravate the irritating effect of hyperacidity.

There is no physiological effect from the excipients, that is, either starch or talc. The other ingredients, such as oil of peppermint, or other flavoring oils, are added to give a pleasant flavor to what would otherwise be an unpleasant tasting material. Traces of oil of peppermint or similar essential oils may stimulate gastric and intestinal activity slightly.

The combination comprising Currier's Tablets was at one time a stock pharmaceutical combination which was very popular on the part of commercial drug houses, and was sold as a reputed remedy in gastric ulcer or gastric irritation. It has been generally discredited among the medical profession because of its untoward effects, on the basis that it merely provides a temporary relief; further, that it may actually aggravate the condition and do more harm than good; and, finally, that there is actual danger from its use.

The Currier's Tablet combination for self-medication is a dangerous one, both from the standpoint that it may actually do harm to the person taking it without expert medical advice, and secondly, that the misleading temporary relief which it may afford may give a false hope to the patient or to the individual who may have some serious disease that needs expert medical attention.

The preparation or formula does not possess such therapeutic value or medicinal qualities as to be truthfully represented, designated, or referred to as a cure or safe remedy for sufferers from stomach troubles, ulcers, acidosis, indigestion, nausea, and other

similar ailments, or diseases of the body; nor does it give lasting relief.

PAR. 5. Roy C. Currier, president of the respondent company, was not and is not prepared to attribute to Currier's Tablets the numerous virtues accorded to this remedy by the advertisements put out by the company of which he was and is the head. Mr. Currier is not a doctor and has not obtained any opinion from any medical doctor or any physician saying whether or not the tablets possess the therapeutic value which has been attributed to them and has never made any attempt to diagnose or to have a diagnosis made of any of the ailments of any patients using Currier's Tablets, but, on the contrary, has relied entirely upon the statements contained in testimonials received. The therapeutic value ascribed to his company's product was and is based upon such testimonials received from customers.

PAR. 6. The statements and representations of respondent, hereinbefore described, are false and misleading in that—

(1) Currier's Tablets cannot and do not without fail, on fifteen days' trial, or otherwise, rid sufferers of gas pains, indigestion, ulcers, nausea, heartburn, acidosis and constipation.

(2) X-ray pictures do not and cannot show 2,441 stomach sufferers "healed" or "rid" of gas pains, ulcers or indigestion by this remedy.

(3) Currier's Tablets are not a "positive remedy" for gastritis, acute indigestion, hyperacidity, or stomach ulcers.

(4) The discovery of the formula for Currier's Tablets has not startled the civilized world.

(5) Currier's Tablets are not harmless, and a child would not be able to take a whole bottle of the product without the slightest ill effects.

(6) Stomach ulcers or other ailments or diseases of the stomach cannot be healed by Currier's Tablets.

PAR. 7. The above mentioned false and misleading representations in connection with the sale of said product have induced the consuming public to purchase said product under the erroneous belief that said product is a remedy or cure for stomach troubles, ulcers, acidosis, indigestion, nausea, and other ailments or diseases of the stomach, and that the use of respondent's said product will relieve or completely restore health to persons suffering from the aforesaid ailments or diseases, and have tended to divert trade from, and have diverted trade from, and otherwise injured competitors of respondent.

Order

19 F. T. C.

CONCLUSION

The practices of the 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 interstate 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

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, on the 14th day of March, A. D. 1933, issued its complaint against Currier's Tablets, Inc., respondent herein, and caused the same to be served on said respondent on the 20th day of March 1933, in which complaint it is charged that the respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of respondent, the testimony and evidence, and briefs of counsel, and the Commission having made its findings as to the facts and its conclusion that the 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 powers and duties, and for other purposes",

It is now ordered, That respondent, Currier's Tablets, Inc., its agents, representatives and employees, in connection with the offering for sale, advertising by means of the mail, radio, newspapers or otherwise, and sale in interstate commerce or in the District of Columbia, of the product or remedy known as Currier's Tablets, or any product of substantially the same composition and ingredients sold under the name Currier's Tablets or any other name, do cease and desist from representing:

(1) That Currier's Tablets, without fail, on fifteen days' trial, or otherwise, will rid sufferers of gas pains, indigestion, ulcers, nausea, heartburn, acidosis and constipation;

(2) That X-ray pictures show 2,441 stomach sufferers "healed" or "rid" of gas pains, ulcers or indigestion by this remedy;

(3) That Currier's Tablets are a "positive remedy" for gastritis, acute indigestion, hyperacidity, or stomach ulcers;

(4) That stomach ulcers or other ailments or diseases of the stomach can be healed by Currier's Tablets;

(5) That the discovery of the formula for Currier's Tablets has startled the civilized world;

(6) That Currier's Tablets are harmless, a child being able to take the whole bottle without the slightest ill effects.

It is further ordered, That respondent, within 60 days from and after the date of service upon it of this order, shall file with the Commission a report, or reports, in writing setting forth in detail the manner and form in which it is complying with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF
J. G. DODSON AND MRS. C. M. DODSON, TRADING UNDER
THE NAME AND STYLE OF IRONIZED YEAST CO.

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

Docket 1972. Complaint, Jan. 19, 1933¹—Decision, June 27, 1934.

Where a firm engaged in the sale of its so-called "Ironized Yeast" tablets, the principal ingredient of which was yeast, and which also contained iron and two ingredients, with stimulating and laxative effects respectively, presence of which was not disclosed in the advertising or labels; in advertising their said tablets in newspapers and periodicals, and in pamphlets and circulars—

-(a) Represented that said preparation would end indigestion, constipation, and nervousness and that through its use the blood would be purified, the complexion cleared, weight, strength, and nervous force gained, and thin or emaciated persons developed and transformed into persons with normal, firm, and solid flesh whose gracefully curved forms command admiration; and

-(b) Represented that the combination of iron and yeast in their said product had a more beneficial and effective result than the administration or use of yeast and iron separately;

The facts being that said statements and representations were wholly false or grossly exaggerated, and in excess of any probable accomplishment through use of the preparation, which as a source of vitamin B and iron would cure the conditions for which offered only in the event that such conditions were caused by a deficiency thereof and not by serious organic ailments or diseases, or many other causes not due to said deficiencies, and there was no advantage in a combination or compound of iron and yeast compared with results accomplished through the administration of the two separately;

With capacity and tendency to mislead and deceive, and with effect of furnishing wholesale and retail dealers with means of misleading and deceiving, the purchasing public into believing that said preparation would cure aforesaid various ailments for which offered, purify the blood, expel poisons from the system, build weight, strength, and nervous force, and transform weak into strong persons, and "skinny", scrawny, pimply persons into those with shapely and attractive forms and clear complexions, and that through the use thereof, the benefits to be derived from iron and yeast, taken separately, would be enhanced in such combination, which enabled the two mutually to serve each other in giving full effect to the virtues of both, and to induce purchase of said product in reliance on such erroneous beliefs; and

With result of inducing persons whose symptoms or conditions were not caused by deficiency of said vitamin or iron to take and use the preparation in the erroneous belief that they were being benefited thereby through the temporary relief afforded by its stimulant and laxative qualities, and

¹ Amended complaint.