

## Complaint

IN THE MATTER OF  
EOPA COMPANY

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

*Docket 2184. Complaint, May 21, 1934—Order, Jan. 23, 1935*

Consent order requiring respondent in connection with the sale of its so-called Eopa Neuritis Tablets and Eopa Phytolberry Tablets in interstate commerce, to cease and desist from representing by advertisements or in any other way that—

- (a) Said Neuritis Tablets are a sure remedy for painful and diseased or undernourished nerves, or severe nerve pains, sciatica, neuralgia, acute rheumatism, lumbago, or neuritis, or constitute a specific remedy for any of such ailments or conditions and will bring about permanent relief; or
- (b) Its last named tablets will reduce weight swiftly or restore one to one's normal weight and benefit health, or cause one to shed disfiguring fat, or that the action thereof is directly upon the fatty tissues and causes a dissolution of the fat cells.

*Mr. Morton Nesmith* for the Commission.

*Brittain & Weise*, of San Francisco, Calif., and *Mr. W. Bruce Philip*, of Washington, D. C., for respondent.

## COMPLAINT

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, having reason to believe that Eopa Company, a corporation, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Eopa Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, having and maintaining its laboratories, offices, and principal place of business at 880 Folsom Street in the city of San Francisco in the State of California. Respondent has been and is engaged in the production of homeopathic medicines and pharmaceutical preparations. Respondent has been and is also engaged in offering for sale and selling homeopathic medicines and pharmaceutical preparations in commerce between and among the

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several States of the United States and in causing said products when so sold to be transported from respondent's said principal place of business in the State of California into and across the several States of the United States to the several purchasers thereof located at various places in said several States.

Respondent has been and is offering for sale and selling said products to and through wholesale and retail dealers in medicines and pharmaceutical preparations, and also directly through the United States mails and otherwise to retail purchasers thereof.

Other persons, firms, associations, and corporations have been and are engaged in offering for sale and selling in said commerce medicines and pharmaceutical preparations for use by purchasers thereof as remedies for, or to give relief from, the same diseases and ailments for which respondent's corresponding products are represented to be useful and are sold and are intended to be used by purchasers thereof. In the course and conduct of its said business, respondent has been and is in competition with such other persons, firms, associations, and corporations so engaged in offering for sale and selling in said commerce said medicines and pharmaceutical preparations above referred to, and with all other sellers of like or competitive products.

PAR. 2. Respondent has been and is so offering for sale and selling in said commerce a certain pharmaceutical preparation under the designation and name of "Eopa Neuritis Tablets" and another certain pharmaceutical preparation under the designation and name of "Eopa Phytolberry Tablets."

In order to aid respondent in the sale of its said products and to create a public demand for the same, respondent, upon labels attached to the bottles in which said products are sold, in advertising folders, in booklets, in advertising matter furnished to merchants to be used as counter-displays, in newspapers, magazines, and periodicals, and in other advertising matter, respondent has made and makes to the public certain inaccurate, exaggerated, false and misleading statements and representations with reference to its said products and each of them, as hereinafter specifically alleged.

PAR. 3. In said ways and by said means respondent has made and makes the following statements and representations with reference to its said product so offered for sale and sold by the designation or name of "Eopa Neuritis Tablets", to wit:

Stinging, torturing nerves are diseased or undernourished. Tone them up with a safe, sure remedy, free from narcotics. Eopa Neuritis Tablets.

This remedy is Guaranteed to be Absolutely Safe and Harmless.

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## EOPA NEURITIS TABLETS

For Nerve Pain, Sciatica, Neuralgia,  
Rheumatism and Neuritis.

These tablets are a specific remedy for neuritis; they help nature to correct nerve-injury by nourishing and building up the structure of the nerve cells, thus treating the cause of neuritis instead of merely relieving its effects.

The great general remedy for the various forms of Neuritis, relieves the severe pain of Sciatica, acute rheumatism, pain in the back and lumbago.

Inflamed nerves, stinging, piercing pains in shoulders, arms, legs, neck, face or head are symptoms of Neuritis. For quick and permanent relief, take EOPA Neuritis Tablets.

In truth and in fact, said product is not a remedy or cure for neuritis, sciatica, neuralgia, rheumatism, lumbago, or similar ailments or diseases. It contains no ingredient or ingredients with properties capable of producing the effects set forth in said statements and representations. Certain ingredients contained therein are such that long continued use thereof, except under the direction and oversight of a physician, may endanger or injure the user's health.

PAR. 4. In said ways and by said means respondent has made and makes the following and many similar statements and representations with reference to its said product so offered for sale and sold by the designation and name of "Eopa Phytolberry Tablets", to wit:

## HOW TO REDUCE SAFELY

Eopa Phytolberry Tablets reduce flesh safely, swiftly and pleasantly. Reduction is often truly remarkable—in some cases as much as 15 to 20 pounds within a single month. One patient reports a loss of 40 pounds in three months—and suffered not the slightest discomfort or inconvenience . . .

## NORMAL WEIGHT—BETTER HEALTH

Eopa Phytolberry Tablets tend to bring you to your normal weight, and at the same time to benefit your health. They do not weaken you . . . They retain and enhance your natural beauty.

This is true because Eopa Phytolberry Tablets causes your body to shed disfiguring fat, but at the same time tends to make the flesh firmer and more compact. They also tend to relieve shortness of breath and to benefit asthmatic conditions, while the heart action is improved and dizziness and fainting cease. Constipation, indigestion, rheumatism, high blood pressure, and all the other ailments common to stout people are greatly modified and often disappear entirely under Eopa Phytolberry Tablet treatment . . .

Their action is directly upon the fatty tissues; a dissolution of the fat cells takes place, which is eliminated by the kidneys.

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The result of the treatment is a gradual and continued reduction of the fatty accumulations as manifested by a decrease in weight and girth. The flesh becomes more firm and compact, the shortness of breath and asthmatic conditions are relieved, heart action is improved, and dizziness and fainting cease; indigestion, constipation, rheumatism, and all the other distressing symptoms are greatly modified or even disappear entirely . . .

Fat girls. It's the Berries. Be slender. Reduce Safely with Phytolberry Tablets.

Make yourself as slender, lovely and alluring as your favorite movie star by merely taking a tasty Phytolberry Tablet or two at mealtime and being reasonable in your diet . . . nothing drastic, unpleasant or harmful. You actually gain strength and energy in the process.

Eopa Phytolberry Tablets is the safe, healthy way to lose burdensome, disfiguring fat. These tablets, made from the fresh, frosted juice of the Pokeberry and pure tablet sugar, have reduced the weight of thousands of women who rejoice today in wearing fashionable frocks and share in popular sports which vulgar "fat" once denied them. Make up your mind to be thin and fashionable. Know the Freedom of slenderness.

In truth and in fact, said product is not a remedy or cure for obesity. It contains no ingredient or ingredients with properties capable of producing the effects set forth in said statements and representations. Certain ingredients contained therein are such that long continued use thereof, except under the direction and oversight of a physician, may endanger or injure the user's health. Many persons are by nature physically so constituted that they cannot be made as slender as a favorite movie star, or slender at all, without injury to health. For such persons even an efficient remedy can do no more than to aid in removing abnormal and excessive flesh.

PAR. 5. The use by respondent of said false and misleading statements and representations with reference to its said products has the tendency and capacity to deceive and mislead the public into the erroneous belief that said statements and representations are true, and to induce the public to purchase said products in, and because of, such erroneous belief. Respondent's said use of said false and misleading statements and representations have the tendency and capacity to divert trade to respondent from its said competitors, to the unfair advantage of respondent, to the injury of respondent's competitors, and to the injury of the purchasing public.

PAR. 6. The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

## Order

## ORDER TO CEASE AND DESIST

This proceeding coming on for final hearing by the Federal Trade Commission on the record, including the complaint of the Commission and the answer of the respondent thereto, that it waives hearing on the charges set forth in the complaint, refrains from contesting the proceedings, and, pursuant to paragraph 2 of rule III of the Rules of Practice of the Commission as amended and revised August 20, 1934, consents that the Commission may make, enter, and serve upon the respondent, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission having duly considered the matter and being fully advised in the premises:

*It is now ordered*, That the respondent, Eopa Company, a corporation, in connection with soliciting the sale of and selling its products, known and designated as Eopa Neuritis Tablets and Eopa Phytolberry Tablets in interstate commerce, cease and desist from:

(1) Representing by advertisements or in any other way that its product, known and designated as Eopa Neuritis Tablets are a sure remedy for stinging, torturing nerves which are diseased or undernourished, or for severe nerve pain, sciatica, neuralgia, acute rheumatism, lumbago or neuritis, or that such tablets are a specific remedy for any of such ailments or conditions and will bring about permanent relief.

(2) Representing by advertisements or in any other way that its product, known and designated as Eopa Phytolberry Tablets, will reduce the flesh of a human being swiftly or that the use of such tablets will restore one that is overweight to his or her normal weight and at the same time benefit his or her health, or that the use of such tablets will cause one's body to shed disfiguring fat or that the action of such tablets is directly upon the fatty tissues and causes a dissolution of the fat cells.

*It is further ordered*, That respondent, the Eopa Company, a corporation, shall, within 60 days after the service upon it of a copy of this order, file with the Federal Trade 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.

IN THE MATTER OF  
THE AKRON LAMP COMPANY

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

*Docket 2235. Complaint, Sept. 27, 1934—Order, Jan. 28, 1935*

Consent order requiring respondent, its officers, etc., in connection with the offer or sale of irons in interstate commerce, to cease and desist forthwith from representing through advertisements in catalogs, bulletins, or otherwise, that—

- (a) It gives prospective agents a genuine Diamond iron without cost, until it does so or makes it clear that it will furnish an iron for the sale of a given number of said product or the performance of services by agents or prospective agents;
- (b) Its said iron has been sold to thousand upon thousands for \$5.95, or that five thousand of such irons have been set aside, for advertising, for free distribution to secure additional business, when such are not the facts;
- (c) A prospective purchaser does not risk a single penny, unless it gives him an iron without requiring anything in payment therefor, or purchase of anything additional, or performance of services, or sells its irons upon a guarantee of refund, should the product be unsatisfactory, and abides thereby;
- (d) An agent in Montana made \$25 in one day in the sale of said irons, and another made \$30 or the making of other misrepresentations relative to earnings of its agents in the sale of said products;
- (e) It furnishes its agents an outfit without cost to them, until it does so, or they are not required to perform services therefor, or it makes it clear that for the sale by them of a given number of its irons or the performance of services, it will furnish them such outfit; and
- (f) It limits the time for the acceptance of offers made by it, or offers two irons for the price of one, when such are not the facts.

*Mr. Edward L. Smith* for the Commission.

*Mr. John M. Jarboe* and *Mr. James Olds*, of Akron, Ohio, and *Hon. Dow W. Harter*, of Washington, D. C., for respondent.

COMPLAINT

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, having reason to believe that the Akron Lamp Company, hereinafter referred to as respondent, has been or is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest,

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hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, The Akron Lamp Company, is now and for several years last past has been a corporation organized and existing under and by virtue of the laws of the State of Ohio, with its principal office and place of business in the city of Akron, State aforesaid. Respondent has for several years last past, used the trade name Akron Lamp & Manufacturing Company, and has been engaged in the business of selling a self-heating iron. It has caused such product, when sold, to be transported to purchasers thereof from its place of business in the city of Akron, State of Ohio, into and through the various other States of the United States. In the course and conduct of its said business, respondent has been, and is, in competition with individuals, partnerships and corporations engaged in the sale and transportation of irons in commerce among and between the various States of the United States.

PAR. 2. It has been, and is, the practice of respondent under and by the name Akron Lamp & Manufacturing Company, to advertise its self-heating iron, described or designated as the Diamond self-heating iron, in pamphlets, booklets, circulars, leaflets, and other forms of advertising matter which it has caused to be distributed, and now causes to be distributed among purchasers and prospective purchasers in the various States of the United States. In the course and conduct of such business it has been, and is, the practice of respondent falsely to advertise for dealers or purchasers for its product under the pretense and guise of seeking agents; it represents that it gives to the prospective agents a genuine so-called Diamond iron without cost, that such iron has been sold to thousands upon thousands for the retail price of \$5, that 5,000 irons have been set aside for advertising purposes to be distributed free of charge to secure additional volume of business, that the prospective purchaser does not risk one single penny, that two irons are furnished the purchaser for the price of one.

Particularly has respondent appealed, and now appeals for agents to promote the distribution and sale of its Diamond self-heating iron. In its advertisements for agents, it has made, and now makes, false and misleading representations to the effect that such agency is a golden opportunity, since it is easy for an agent to earn up to \$25 each day in selling the new self-heating Diamond iron; that one agent in Montana actually made \$25 in one day and another one in Ohio \$30 in one day; that there is furnished an elaborate outfit to agents which costs them nothing whatever; that respondent advertises a time limit for acceptance of its offers, or some of them.

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In truth and in fact, none of the so-called free trials or free offers made by respondent are actually free trials or free offers, nor are the agents' outfits or demonstrating outfits furnished without charge or cost. In each and every instance, the prospective purchaser or prospective agent is required to remit or pay money and to render service to the respondent in the distribution of its product. In offering two irons for the price of one, respondent requires a sufficient payment for the one to include the cost of both, together with a profit to respondent. There is no benefit or profit of any kind or character accruing to purchasers or agents from acceptances of any of the offers of respondent except, perhaps, profit resulting from their sale or sales of Diamond self-heating irons so purchased. Respondent receives and fills acceptances of offers regardless of its time limits, and in practice ignores such limits.

Neither the agent mentioned as a resident of Montana nor the one located in Ohio earned in any one day in the sale of Diamond self-heating irons, the amount of money attributed to them by the false and misleading representation of respondent. Agents of respondent do not usually or normally earn the amount of money mentioned by respondent in its advertisements, nor any substantial portion thereof.

PAR. 3. There are, and have been for several years past, individuals, partnerships and corporations offering for sale and selling in interstate commerce self-heating irons, electric irons, and irons of various characters truthfully advertised and described.

PAR. 4. The above and foregoing practices of respondent, described in paragraph 2 hereof, have had and each of them has had, and they have and each of them has the capacity and tendency to mislead and deceive the public into the purchase of respondent's self-heating iron in erroneous reliance on its false and misleading representations.

Such false and misleading representations of respondent have also had and have, and each of them has had and has, the capacity and tendency to divert trade to respondent from competitors selling in interstate commerce irons of various character by means of truthful representations.

PAR. 5. The practices of respondent, described in paragraph 2, have been and are all to the prejudice of the public and the respondent's competitors and constitute unfair methods of competition in interstate commerce within the intent and meaning 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

## ORDER TO CEASE AND DESIST

The respondent herein having filed its answer to the complaint in this proceeding and having subsequently filed with this Commission its motion that it be permitted to withdraw its said answer and that it be permitted to file in lieu thereof as a substituted answer, the draft of a proposed substituted answer annexed to the said motion; and the Commission having duly considered the said motion—

*It is hereby ordered*, That the said motion be and the same is hereby granted; that the said answer be and the same is hereby withdrawn; and that the said proposed substituted answer be, and the same is hereby filed in lieu of the said answer so withdrawn.

And the said respondent in and by its said substituted answer having waived hearings on the charges set forth in the complaint in this proceeding, and having stated in its said substituted answer that it does not contest the said proceeding, and having consented in its said substituted answer that the Commission, without a trial, without evidence, and without findings as to the facts or other intervening procedure, might make, enter, issue and serve upon the said respondent, an order to cease and desist from the methods of competition charged in the complaint; and the Commission being fully advised in the premises—

*It is hereby further ordered*, That the respondent, the Akron Lamp Company, its officers, agents, servants, and employees in connection with the sale or the offering for sale, by said Akron Lamp Company of irons in interstate commerce, forthwith cease and desist from representing in and by advertisements, catalogs, bulletins, or in any other way:

1. That it gives to prospective agents a genuine Diamond Iron without cost, until and unless it actually furnished a Diamond Iron to its prospective agents without cost, and/or until and unless respondent makes it clear in its advertisements that for the sale of a given number of its irons or for the performance of services by such agents and prospective agents, the respondent will furnish a Diamond Iron to such agents and prospective agents;

2. That the aforesaid Diamond Iron has been sold to thousands upon thousands for the retail price of \$5.95, until and unless it actually has sold the aforesaid Diamond Iron to thousands and thousands for the retail price of \$5.95;

3. That 5,000 Diamond Irons have been set aside for advertising purposes to be distributed free of charge to secure additional volume of business, until and unless 5,000 Diamond Irons have actually been set aside for advertising purposes to be distributed free of charge to secure additional volume of business;

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4. That a prospective purchaser does not risk a single penny or any other amount of money in obtaining a Diamond Iron, until and unless respondent actually furnishes to a prospective purchaser a Diamond Iron without requiring anything in payment therefor, without requiring the purchase of any additional Diamond Iron and without requiring the performance of services in order to secure such iron; provided that nothing in this paragraph shall prohibit respondent from advertising that a prospective purchaser does not risk a single penny or any other amount of money, if respondent sells such irons upon a representation or guarantee to refund to the purchaser the money paid therefor should the iron be unsatisfactory and if the respondent abides by and adheres to its said representation or guarantee;

5. That an agent in Montana made \$25 in one day in selling said Diamond Iron and another one in Ohio made \$30 in one day selling such Diamond Iron; and from making any other representation regarding the earnings made by its agents in the sale of said Diamond Iron until and unless the amounts represented to have been made by such agents have actually been made by them;

6. That it furnishes to its agents an outfit which costs such agents nothing, until and unless such outfits are furnished to such agents without cost and without their being required to perform services therefor, and/or until and unless respondent makes it clear in its said advertisements that for the sale of a given number of its irons or the performance of services by such agents and prospective agents, the respondent will furnish such outfit to such agents and prospective agents;

7. That it limits the time for the acceptance of offers made by it in its advertisements, until and unless it actually limits such time and refuses to accept offers beyond the time limited in and by said advertisements;

8. That it offers two irons for the price of one until and unless in the ordinary course of its business it offers to sell two irons for the price of one.

*It is hereby further ordered*, That the said respondent shall within 60 days from the day of the date of the service upon it of this order, file with this Commission its report in writing stating the manner and form in which it shall have complied with this order.

## Complaint

IN THE MATTER OF  
PEANUT SPECIALTY COMPANY

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SEC. 3 OF AN ACT OF CONGRESS APPROVED JUNE 16, 1933

*Docket 2273. Complaint, Dec. 24, 1934—Order, Feb. 5, 1935*

Consent order requiring respondent, its officers, etc., in connection with the manufacture, sale, and distribution in interstate commerce of candy and candy products to jobbers, wholesalers, and retailers direct, to cease and desist from the sale and distribution of candy or packages or assortments thereof arranged and planned for resale to the general public through schemes or devices of chance, and from supplying therewith or separately, display cards for retailer's use in advising of the nature of the particular plan, including the sale of candies of uniform size, shape and quality, but with different colored center, packed with larger pieces or packages of candy to be given as prizes to chance purchasers of particular colored centers; and

*Ordered further*, That respondent, its officers, etc., in connection with the manufacture, sale and distribution in the state of Illinois of its aforesaid products, cease and desist from the sale thereof through the means above set forth.

*Mr. Henry C. Lank* for the Commission.

## COMPLAINT

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, having reason to believe that Peanut Specialty Company, a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said Act of Congress, and in violation of the Act of Congress approved June 16, 1933, known as the National Industrial Recovery Act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

*Count 1*

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Illinois, with its principal office and place of business in the city of Chicago, State of Illinois. Respondent, for