

Syllabus

IN THE MATTER OF

THE CHAPMAN HEALTH PRODUCTS COMPANY, JOHN W. CHAPMAN, AND NELLIE C. CHAPMAN, INDIVIDUALLY AND AS OFFICERS OF THE CHAPMAN HEALTH PRODUCTS COMPANY

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

Docket 4004. Complaint, Jan. 31, 1940—Decision, May 2, 1940

Where a corporation and two individuals who were officers thereof and formulated, controlled and directed its policies, acts, and practices, engaged in sale and distribution of their N. A. R. Tablets for rheumatism, neuritis, and arthritis, and of their Faid or Daintee preparation for obesity, and acting together and in cooperation with each other, in performing acts and practices below set forth; in advertisements of their said products which they disseminated and caused to be disseminated through the mails, through insertion in newspapers and periodicals of general circulation and through circular and other printed or written matter distributed in commerce, and otherwise, and which were intended and likely to induce purchase of their said preparations—

- (a) Represented that their said N. A. R. Tablets constituted a cure or remedy for rheumatism, neuritis, and arthritis, and possessed a therapeutic value for treatment thereof;

Facts being that preparation in question does not effect a cure or a remedy for said ailments and possesses no therapeutic value in the treatment thereof, except insofar as preparation's analgesic properties might afford temporary relief from the pains caused thereby; and

- (b) Represented that their said Faid or Daintee constituted a cure or remedy for obesity and a competent, safe and scientific treatment therefor, and that its use would have no ill effect upon the body;

Facts being said medicinal preparation is not a cure or remedy for said condition, does not constitute a competent, safe or scientific treatment therefor, and would not accomplish results claimed by them, and is not safe and harmless in that it contains dessicated thyroid and certain other drugs in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in said advertisements or under such conditions as are customary and usual, and might produce nausea, muscular debility, gastrointestinal irritation, and various other conditions and also result, among other things, in chronic poisoning, permanent injury to tissues and organic functions and body mechanism and irreparable injury to the heart; and

- (c) Failed to reveal in its said advertisements that use of said preparation last referred to under conditions prescribed in said advertisements or under such conditions as are customary or usual may result in serious and irreparable injury to health;

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With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations and advertisements were true, and of inducing a portion of said public, because of such relief, to purchase its said medicinal preparation:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. R. P. Bellinger for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that The Chapman Health Products Co., a corporation, John W. Chapman and Nellie C. Chapman, as individuals and as officers of The Chapman Health Products Co., hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the 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. The Chapman Health Products Co. is a corporation created, organized, and existing under and by virtue of the laws of the State of Ohio, with its office and principal place of business at 4618 Euclid Avenue, Cleveland, Ohio. John W. Chapman and Nellie C. Chapman are individuals and are, respectively, president and treasurer, and vice president and secretary, of The Chapman Health Products Co., with their office and principal place of business at the same address as said corporate respondent.

Respondents, John W. Chapman and Nellie C. Chapman, as individuals and as officers of said corporate respondent, formulate, control, and direct the policies, acts and practices thereof. All of the respondents have acted together and in cooperation with each other in performing the acts and practices hereinafter alleged.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of certain medicinal preparations, including two formulae designated as N. A. R. Tablets, recommended as a treatment for rheumatism, neuritis, and arthritis, and Faïd otherwise known as Daintee, recommended as a treatment for obesity.

In the course and conduct of their business, the respondents cause said medicinal preparations, when sold, to be transported from their place of business in the State of Ohio to purchasers thereof located in other States of the United States and in the District of Columbia.

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At all times mentioned herein, respondents have maintained a course of trade in said medicinal preparations sold and distributed by them in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of the aforesaid business, the respondents have disseminated, and are now disseminating, and have caused, and are now causing, the dissemination of false advertisements concerning their said medicinal preparations by United States mails, by insertions in newspapers and periodicals, having a general circulation, and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States, and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said medicinal preparations; and have disseminated and are now disseminating, and have caused and are now causing, the dissemination of false advertisements concerning their said medicinal preparations, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false representations contained in the advertisements of N. A. R. Tablets disseminated and caused to be disseminated, as aforesaid, are the following:

Rheumatism!

Neuritis!

Arthritis!

The torturing pangs from any of these ailments not only may be quickly relieved by taking a few N. A. R. Tablets, but continued use should eliminate the acids causing these troubles.

N. A. R. TABLETS

Among and typical of the false representations contained in the advertisements of Faid, otherwise known as Daintee, disseminated and caused to be disseminated, as aforesaid, are the following:

Don't worry about fat, take Faid reducing tablets.

In order to get the best results, Faid must be taken at regular intervals.

For ordinary cases, take one tablet after each meal and one at bedtime. While this is not intended to bring about rapid effects, it should under ordinary conditions show results. Should more rapid action be desired, take two tablets after each meal omitting the one at bedtime.

No set dosage can be made for all users for this is governed a great deal by individuals and their habits. However, the dosage described will, we believe fit the average individual.

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You are taking Faid to obtain certain results so be very careful not to miss a single dose or the accumulative effect started may be lost which would necessitate starting all over again.

As to how long the Faid tablets should be taken, no definite period can be fixed in advance of their actual use and the reaction of the particular individual to them. Much will depend upon the circumstances of each case and the response of each individual to the treatment. It therefore is expected that each person will use his or her own sound judgment as to when and how long to use the tablets * * * in privacy under your own control.

The Faid Method, used according to directions, should do all that is claimed for it. The directions are important and should be followed carefully if best results are to be obtained.

Distributed by

The Chapman Health Products Co., Cleveland, Ohio.

Some Good Selling Points By The Chapman Health Products Co. Cleveland, Ohio.

Faid is a scientific prescription to assist in taking off surplus fat. Should they fear the thyroid ingredient it can be said that an inactive thyroid gland is usually the cause of fat accumulation. One half grain is only sufficient to stimulate thyroid activity. Many doctors prescribe this drug in doses several times this amount.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondents represent that their medicinal preparation, known and designated as N. A. R. Tablets, is a cure or remedy for rheumatism, neuritis and arthritis and possesses therapeutic value in the treatment therefor.

PAR. 5. In truth and in fact, the medicinal preparation sold and distributed by the respondents as aforesaid, known as N. A. R. Tablets, is not a cure or remedy for rheumatism, neuritis or arthritis. Said preparation does not possess any therapeutic value in the treatment of any of said ailments, except in so far as the analgesic properties of said preparation may afford temporary relief from the pains caused by said ailments.

PAR. 6. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondents also represent that their medicinal preparation designated as Faid, otherwise known as Daintee is a cure or remedy for obesity and a competent, safe and scientific treatment therefor, and that its use will have no ill effect upon the human body.

PAR. 7. In truth and in fact, the medicinal preparation sold and distributed by the respondents as aforesaid, designated as Faid, otherwise known as Daintee, is not a cure or remedy for obesity and does not constitute a competent, safe or scientific treatment therefor. Said preparation will not accomplish the results claimed by the respondents. Furthermore said preparation is not safe and harmless

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in that said preparation contains powdered extract phytolacca berries, sodium baborate, berberine hydrochloride, apocynoid, and desiccated thyroid.

The aforesaid drugs are present in said medicinal preparation in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

Such use of said medicinal preparation may produce nausea, severe vomiting, muscular debility, gastrointestinal irritation, diarrhea, serious bowel trouble, raised temperature, irregular pulse, collapse, headaches, muscular and articular pains, vertigo, insomnia, physical exhaustion, tremor, and tachycardia.

The use of said preparation, as aforesaid may also result in chronic poisoning, thyroid toxicosis, permanent injury to tissues, organic functions and the entire body mechanism, and irreparable injury to the heart muscle and auricular fibrillation.

PAR. 8. In addition to the representations hereinabove set forth the respondents have also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal that the use of said preparation failed, otherwise known as Daintee, under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in serious and irreparable injury to health.

PAR. 9. The use by the respondents of the foregoing false, deceptive and misleading statements and representations with respect to their preparations, disseminated as aforesaid, has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations, and advertisements are true and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparations.

PAR. 10. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on January 31, 1940, issued and on February 1, 1940, served its complaint in this proceeding upon the respondents, The Chapman Health Products Co., a corporation, and John W. Chapman and Nellie C. Chapman, individually and as

officers of The Chapman Health Products Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 1, 1940, the respondents filed their answer, in which answer they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission having duly considered the matter, and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPHS 1. The Chapman Health Products Co. is a corporation created, organized, and existing under and by virtue of the laws of the State of Ohio, with its office and principal place of business at 4618 Euclid Avenue, Cleveland, Ohio. John W. Chapman and Nellie C. Chapman are individuals and are, respectively, president and treasurer, and vice president and secretary, of The Chapman Health Products Co., with their office and principal place of business at the same address as said corporate respondent.

Respondents, John W. Chapman and Nellie C. Chapman, as individuals and as officers of said corporate respondent, formulate, control and direct the policies, acts, and practices thereof. All of the respondents have acted together and in cooperation with each other in performing the acts and practices hereinafter alleged.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of certain medicinal preparations, including two formulae designated as N. A. R. Tablets, recommended as a treatment for rheumatism, neuritis and arthritis, and Faid, otherwise known as Daintee, recommended as a treatment for obesity.

In the course and conduct of their business, the respondents cause said medicinal preparations, when sold, to be transported from their place of business in the State of Ohio to purchasers thereof located in other States of the United States and in the District of Columbia.

At all times mentioned herein, respondents have maintained a course of trade in said medicinal preparations sold and distributed by them in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of the aforesaid business, the respondents have disseminated, and are now disseminating, and have caused, and are now causing, the dissemination of false advertisements concerning their said medicinal preparations by United States mails, by insertions in newspapers and periodicals, having a general circulation, and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States, and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said medicinal preparations; and have disseminated and are now disseminating, and have caused and are now causing, the dissemination of false advertisements concerning their said medicinal preparations, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false representations contained in the advertisements of N. A. R. Tablets disseminated and caused to be disseminated, as aforesaid, are the following:

Rheumatism!

Neuritis!

Arthritis!

The torturing pangs from any of these ailments not only may be quickly relieved by taking a few N. A. R. Tablets, but continued use should eliminate the acids causing these troubles.

N. A. R. TABLETS

Among and typical of the false representations contained in the advertisements of Faid, otherwise known as Daintee, disseminated and caused to be disseminated, as aforesaid, are the following:

Don't worry about fat, take Faid reducing tablets.

In order to get best results, Faid must be taken at regular intervals.

For ordinary cases, take one tablet after each meal and one at bedtime. While this is not intended to bring about rapid effects, it should under ordinary conditions show results. Should more rapid action be desired, take two tablets after each meal omitting the one at bedtime.

No set dosage can be made for all users for this is governed a great deal by individuals and their habits. However, the dosage described will, we believe, fit the average individual.

You are taking Faid to obtain certain results so be very careful not to miss a single dose or the accumulative effect started may be lost which would necessitate starting all over again.

As to how long the Faid tablets should be taken, no definite period can be fixed in advance of their actual use and the reaction of the particular individual to them. Much will depend upon the circumstances of each case and the

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response of each individual to the treatment. It therefore is expected that each person will use his or her own sound judgment as to when and how long to use the tablets * * * in privacy under your own control.

The Faïd Method, used according to directions, should do all that is claimed for it. The directions are important and should be followed carefully if best results are to be obtained.

Distributed by
The Chapman Health Products Co.
Cleveland, Ohio.

Some Good Selling Points By
The Chapman Health Products Co.
Cleveland, Ohio.

Faïd is a scientific prescription to assist in taking off surplus fat. Should they fear the thyroid ingredient it can be said that an inactive thyroid gland is usually the cause of fat accumulation. One half grain is only sufficient to stimulate thyroid activity. Many doctors prescribe this drug in doses several times this amount.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondents represent that their medicinal preparation, known and designated as N. A. R. Tablets, is a cure or remedy for rheumatism, neuritis and arthritis and possesses therapeutic value in the treatment therefor.

PAR. 5. In truth and in fact, the medicinal preparation sold and distributed by the respondents as aforesaid, known as N. A. R. Tablets, is not a cure or remedy for rheumatism, neuritis or arthritis. Said preparation does not possess any therapeutic value in the treatment of any of said ailments, except in so far as the analgesic properties of said preparation may afford temporary relief from the pains caused by said ailments.

PAR. 6. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondents also represent that their medicinal preparation designated as Faïd, otherwise known as Daintee is a cure or remedy for obesity and a competent, safe and scientific treatment therefor, and that its use will have no ill effect upon the human body.

PAR. 7. In truth and in fact, the medicinal preparation sold and distributed by the respondents as aforesaid, designated as Faïd, otherwise known as Daintee, is not a cure or remedy for obesity and does not constitute a competent, safe or scientific treatment therefor. Said preparation will not accomplish the results claimed by the respondents. Furthermore, said preparation is not safe and harmless in that said preparation contains powdered extract phytolacca berries, sodium bïborate, berberine hydrochloride, apocynoid, and desiccated thyroid.

The aforesaid drugs are present in said medicinal preparation in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

Such use of said medicinal preparation may produce nausea, severe vomiting, muscular debility, gastrointestinal irritation, diarrhea, serious bowel trouble, raised temperature, irregular pulse, collapse, headaches, muscular and articular pains, vertigo, insomnia, physical exhaustion, tremor, and tachycardia.

The use of said preparation, as aforesaid may also result in chronic poisoning, thyroid toxicosis, permanent injury to tissues, organic functions and the entire body mechanism, and irreparable injury to the heart muscle and auricular fibrillation.

PAR. 8. In addition to the representations hereinabove set forth the respondents have also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal that the use of said preparation Faid, otherwise known as Daintee, under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in serious and irreparable injury to health.

PAR. 9. The use by the respondents of the foregoing false, deceptive and misleading statements and representations with respect to their preparations, disseminated as aforesaid, has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparations.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint, and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that

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said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, The Chapman Health Products Co., a corporation, and its officers, and John W. Chapman and Nellie C. Chapman, individually and as officers of The Chapman Health Products Co., and their respective agents, representatives, and employees directly or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of the medicinal preparations designated as "N. A. R. Tablets" and as "Faid" (otherwise known as "Daintee"), or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, or disseminating or causing to be disseminated any advertisements, by any means, for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act of said medicinal preparations, which advertisements, when referring to the product "Faid," fail to reveal that the use of said preparation "Faid" may result in serious and irreparable injury to health, or which advertisements represent, directly or through implication:

1. That said preparation designated as "N. A. R. Tablets," is a cure or remedy for rheumatism, neuritis or arthritis, or that said preparation possesses any therapeutic value in the treatment of any of said ailments, other than to afford temporary relief from the pains caused by said ailments.

2. That said preparation designated as "Faid," otherwise known as "Daintee," is a cure or remedy for obesity or is a competent, safe or scientific treatment for obesity.

It is further ordered, That the respondents shall, within 10 days after service upon them of this order, file with the Commission an interim report in writing, stating whether they intend to comply with this order, and if so, the manner and form in which they intend to comply; and that within 60 days after the service upon them of this order, said respondents shall file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

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IN THE MATTER OF

ANHEUSER-BUSCH, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (a) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY SEC. 1 OF AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 2987. Complaint, Nov. 21, 1936—Decision, May 11, 1940

Where a corporation engaged in manufacture, sale and distribution of yeast in commerce to its customers in the several States other than States of origin and shipment, in substantial competition with others engaged in sale and distribution of yeast in commerce between and among the various States;

In selling its bakers' yeast under price lists and schedules pursuant to which purchasers of 50,000 pounds and more of such yeast received price of 14 cents a pound, purchasers of 10,000 to 50,000 pounds received price of 14½ cents a pound, those purchasing from 7,500 to 10,000 pounds received price of 16 cents, and prices in remaining 8 steps ranged upward from 17 cents for monthly purchases or requirements of buyer ranging from 5,000 to 7,500 pounds, to 25 cents for those purchasing from 1 to 150 pounds—

- (a) Discriminated thereby in price between different purchasers of its said product of like grade and quality, through giving and allowing certain purchasers of bakers' yeast, when used in the manufacture of bread and allied products, different prices, as aforesaid, than given or allowed other of its said purchasers competitively engaged one with the other in the sale and distribution of bread and allied products within the United States;
- (b) Discriminated in price between different purchasers by deviating from schedule aforesaid, through practice of applying such schedule on basis of respective customers' monthly requirements, irrespective of whether or not such requirements were purchased of it, (1) between customers, on the one hand, who purchased all of their requirements of yeast from it, and those who purchased only a part of their requirements, so that, under certain circumstances, purchaser buying his entire requirement would pay more than other customer buying similar quantity of it, but with larger monthly requirement, and would pay, also, same amount as still other customer with same requirement, but purchasing less, and (2) between customers, on the one hand, who purchased some, but not all, of their requirements from it, and other customers who also purchased some, but not all, of their requirements, so that, under given circumstances, customer purchasing given quantity, but with larger requirement, might pay less than customer purchasing of its similar quantity, but with smaller requirement;
- (c) Discriminated in price between different purchasers of its said yeast by deviating from said schedule, through selling at prices based on respective purchasers' total consumption or purchases, irrespective of the number or quantity of the individual deliveries, so that independent dealers operating single plant were obligated to pay a great deal more for yeast than large chains operating several bakeries which, with plant in same area as independent, might receive same quantity at particular branch as received by