

IN THE MATTER OF
THEODORE RADIN, INC.

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

Docket 3992. Complaint, Jan. 12, 1940—Decision, May 13, 1940

Where a corporation engaged in sale and distribution of certain medicinal preparations designated "Glycirenan," "Glycirenan-Forte," "Jodirenan," "Inhaledrin-Compositum" and "Aerizon," recommended as treatments for asthma, hay fever, sinus discomfort and bronchial irritations, and of a device called "Atmozon Aerifier" for administering said preparations, sold as aforesaid to purchasers in various other States and in the District of Columbia; in advertisements thereof which it disseminated and caused to be disseminated through the mails and insertion in newspapers and periodicals of general circulation, and pamphlets, circulars, and other printed or written matter distributed in commerce, and by other means, and through testimonial letters, circulars and form letters urging purchasers to try its aforesaid preparations for purposes above indicated—

Represented, directly and indirectly, that aforesaid preparations were cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments, and constituted competent and effective treatments therefor, and were absolutely harmless no matter how often used, and that use thereof would prevent attacks of asthma and hay fever, or the recurrence thereof, and would relieve the suffering incident thereto;

Facts being said products were not cures or remedies for said various conditions and ailments and did not constitute competent and effective treatments therefor, in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations and sinus discomfort, and, by virtue of epinephrine and ephedrine therein contained, were not harmless, no matter how often used, but, used over long period of time, might produce such prolonged vasoconstriction as to cause tissue damage from anoxemia, with secondary inflammatory reactions;

With capacity and tendency to mislead substantial portion of purchasing public into erroneous and mistaken belief that such false, deceptive and misleading statements, representations and advertisements were true, and to induce portion of such public to purchase said drug containing medicinal preparations because of such erroneous and mistaken belief:

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. M. C. Pearce for the Commission.

Mr. Irving M. Radin, of New York City, for respondent.

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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 Theodore Radin, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of 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. Respondent, Theodore Radin, Inc., is a corporation duly chartered, organized and existing under and by virtue of the laws of the State of New York with its principal office and place of business located at 18-20 East Forty-first Street, in the city of New York, State of New York.

Respondent, Theodore Radin, Inc., is now and for more than 1 year last past has been engaged in the sale and distribution of certain medicinal preparations designated "Glycirenin," "Glycirenin-Forte," "Jodirenin," "Inhaledrin-Compositum," and "Aerizon" recommended as treatments for asthma, hay fever, sinus discomfort, and bronchial irritations. Respondent in connection therewith also sells and distributes a device designated "Atmozon Aerifier" for administering said medicinal preparations.

Said medicinal preparations, when sold, are transported from respondent's place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said medicinal preparations in commerce between and among the various States of the United States, and in the District of Columbia.

PAR. 2. In furtherance of the sale and distribution of its medicinal preparations, the respondent, Theodore Radin, Inc., has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning said medicinal preparations by the United States mails, by insertion in newspapers and periodicals having a general circulation and also in pamphlets, 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 said medicinal preparations, and has disseminated and is

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now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning the said medicinal preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said medicinal preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

For Quick and Effective Relief of Asthma Use "Atmozon" Aerifler with "Silbe" medications. One user writes: "It is the most wonderful treatment I have found after 15 years of suffering." Proven successful for over 30 years.

Asthma

* * * * *

Immediate relief given in the most obstinate cases regardless of age of sufferer.

Proven Method for

Quick and Effective Relief for

Asthma

Hay Fever.

The phenomenal results obtained by the use of "Glyciren" in cases of asthma, is founded upon its composition justified by the capacity for resorption of the aerified medicaments by the mucous membrane of the bronchi.

If the Bronchitis is accompanied by an Asthmatic condition (Bronchial Asthma), the best results may be obtained by using "Glyciren" in the medicated air form.

When your case is properly diagnosed by your doctor as sinus (and no complications are visible) you can obtain almost immediate relief with an "Atmozon" and medication "Aerizon" by inhaling same in dry cold air form (medicated air).

The action of the "Silbe" medicaments, Jodirenan, and Glyciren, on the musculature of the bronchi is spasmolytic. This spasmolytic action causes the dyspnoea to disappear and allows the sufferer to be comfortable. The first medicament cuts through the mucous clogged passages so that the heaviness is eliminated and the second medicament takes away the wheeze and rale. These medications have been proven by many years of use to be the sovereign remedies in not only relieving, but also preventing attacks.

Our medications comply with regulations governing products of this character. They do not contain narcotics, are not habit-forming and are absolutely harmless regardless of the age of the user.

While the "Atmozon" constitutes the best relief obtainable—is absolutely harmless no matter how often used—* * *

PAR. 3. In addition to the foregoing advertisements, the respondent has disseminated false advertisements in the same manner as hereinabove set out by means of testimonial letters, circulars and form letters urging potential purchasers to try said preparations for the treatment of asthma, hay fever, sinus discomfort, and bronchial irritations.

Among and typical of the false statements and representations disseminated as aforesaid by the respondent through the use of said

circular and testimonial letters, urging the purchase of said preparations, are the following:

We will sell you an "Atmozon" Pocket "Aerifier" * * * and a bottle of Dr. Silten's latest discovery, a new inhalant which has proven the greatest advancement in recent years, for the relief of asthma—Glycirenán-Forte.

"* * * the medication * * * is keeping me entirely free from hay fever."

The machine was delivered to me at the hospital where they had taken me a few days before, having an acute attack of asthma. * * * I have received as many as twenty hypodermics in one nite. Well, the machine arrived at the hospital, and, as soon as I started to use it, I was through with the hypodermics. No matter how severe the attack was, the machine forced enough air, mixed with glycierenan, so that I was at ease almost instantly.

For the past fourteen years I have been a victim of both Rose Fever and Hay Fever. It was not until January, 1932 when I first used your medication that I obtained relief. Now I use the Inhaledrin-Compositum Spring, Summer and Fall, as without it I would lose many a days work. Further, it enables me to sleep and breathe in comfort at night.

PAR. 4. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative or therapeutic properties of the preparations sold and distributed by it, the respondent, Theodore Radin, Inc., has represented and does now represent, directly and indirectly, that the preparations "Glycirenán," "Glycirenán-Forte," "Jodirenán," "Inhaledrin-Compositum," and "Aerizon" are cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments and that they constitute competent and effective treatments therefor; that said preparations are absolutely harmless no matter how often used; that the use of said preparations will prevent attacks of asthma and hay fever, or the recurrence thereof and will relieve the suffering incident thereto.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading, and untrue. In truth and in fact, the medicinal preparations sold and distributed by respondent, Theodore Radin, Inc., are not cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments, and do not constitute competent and effective treatments therefor in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations, and sinus discomfort. Said preparations are not absolutely harmless no matter how often used by reason of the existence of epinephrine and ephedrine in said preparations and the use of said preparations over a long period of time is likely to produce such prolonged vasoconstriction as to

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cause tissue damage from anoxemia, with secondary inflammatory reactions.

PAR. 6. In addition to the false and misleading statements hereinabove set forth, the respondent is also engaged in the dissemination of false advertisements as aforesaid, in that the respondent fails to reveal to purchasers and prospective purchasers that the use of said medicinal preparations under the conditions prescribed in said advertisements or under such conditions as are customary or usual may in some cases be injurious to health.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid, with respect to said medicinal preparations, has had, and now has, the capacity and tendency to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true, and also has a tendency and capacity to induce a portion of the purchasing public because of such erroneous and mistaken belief to purchase such medicinal preparations containing drugs.

PAR. 8. The aforesaid acts and practices of the respondent 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 12, 1940, issued and subsequently served its complaint in this proceeding upon respondent, Theodore Radin, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. The respondent subsequently filed its answer in which answer it admitted all the material allegations of fact set forth in said complaint, with the exception of the allegations of paragraph 6 thereof, 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

PARAGRAPH 1. Respondent, Theodore Radin, Inc., is a corporation duly chartered, organized, and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at 18-20 East Forty-first Street, in the city of New York, State of New York.

Respondent, Theodore Radin, Inc., is now and for more than 1 year last past has been engaged in the sale and distribution of certain medicinal preparations designated "Glycirenin," "Glycirenin-Forte," "Jodirenin," "Inhaledrin-Compositum," and "Aerizon" recommended as treatments for asthma, hay fever, sinus discomfort, and bronchial irritations. Respondent in connection therewith also sells and distributes a device designated "Atmozon Aerifier" for administering said medicinal preparations.

Said medicinal preparations, when sold, are transported from respondent's place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said medicinal preparations in commerce between and among the various States of the United States, and in the District of Columbia.

PAR. 2. In furtherance of the sale and distribution of its medicinal preparations, the respondent, Theodore Radin, Inc., has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning said medicinal preparations by the United States mails, by insertion in newspapers and periodicals having a general circulation and also in pamphlets, 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 said medicinal preparations, and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning the said medicinal preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said medicinal preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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Among and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

For Quick and Effective Relief of Asthma Use "Atmozon" Aerifier with "Silbe" medications. One user writes: "It is the most wonderful treatment I have found after 15 years of suffering." Proven successful for over 30 years.

Asthma

* * * * *

Immediate relief given in the most obstinate cases regardless of age of sufferer

Proven Method for
Quick and Effective Relief for
Asthma
Hay Fever.

The phenomenal results obtained by the use of "Glyciren" in cases of asthma, is founded upon its composition justified by the capacity for resorption of the aerified medicaments by the mucous membrane of the bronchi.

If the Bronchitis is accompanied by an Asthmatic condition (Bronchial Asthma), the best results may be obtained by using "Glyciren" in medicated air form.

When your case is properly diagnosed by your doctor as sinus (and no complications are visible) you can obtain almost immediate relief with an "Atmozon" and medication "Aerizon" by inhaling same in dry cold air form (medicated air).

The action of the "Silbe" medicaments, Jodirenan, and Glyciren, on the musculature of the bronchi is spasmolytic. This spasmolytic action causes the dyspnoea to disappear and allows the sufferer to be comfortable. The first medicament cuts through the mucous clogged passages so that the heaviness is eliminated and the second medicament takes away the wheeze and rale. These medications have been proven by many years of use to be the sovereign remedies in not only relieving, but also preventing attacks.

Our medications comply with regulations governing products of this character. They do not contain narcotics, are not habit-forming and are absolutely harmless regardless of the age of the user.

While the "Atmozon" constitutes the best relief obtainable—is absolutely harmless no matter how often used— * * *

PAR. 3. In addition to the foregoing advertisements, the respondent has disseminated false advertisements in the same manner as hereinabove set out by means of testimonial letters, circulars and form letters, urging potential purchasers to try said preparations for the treatment of asthma, hay fever, sinus discomfort and bronchial irritations.

Among and typical of the false statements and representations disseminated as aforesaid by the respondent through the use of said circular and testimonial letters, urging the purchase of said preparations, are the following:

We will sell you an "Atmozon" Pocket "Aerifier" * * * and a bottle of Dr. Silten's latest discovery, a new inhalant which has proven the greatest advancement in recent years, for the relief of asthma—Glycirenán-Forte.

* * * the medication * * * is keeping me entirely free from hay fever.

The machine was delivered to me at the hospital where they had taken me a few days before, having an acute attack of asthma. * * * I have received as many as twenty hypodermics in one nite. Well, the machine arrived at the hospital, and, as soon as I started to use it, I was through with the hypodermics. No matter how severe the attack was, the machine forced enough air, mixed with glycirenán, so that I was at ease almost instantly.

For the past fourteen years I have been a victim of both Rose Fever and Hay Fever. It was not until January, 1932 when I first used your medication that I obtained relief. Now I use the Inhaledrin-Compositum Spring, Summer and Fall, as without it I would lose many a days work. Further, it enables me to sleep and breathe in comfort at night.

PAR. 4. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative or therapeutic properties of the preparations sold and distributed by it, the respondent, Theodore Radin, Inc., has represented and does now represent, directly and indirectly, that the preparations "Glycirenán," and "Glycirenán-Forte," "Jodirenán," "Inhaledrin-Compositum," and "Aerizon" are cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments and that they constitute competent and effective treatments therefor; that said preparations are absolutely harmless no matter how often used; that the use of said preparations will prevent attacks of asthma and hay fever, or the recurrence thereof and will relieve the suffering incident thereto.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondent as hereinabove designated are grossly exaggerated, misleading, and untrue. In truth and in fact, the medicinal preparations sold and distributed by respondent, Theodore Radin, Inc., are not cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments, and do not constitute competent symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchila, irritations, and sinus discomfort. Said preparations are not absolutely harmless no matter how often used by reason of the existence of epinephrine and ephedrine in said preparations and the use of said preparations over a long period of time may produce such prolonged vasoconstriction as to cause tissue damage from anoxemia, with secondary inflammatory reactions.

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PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid, with respect to said medicinal preparations, has the capacity and tendency to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and to induce a portion of the purchasing public to purchase such medicinal preparations containing drugs because of such erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of the respondent 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 answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint with one exception therein specified, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Theodore Radin, Inc., its representatives, agents, 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 medicinal preparations containing drugs now designated by the names "Glycirenán," "Glycirenán-Forte," "Jodirenán," "Inhaledrin-Compositum," and "Aerizon," or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or any other name or names; or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is 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 represent directly or through implication that

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said medicinal preparations "Glycirenán," "Glycirenán-Forte," "Jodirenán," "Inhaledrin-Compositum," and "Aerizon" are cures or remedies for asthma, hay fever, sinus discomfort, bronchial asthma, and other bronchial ailments, or that they constitute competent and effective treatments therefor in excess of furnishing temporary symptomatic relief from the paroxysms of asthma, attacks of hay fever, bronchial irritations, and sinus discomforts; that said preparations are absolutely harmless no matter how often used; that the use of said preparations will prevent attacks of asthma and hay fever or the recurrence thereof.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

LOUIS GOLDMAN, TRADING AS GLOBE RUMMAGE MART

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

Docket 4016. Complaint, Feb. 5, 1940—Decision, May 13, 1940

Where an individual engaged in purchase of second-hand clothing and other merchandise which he bought on the open market from other second-hand dealers, junk dealers, and at rummage sales, and in sale and distribution thereof to purchasers in various other States and in the District of Columbia; in offering and describing through catalogs distributed by him through the mails and in other ways to purchasers and prospective purchasers in the various States and in said District, and through circulars, form letters, and other advertising literature which he disseminated, his said second-hand and reclaimed wearing apparel—

- (a) Represented that such apparel purchased by him as aforesaid was seasonable and salable merchandise of the latest or currently popular style, facts being it was old and out of style;
- (b) Represented that said apparel was salable merchandise in good condition and was only slightly used, facts being it was old, dirty, badly worn, and generally unsalable and frequently packages thereof, when shipped to customers, contained goods that were old, out of style, dirty, worn-out, unsalable, valueless, and of different size, color, age, quality, style, and condition from that ordered by customers;
- (c) Represented that he had complete assortments of wearing apparel available, facts being he did not have complete assortment of sizes available; and
- (d) Represented that any merchandise which was not entirely satisfactory might be returned for replacement, facts being he did not generally, as advertised by him, make satisfactory replacements or refunds where merchandise was not satisfactory;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that such false statements and representations were true and into purchase of said merchandise by reason thereof:

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. A. McOuat 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 Louis Goldman, an individual trading as Globe Rummage Mart, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in that respect would be