

Complaint

IN THE MATTER OF
THE HYDROSAL COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4049. Complaint, Mar. 6, 1940—Decision, May 28, 1940*

Where a corporation engaged in sale and distribution of its "Hydrosal Liquid" and "Hydrosal Ointment," 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, by insertion in newspapers and periodicals having general circulation, and in circulars and other printed or written matter distributed in commerce, and by other means, and which were intended or likely to induce purchase of its said products—

Represented, directly and by implication, that said products possessed remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, and poison ivy, and with respect to those disorders characterized by or associated with pimples and with skin rashes, outbreaks, and itches, including foot and toe itches and skin itches generally, and that they possessed therapeutic properties of value in the treatment of said various ailments and conditions, in excess of temporary relief from itching symptom associated therewith, and were adopted by and used in many hospitals and also by many doctors;

Facts being they did not possess any remedial, curative, or healing properties for aforesaid ailments and conditions, nor possess any therapeutic properties of beneficial value in the treatment thereof in excess of affording temporary relief from the symptom of itching usually associated with or accompanying said diseases or disorders, by virtue of the emollient and astringent properties which they possessed and which might serve, at most, as palliatives for such temporary relief, and they had not been adopted by hospitals or doctors generally, and were not generally thus used, and representations used and disseminated by it as above set forth were grossly exaggerated, misleading, and untrue, and constituted false advertisements;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and into purchase of its said medicinal preparations as result of such statements, representations, and advertisements;

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. J. W. Brookfield, Jr. 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 Hydrosal Co., a corporation, hereinafter referred to as respondent, has violated

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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, The Hydrosal Co., is 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 located at 333 East Eighth Street, Cincinnati, Ohio. The respondent is now, and for more than 2 years last past has been, engaged in the business of selling and distributing two medicinal preparations known as "Hydrosal Liquid" and "Hydrosal Ointment." In the course and conduct of its business, respondent causes said medicinal preparations, when sold, to be transported from its place of business in the State of Ohio 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 herein mentioned has maintained, a course of trade in said medicinal preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, the respondent had disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products by United States mails, by insertion 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 said products; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products 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:

Hydrosal has now become the favorite aid of thousands who formerly suffered from the itching and burning of eczema, dry, itching skin, piles, cracked, itching toes, surface pimples and other externally caused irritations.

Promotes healing.

First adopted by many doctors in hospitals.

It has aided thousands who formerly suffered from itching, burning eczema, itching skin and other externally caused skin irritations.

SURFACE PIMPLES. Thousands now clearing them with the aluminum ointment.

Tests in many hospitals show its remarkable power in clearing surface pimples and other externally caused skin irritations.

If you suffer from eczema, rash and other externally caused skin irritations, try the ointment used by many doctors and hospitals.

Thousands say Hydrosal brings amazingly fast, thorough relief.

Romance faded because her face was disfigured with ugly pimples. When they disappeared after applying Hydrosal, she knew they were only external.

Itching stops quickly. (Accompanied by illustrations of face, hand and foot, and the phrase, "Skin outbreaks, rashes * * * eczema, foot itch * * *")

Hydrosal a veritable blessing for relief of rashes, eczema, athlete's foot, pimples, poison ivy. Itching stops quickly, smarting, burning disappear, angry redness vanishes.

STOPS ITCHING FACE. (Accompanied by illustration upon which is superimposed the phrase "Skin outbreaks, rashes, eczema.")

PAR. 3. Through the use of the statements and representations hereinabove set forth and through the use of other statements and representations similar thereto but not specifically set forth herein, the respondent represents, directly and by implication, that the preparations designated "Hydrosal Liquid" and "Hydrosal Ointment" possess remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, and poison ivy and with respect to those disorders characterized by or associated with pimples and with skin rashes, outbreaks, and itches, including foot and toe itches and skin itches generally; that said preparations possess therapeutic properties of value in the treatment of eczema, piles, athlete's foot, and poison ivy, and of those disorders characterized by or associated with pimples and with skin rashes, outbreaks, and itches, including foot and toe itches and skin itches generally, in excess of temporarily relieving the itching symptom associated therewith, and that said preparations were adopted by and used in many hospitals and also by many doctors.

The representations used and disseminated by the respondent in the manner above described are grossly exaggerated, misleading, and untrue, and constitute false advertisements. The preparations designated as "Hydrosal Liquid" and "Hydrosal Ointment" do not possess any remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, or poison ivy, or for those disorders characterized by or associated with pimples or with skin rashes, outbreaks, or itches. Said preparations do not possess any therapeutic properties of beneficial value in the treatment of such diseases or disorders and possess no therapeutic value in connection therewith.

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in excess of affording temporary relief from the symptom of itching usually associated with or accompanying said diseases or disorders. Said preparations possess emollient and astringent properties which may serve at most as palliatives to temporarily relieve itching but possess no other therapeutic value. Respondent's said preparations have not been adopted by hospitals or doctors generally and are not generally used in hospitals or by doctors.

PAR. 4. The use by the respondent of the foregoing deceptive and misleading statements and representations and false advertisements 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 false statements, representations, and advertisements are true and into the purchase of respondent's medicinal preparations as a result of such statements, representations and advertisements.

PAR. 5. The aforesaid acts and practices of the respondent 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 March 6, 1940, issued and thereafter served its complaint in this proceeding upon respondent, The Hydrosal Co., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 11, 1940, the respondent filed its answer, in which it 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 now being 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, The Hydrosal Co., is 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 located at 333 East Eighth Street, Cincinnati, Ohio. The respondent is now, and for more than 2 years last past has been, engaged in the business of selling and distributing two medicinal preparations known as "Hydrosal Liquid" and "Hydrosal Ointment." In the course and conduct of

its business, respondent causes said medicinal preparations, when sold, to be transported from its place of business in the State of Ohio 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 herein mentioned has maintained, a course of trade in said medicinal preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products by United States mails, by insertion 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 said products; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products 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:

Hydrosal has now become the favorite aid of thousands who formerly suffered from the itching and burning of eczema, dry, itching skin, piles, cracked, itching toes, surface pimples and other externally caused irritations.

Promotes healing.

First adopted by many doctors in hospitals.

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Surface pimples. Thousands now clearing them with the aluminum ointment.

Tests in many hospitals show its remarkable power in clearing surface pimples and other externally caused skin irritations.

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Thousands say Hydrosal brings amazingly fast, thorough relief.

Romance faded because her face was disfigured with ugly pimples. When they disappeared after applying Hydrosal, she knew they were only external.

Itching stops quickly. (Accompanied by illustrations of face, hand and foot, and the phrase, "Skin outbreaks, rashes * * * eczema, foot itch * * *").

Hydrosal a veritable blessing for relief of rashes, eczema, athlete's foot, pimples, poison ivy. Itching stops quickly, smarting, burning disappear, angry redness vanishes.

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Stops Itching Face. (Accompanied by illustration upon which is superimposed the phrase "Skin outbreaks, rashes, eczema.")

PAR. 3. Through the use of the statements and representations hereinabove set forth and through the use of other statements and representations similar thereto but not specifically set forth herein, the respondent represents, directly and by implication, that the preparations designated "Hydrosal Liquid" and "Hydrosal Ointment" possess remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, and poison ivy and with respect to those disorders characterized by or associated with pimples and with skin rashes, outbreaks, and itches, including foot and toe itches and skin itches generally; that said preparations possess therapeutic properties of value in the treatment of eczema, piles, athlete's foot, and poison ivy, and of those disorders characterized by or associated with pimples and with skin rashes, outbreaks, and itches, including foot and toe itches and skin itches generally, in excess of temporarily relieving the itching symptom associated therewith, and that said preparations were adopted by and used in many hospitals and also by many doctors.

The representations used and disseminated by the respondent in the manner above described are grossly exaggerated, misleading, and untrue, and constitute false advertisements. The preparations designated as "Hydrosal Liquid" and "Hydrosal Ointment" do not possess any remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, or poison ivy, or for those disorders characterized by or associated with pimples or with skin rashes, outbreaks, or itches. Said preparations do not possess any therapeutic properties of beneficial value in the treatments of such diseases or disorders and possess no therapeutic value in connection therewith in excess of affording temporary relief from the symptom of itching usually associated with or accompanying said diseases or disorders. Said preparations possess emollient and astringent properties which may serve at most as palliatives to temporarily relieve itching but possess no other therapeutic value. Respondent's said preparations have not been adopted by hospitals or doctors generally and are not generally used in hospitals or by doctors.

PAR. 4. The use by the respondent of the foregoing deceptive and misleading statements and representations and false advertisements 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 false statements, representations, and advertisements are true and into the purchase of respondent's medicinal preparations as a result of such statements, representations, and advertisements.

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 the answer of the respondent, in which answer respondent admits all of the material allegations of fact set forth in said complaint, 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, The Hydrosal Co., a corporation, its officers, 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 respondent's medicinal preparations now designated "Hydrosal Liquid" and "Hydrosal Ointment," or any other preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same names 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 preparations, which advertisements represent, directly or through implication, that respondent's said preparations possess any remedial, curative, or healing properties with respect to eczema, piles, athlete's foot, poison ivy, or disorders characterized by or associated with pimples, skin outbreaks, or itches; or that said preparations possess any therapeutic value in the treatment of such conditions in excess of affording temporary relief from the symptom of itching usually accompanying or associated with such disorders; or that said preparations are in general use by the medical profession or hospitals.

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
NEW YORK DIESEL INSTITUTION, INC., HENRY M. KRAM-
RATH, JOHN L. SNIDER, EVERETT K. PANGBURN, RICH-
ARD B. CORNELL, AND FRANK F. HAYWARD, INDIVID-
UALLY AND AS OFFICERS THEREOF

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

Docket 3785. Complaint, May 9, 1939—Decision, May 29, 1940

Where a corporation, engaged along with an affiliate, in sale and distribution in commerce among the various States and in the District of Columbia of courses of study and instruction concerning Diesel engines and other trade subjects, conducted in whole or in part by correspondence, to various purchasers in other States and in said District, in active and substantial competition with others engaged in sale and distribution of similar courses of study and of courses of study and instruction intended for preparing students for various positions, employments, trades, callings, and professions and conducted in whole or in part by correspondence—

- (a) Represented to prospective and potential students that it would make available employment with good pay to those students who completed its courses, through such statements in advertisements as "Wanted: Diesel Operators—Installation, Sales, Service, Trouble Shooters, Engineering, All Departments, to Train Immediately for Jobs," and "Become a Diesel Expert—Mechanically minded men of good character to prepare for service in this vast new industry. Our aim—a job for every graduate. Day, evening and home study, with practical shop work at one of our completely equipped institutes. Many students now in splendid, well paying positions," and through sales representatives, and in effect that courses of study offered by it, if diligently pursued by student of average ability, were such that they would enable such student, without other experience or training, to become qualified as a Diesel engine expert, operator, or skilled workman on Diesel engines;

Facts being it merely had instructions courses for sale, had no regular full- or part-time work to offer to prospective students or students who completed its courses, did not obtain employment for any student who was a graduate of its school but failed, in many instances, to be of any assistance to its graduates when requested to do so, and its said courses were not such as would qualify a student of average ability, as aforesaid, and without other experience or training, as a Diesel engineer, etc.;

- (b) Represented, through its advertisements and sales representatives, that its offer of training was made only to a limited number of students in any given territory and to persons having special qualifications for carrying on courses of study offered by it, facts being its offers were made to general public and all students who could pay the price of the course or installments thereon were accepted; and
- (c) Represented, through its advertisements and sales representatives, that classes including shop training with Diesel engines and machinery installed in its buildings, would be held in various localities other than that in which