

Syllabus

IN THE MATTER OF

GEORGE C. HUSKINS, MINA D. HUSKINS, AND HOWARD
W. ELLISON, TRADING AS CARTER SALES COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4028. Complaint, Feb. 8, 1940—Decision, July 9, 1940*

Where three individuals engaged in sale and distribution of their "Carter's Special Formula," drug-containing preparation, which they recommended for use as treatment and cure for alcoholism and for liquor habit to purchasers in various other States and in the District of Columbia; in advertisements of their said product which they disseminated and caused to be disseminated through the mails, through insertion in newspapers of general circulation, and through circulars and other printed or written matter distributed in commerce among the various States and through continuities broadcast from radio stations of extrastate audience, and otherwise, and which advertisements were intended, and likely to, induce purchase of their said product—

Represented, directly and by implication, that their said formula was a cure or remedy for and a competent and effective treatment for alcoholism and the liquor habit, and that through its use desire for alcoholic stimulants would be eradicated, and that it was absolutely harmless and contained no harmful drugs, through such statements, among others, as "It contains no harmful drugs"; "* * * In most cases at the end of three days the desire for alcohol is gone"; "* * * complete relief from this vicious habit"; and "* * * the modern, inexpensive THREE DAY LIQUOR TREATMENT * * * with an absolute MONEY BACK GUARANTEE CERTIFICATE"; and others of similar tenor; facts being, said product was not a cure or remedy nor competent or effective treatment for alcoholism or liquor habit, use thereof would not eradicate desire for alcoholic stimulants, and product was not absolutely harmless, in that it might, in some cases, cause skin rashes, dermatitis, and injury to liver and intestinal mucosa;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true and to induce substantial portion of said public, because of such belief, to purchase their medicinal preparation aforesaid:

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.

Before *Mr. William C. Reeves*, trial examiner.

Mr. Randolph W. Branch 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 George C. Huskins,

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Mina D. Huskins, and Howard W. Ellison, individuals trading under the name of Carter Sales 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. Respondents are individuals who, trading and doing business under the name of Carter Sales Co., maintained an office and principal place of business in the Arcade Building, Los Angeles, Calif., which was later removed to 208 West Eighth Street, Los Angeles, Calif.

PAR. 2. Respondents, from on or about September 1, 1938, have been engaged in the business of selling and distributing a certain preparation containing drugs, described by them as "Carter's Special Formula" and recommended by them for use as a treatment and cure for alcoholism and for the liquor habit. Respondents cause said preparation, when sold, to be transported from their aforesaid place of business in the State of California, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents at all times mentioned herein have maintained a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and caused the dissemination of false advertisements concerning their said preparation by United States mails, by insertion in newspapers having a general circulation, and also in circulars and other printed or written matter, all of which have been distributed in commerce among and between the various States of the United States, and by continuities broadcast from radio stations having sufficient power to convey, and which did convey, the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originated, and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said product; and have disseminated and caused the dissemination of false advertisements, concerning their said preparation, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said medicinal preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and

representation contained in said false advertisements disseminated and caused to be disseminated, as aforesaid are the following:

It contains no harmful drugs * * *.

* * * in most cases at the end of three days the desire for alcohol is gone.

* * * complete relief from this vicious habit.

Carter's Special Formula is an effective * * * treatment for habitual drinkers * * * on a full money back guarantee.

* * * satisfaction within even a three-day period * * *.

Alcoholism is being treated successfully * * * with Carter's Special formula.

Now this terrible craving may be conquered easily and inexpensively right in your own home.

* * * the safe * * * treatment.

The Inexpensive Guaranteed Three Day Secret Treatment for Alcoholism.

* * * the modern, inexpensive THREE DAY LIQUOR TREATMENT * * * with an absolute MONEY BACK GUARANTEE CERTIFICATE.

* * * does not contain harmful drugs.

Just suppose disaster * * * should result from the use of liquor to the one you had in mind * * *. You owe it to them and to your own peace of mind to do something right now.

STOP LIQUOR HABIT IMMEDIATELY. Regain the respect of your family and friends. Complete 3-day proven treatment succeeds when all other liquor treatments fail. Given secretly or voluntarily, no loss of time from work. Absolutely harmless. Your satisfaction guaranteed. Send only \$1.00 today for complete treatment. CARTER, Box 6055, Los Angeles, Calif.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents have represented, directly and indirectly, that their preparation "Carter's Special Formula" is a cure or remedy for, and a competent and effective treatment for, alcoholism and the liquor habit; that by its use the desire for alcoholic stimulants will be eradicated; that it is absolutely harmless and contains no harmful drugs.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' product is not a cure or remedy nor a competent or effective treatment for alcoholism or the liquor habit. The use of such product will not eradicate the desire for alcoholic stimulants. Said product is not absolutely harmless, in that it may in some cases cause skin rashes, dermatitis, and injury to the liver and the intestinal mucosa.

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their preparation, disseminated as aforesaid, has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements

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and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparation.

PAR. 7. The aforesaid acts and practices of the respondents, as herein alleged, were all to the prejudice and injury of the public, and constituted 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 the 8th day of February 1940, issued, and thereafter served, its complaint in this proceeding upon the respondents, George C. Huskins, Mina D. Huskins, and Howard W. Ellison, trading as Carter Sales Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint, hearings were held before William C. Reeves, an examiner of the Commission theretofore duly designated by it, at which hearings testimony and other evidence were introduced in support of the allegations of said complaint. Before said hearings were concluded, the respondents filed an answer, in which they admitted all of 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, answer, testimony, and other evidence, said testimony and other evidence having been duly recorded and filed in the office of the Commission, 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. Respondents are individuals who, trading and doing business under the name of Carter Sales Co., maintained an office and principal place of business in the Arcade Building, Los Angeles, Calif., which was later removed to 208 West Eighth Street, Los Angeles, Calif.

PAR. 2. Respondents, from on or about September 1, 1938, have been engaged in the business of selling and distributing a certain preparation containing drugs, described by them as "Carter's Special Formula" and recommended by them for use as a treatment and cure for alcoholism and for the liquor habit. Respondents cause said preparation, when

sold, to be transported from their aforesaid place of business in the State of California, to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents at all times mentioned herein have maintained a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and caused the dissemination of false advertisements concerning their said preparation by United States mails, by insertion in newspapers having a general circulation, and also in circulars and other printed or written matter, all of which have been distributed in commerce among and between the various States of the United States, and by continuities broadcast from radio stations having sufficient power to convey, and which did convey, the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originated, and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said product; and have disseminated and caused the dissemination of false advertisements, concerning their said preparation, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said medicinal preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said false advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

It contains no harmful drugs * * *.

* * * in most cases at the end of three days the desire for alcohol is gone.

* * * complete relief from this vicious habit.

Carter's Special Formula is an effective * * * treatment for habitual drinkers * * * on a full money back guarantee.

* * * satisfaction within even a three-day period * * *.

Alcoholism is being treated successfully * * * with Carter's Special Formula.

Now this terrible craving may be conquered easily and inexpensively right in your own home.

* * * the safe * * * treatment.

The Inexpensive Guaranteed Three Day Secret Treatment for Alcoholism.

* * * the modern, inexpensive THREE DAY LIQUOR TREATMENT * * * with an absolute MONEY BACK GUARANTEE CERTIFICATE.

* * * does not contain harmful drugs.

Just suppose disaster * * * should result from the use of liquor to the one you had in mind * * *. You owe it to them and to your own peace of mind to do something right now.

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STOP LIQUOR HABIT IMMEDIATELY. Regain the respect of your family and friends. Complete 3-day proven treatment succeeds when all other liquor treatments fail. Given secretly or voluntarily, no loss of time from work. Absolutely harmless. Your satisfaction guaranteed. Send only \$1.00 today for complete treatment. CARTER, Box 6055, Los Angeles, Calif.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents have represented, directly or indirectly, that their preparation "Carter's Special Formula" is a cure or remedy for, and a competent and effective treatment for, alcoholism and the liquor habit; that by its use the desire for alcoholic stimulants will be eradicated; that it is absolutely harmless and contains no harmful drugs.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' product is not a cure or remedy nor a competent or effective treatment for alcoholism or the liquor habit. The use of such product will not eradicate the desire for alcoholic stimulants. Such product is not absolutely harmless, in that it may in some cases cause skin rashes, dermatitis, and injury to the liver and the intestinal mucosa.

PAR. 6. The use by respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their preparation, disseminated as aforesaid, has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparation.

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, testimony and other evidence introduced before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, 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

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its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents George C. Huskins, Mina D. Huskins, and Howard W. Ellison, individually, and trading as Carter Sales Co., or trading under any other name or names, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of their medicinal preparation designated "Carter's Special Formula," or any other preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or through inference, that said preparation is a cure or remedy or a competent or effective treatment for alcoholism or the liquor habit; that the use of said preparation will eradicate the desire for alcoholic stimulants; that said preparation is in all cases safe or harmless, or that it contains no harmful drugs.

2. 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 preparation, which advertisements contain any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

SOHN & COMPANY, INC., AND BENJAMIN SOHN, MORRIS SOHN, AND ISADORE SOHN, INDIVIDUALLY AND AS OFFICERS AND DIRECTORS OF SOHN & COMPANY, INC.

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

Docket 4072. Complaint, Mar. 28, 1940—Decision, July 9, 1940

Where a corporation and three individuals who were officers and directors thereof and, as such, managed, controlled, and dominated its corporate affairs and activities, and acting in conjunction and cooperation with each other in carrying out the acts and practices and methods below set forth, and engaged in manufacture of mattresses and bedding with old, second-hand, used, and discarded cotton and other materials which they purchased and which, after being combed with a type of machine and reworked, were covered with new coverings and, in sale and distribution to purchasers in various other States and including wholesalers, retailers, and other buyers who resold same to purchasing public, of said products, which, after being fitted with new coverings as aforesaid, had appearance of new mattresses—

Sold said products, with appearance aforesaid, and with no marking or designation clearly and conspicuously stamped thereon, or attached thereto, to indicate to purchasing public that such mattresses were in fact made from old, previously used, discarded, and second-hand mattresses, and in case of certain of said mattresses thus made but with labels bearing terms "Made of previously used materials" stamped thereon with such markings so illegible and inconspicuous that it could not be read by wholesale and retail buyers thereof or by members of the purchasing public, to retailers, and to jobbers and wholesalers, by whom said mattresses were sold to purchasing public without disclosing fact that they were reconditioned and made from old, used, discarded, and second-hand materials which had been remanufactured and fitted with new covering, and so as to indicate products in question were, in fact, composed in their entirety of new materials which had never been previously used, and thereby failed to disclose, through use by corporation and individuals aforesaid of said acts and practices, the kind and type of materials from which their products were made;

With the result that they thereby placed in the hands of unscrupulous and uninformed persons, means and instrumentality whereby such persons had been and were enabled to mislead and deceive members of purchasing and consuming public into erroneous and mistaken belief that their products, nearly all of which were made from old, used, discarded, and second-hand materials covered with new covering, were manufactured from new materials, and with effect, through use of such practices, of misleading and deceiving retail and wholesale dealers who purchase such products and substantial portion of purchasing public into erroneous and mistaken belief that said mattresses, made as aforesaid, were new products manufactured from new and unused materials, and with the result, as consequence of such belief, that said public was induced to, and did, purchase substantial quantities of their said products: