

Syllabus

IN THE MATTER OF

I. RALPH WEINSTOCK, TRADING AS THYROLE
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 4160. Complaint, June 13, 1940—Decision, Nov. 19, 1940

Where an individual engaged in sale and distribution of certain medicinal preparation by it designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, to purchasers in other States and in the District of Columbia; in advertisements of said preparation which he disseminated and caused to be disseminated through the mails and through advertisements in newspapers and by circulars, leaflets, pamphlets, and other advertising literature, and through various means in commerce and otherwise, and which were intended and likely to induce purchase of his said product—

- (a) Represented that his said medicinal preparation, designated and known as aforesaid, constituted a cure or remedy for obesity and a safe, competent, and effective treatment therefor, through such statements, among others, as "DON'T BE FAT. Get rid of excess weight without strict diet or strenuous exercise. If you are overweight due to glandular deficiency, but normally healthy otherwise, you may be reasonably sure of satisfactory results by taking O. B. C. Capsules," and "Slenderize this modern easy way without strict diet or exercise. Thousands of grateful users everywhere since 1923," and "Lose fat like magic. Youth restored. Health preserved. O. B. C. is the sure—safe—pleasant—easy—modern method of slenderizing without exercise";

Facts being preparation in question was not a cure or remedy for obesity, and did not constitute a competent or effective treatment therefor, nor a safe one, by virtue of inclusion of powdered strychnine alkaloid, powdered extract belladonna, aloin, thyroid, and other drugs 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, and use of such product might produce headaches, muscular and articular pains, nausea, and various other conditions and result, among other things, in permanent injury to tissues and organic functions, and irreparable injury to heart muscle; and

- (b) Failed to reveal in his said advertisements that use of said preparation, or O. B. C. Capsules, under conditions prescribed in said advertisements or under such conditions as are customary or usual might result in serious and irreparable injury to health;

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

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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. Robert S. Hall*, trial examiner.

Mr. William L. Taggart, 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 I. Ralph Weinstock, an individual, trading as Thyrole Products Co., hereinafter referred to as respondent, has 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. Respondent, I. Ralph Weinstock, is an individual trading as Thyrole Products Co., with his office and principal place of business at Thirty-fourth and Chestnut Streets, Philadelphia, Pa., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain medicinal preparation, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules.

In the course and conduct of his business the respondent causes said medicinal preparation when sold to be transported from his place of business in the State of Pennsylvania to purchasers thereof located in other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said medicinal preparation sold and distributed by him 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 his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by the United States mails and by various 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 product; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose

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of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of, the false, misleading and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails and by advertisements in newspapers, and by circulars, leaflets, pamphlets and other advertising literature, are the following:

DON'T BE FAT

Get rid of excess weight without strict diet or strenuous exercise. If you are overweight due to glandular deficiency, but normally healthy otherwise, you may be reasonably sure of satisfactory results by taking O. B. C. Capsules.

O. B. C. REDUCING CAPSULES

Slenderize this modern easy way without strict diet or exercise. Thousands of grateful users everywhere since 1923.

O. B. C. REDUCING CAPSULES

Lose fat like magic. Youth restored. Health preserved. O. B. C. is the sure—safe—pleasant—easy—modern method of slenderizing without exercise.

O. B. C. Capsules promote the combustion of fats, thereby reduce the weight of the body. They are mildly laxative and are taken one before each meal. In this manner gradual and appreciable loss is acquired. The action of O. B. C. can be accelerated by the user eating sparingly of the following foods: Bread, potatoes, milk, butter and sweets. However, this step in diet is not strictly necessary and is recommended for only those persons who are very much overweight. It is the purpose of O. B. C. Capsules to reduce gradually. Gradual reduction as produced by O. B. C. restores vim, vigor, mental alertness and efficiency. Sudden reduction due to extreme diet and exercise is disastrous, causing loss of vitality and weakness. O. B. C. Capsules owe their ever increasing popularity and recommendation to mildness and efficiency of action. They should be taken for six to twelve weeks for best results.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondent represents that his medicinal preparation, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, is a cure or remedy for obesity, and a safe, competent, and effective treatment therefor.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, the medicinal preparation sold and distributed by the respondent as aforesaid, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, is not a cure or remedy for obesity and does not constitute a competent or effective treatment therefor. Moreover, said preparation is not safe, in that said preparation contains powdered strychnine alkaloid, powdered extract belladonna, aloin, phenolphthalein, and thyroid, U. S. P.

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

Such use of said medicinal preparation may produce headaches, muscular and articular pains, nausea, vomiting, vertigo, insomnia, physical exhaustion, tremor, and tachycardia. The use of said preparation, as aforesaid, may also result in thyroid toxicosis, permanent injury to tissues, organic functions, and the entire body mechanism and irreparable injury to the heart muscle with auricular fibrillation.

In addition to the representations hereinabove set forth, the respondent has 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 O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, 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. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his preparation, 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 respondent's medicinal preparation.

PAR. 7. The foregoing 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 June 13, 1940, issued and on June 15, 1940, served its complaint in this proceeding upon respondent, I. Ralph Weinstock, an individual, trading as Thyrole Products Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 29, 1940, the respondent filed his answer, in which answer he 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 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, I. Ralph Weinstock, is an individual trading as Thyrole Products Co., with his office and principal place of business at Thirty-fourth and Chestnut Streets, Philadelphia, Pa., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain medicinal preparation, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules.

In the course and conduct of his business the respondent causes said medicinal preparation when sold to be transported from his place of business in the State of Pennsylvania to purchasers thereof located in other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said medicinal preparation sold and distributed by him 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 his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by the United States mails and by various 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 product; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of, the false, misleading and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails and by advertisements in newspapers, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

DON'T BE FAT

Get rid of excess weight without strict diet or strenuous exercise. If you are overweight due to glandular deficiency, but normally healthy otherwise, you may be reasonably sure of satisfactory results by taking O. B. C. Capsules.

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O. B. C. REDUCING CAPSULES

Slenderize this modern easy way without strict diet or exercise. Thousands of grateful users everywhere since 1923.

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O. B. C. Capsules promote the combustion of fats, thereby reduce the weight of the body. They are mildly laxative and are taken one before each meal. In this manner gradual and appreciable loss is acquired. The action of O. B. C. can be accelerated by the user eating sparingly of the following foods: Bread, potatoes, milk, butter and sweets. However, this step in diet is not strictly necessary and is recommended for only those persons who are very much overweight. It is the purpose of O. B. C. Capsules to reduce gradually. Gradual reduction as produced by O. B. C. restores vim, vigor, mental alertness and efficiency. Sudden reduction due to extreme diet and exercise is disastrous, causing loss of vitality and weakness. O. B. C. Capsules owe their ever increasing popularity and recommendation to mildness and efficiency of action. They should be taken for six to twelve weeks for best results.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondent represents that his medicinal preparation, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, is a cure or remedy for obesity, and a safe, competent, and effective treatment therefor.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, the medicinal preparation sold and distributed by the respondent as aforesaid, designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, is not a cure or remedy for obesity and does not constitute a competent or effective treatment therefor. Moreover, said preparation is not safe, in that said preparation contains powdered strychnine alkaloid, powdered extract belladonna, aloin, phenolphthalein, and thyroid, U. S. P.

The aforesaid drugs are present in the 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 headaches, muscular and articular pains, nausea, vomiting, vertigo, insomnia, physical exhaustion, tremor, and tachycardia. The use of said preparation, as aforesaid, may also result in thyroid toxicosis, permanent injury to tissues, organic functions, and the entire body mechanism and irreparable injury to the heart muscle with auricular fibrillation.

In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements

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in the manner above set forth in that said advertisements so disseminated fail to reveal that the use of O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, 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. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his preparation, 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 respondent's medicinal preparation.

CONCLUSION

The foregoing 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 by the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearings as to the said facts, and the Commission having made its findings as to the facts and its conclusion that the said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, I. Ralph Weinstock, individually and trading as the Thyrole Products Co., or trading under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation designated as O. B. C. Reducing Capsules, otherwise known as O. B. C. Capsules, or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or any other name or names, 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,

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which advertisement represents, directly or through inference, that said medicinal preparation is a cure or remedy or a competent or effective treatment for obesity; that said preparation is safe; or which advertisement fails to reveal that the use of said preparation may cause permanent injury to the heart, thyroid gland, and other vital organs.

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 advertisement contains any of the representations prohibited in paragraph 1 hereof, or which fails to reveal that the use of said preparation may cause permanent injury to the heart, thyroid gland, and other vital organs.

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

Syllabus

IN THE MATTER OF

HOME DIATHERMY 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 3653. Complaint, Nov. 23, 1938—Decision, Nov. 20, 1940

Where a corporation engaged in sale and distribution of its "Home Diathermy" device for treatment of various diseases, ailments and afflictions, to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in manufacture, sale, and distribution in commerce among the various States and in said District of similar devices and other products intended for similar usage and treatment of various diseases and conditions for which it recommended its said device; in advertisements thereof which it disseminated and caused to be disseminated through the mails, and in circulars, pamphlets, and other printed or written matter distributed in commerce among the various States and in said District, and through radio broadcasts of extra-State audience, and by other means in commerce and otherwise, and which were intended and likely to induce purchase thereof, and in which it made statements purporting to be descriptive of its said product and effectiveness thereof in safely treating and curing many of the diseases, ailments, afflictions, and disordered conditions of the body and cause of such conditions—

- (a) Represented that use of said device, in and of itself, had substantial therapeutic value in treatment of, and constituted a competent and adequate cure or remedy for, arthritis, neuritis, bursitis, sciatica, neuralgia, lumbago, hay fever, asthma, high and low blood pressure, rheumatism, and many other diseases, ailments, afflictions, and disordered conditions, and that use thereof would alleviate most discouraging, painful, and chronic conditions caused by ailments referred to, and increased oxidation, elimination of waste and toxic poisons, and nutrition, and that a person suffering from any of such ailments and conditions might be restored to health and vigor by such use alone, and that said device constituted up-to-date method which alleviated such diseases, ailments, afflictions, and disordered conditions without employment of any other means of treatment;

Facts being that use of its said device, whether of long wave type or of short wave type, more recently sold by it exclusively except on special orders for other, does not constitute a cure or remedy for arthritis, neuritis, bursitis, sciatica, neuralgia, lumbago, hay fever, asthma, high or low blood pressure, or rheumatism, nor have any therapeutic value in the treatment of any of said ailments or of any other disease or condition where acute inflammation, infection, pus formation, arteriosclerosis or conditions in which there is a tendency to hemorrhage, are present; and

- (b) Represented that the method of using said device was so simple that it might be used safely in the home by persons without knowledge and training with respect to the diagnosis, analysis, and treatment of diseases, ailments, afflictions, and disordered conditions of the body, and with respect to the technique and methods of the application of diathermy;