

Syllabus

IN THE MATTER OF

FRANK SPORS, TRADING AS SPORS COMPANY AND
QUALITY 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 4397. Complaint, Dec. 3, 1940—Decision, Jan. 21, 1941

Where an individual engaged in interstate sale and distribution of his "Corn-Go" medicinal preparation for corns, calluses, and bunions in advertisements of his said product which he disseminated and caused to be disseminated through the mails and by various other means in commerce, and otherwise, and including advertisements in circulars, leaflets, catalogs, pamphlets, and other advertising literature, and which were intended and likely to induce purchase of his said product—

Represented, directly or by implication, that use of said preparation would remove corns, calluses, and bunions and prevent recurrence of such conditions, through such typical statements as "CORN-go Corn & Callous Remover * * * No more sore and aching Corns and Callouses * * * Safely and cleanly removes soft and hard corns, callouses and Bunions," and "LIQUID CORN-go * * * a painless, safe antiseptic corn and callous remover. Safely and cleanly removes soft and hard corns, callouses and Bunions * * *," facts being product in question was wholly incapable of removing bunions, and, while it would effect temporary removal of corns and calluses, it would not prevent recurrence of such conditions, and said preparation had no effect upon the underlying cause of corns and calluses;

With result, through use of aforesaid false, deceptive, and misleading statements, representations and advertisements, disseminated as above set forth, of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and of inducing substantial portion of said public, because of such erroneous and mistaken belief, to purchase his said product:

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. Donovan R. Divet 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 Frank Spors, an individual, trading as Spors Co., and as Quality Products Co., hereinafter referred to as respondent, has violated the provisions of the

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said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Frank Spors, is an individual doing business as Spors Co. and as Quality Products Co., with his office and principal place of business in the city of Le Center in the State of Minnesota.

PAR. 2. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of a certain medicinal preparation designated as "Corn-Go," intended for use in the treatment of corns, calluses and bunions. Respondent causes said preparation, when sold, to be transported from his aforesaid place of business in the State of Minnesota to the purchasers thereof at their respective points of location in various States of the United States other than the State of Minnesota and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, 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; 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 the United States mails, by advertisements in circulars, leaflets, catalogs, pamphlets, and other advertising literature, are the following:

CORN-GO

Corn & Callous

Remover

* * *

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No more sore and aching

Corns and Callouses

* * * Safely and cleanly removes

soft and hard corns, callouses

and Bunions

LIQUID CORN-GO

* * * a painless, safe antiseptic corn

and callous remover. Safely and cleanly

removes soft and hard corns, callouses

and Bunions * * *

PAR. 4. Through the use of the statements and representations hereinabout set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, and therapeutic properties of respondent's said preparation, respondent represents and has represented, directly or by implication, that the use of said preparation will remove corns, calluses, and bunions, and will prevent the recurrence of such conditions.

PAR. 5. The foregoing representations, used and disseminated by respondent as aforesaid, are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation is wholly incapable of removing bunions. While said preparation will effect the temporary removal of corns and calluses, it will not prevent the recurrence of such conditions. Said preparation has no effect upon the underlying causes of corns and calluses.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements, representations and advertisements, disseminated as aforesaid, has had, and now has, the capacity and tendency to and does mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said product.

PAR. 7. The aforesaid acts and practices of 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 December 3, 1940, issued and subsequently served its complaint in this proceeding upon Frank Spors, an individual trading as Spors Co. and as Quality Products Co.,

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charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On December 23, 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 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. The respondent, Frank Spors, is an individual doing business as Spors Co. and as Quality Products Co., with his office and principal place of business in the city of Le Center in the State of Minnesota.

PAR. 2. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of a certain medicinal preparation designated as "Corn-Go," intended for use in the treatment of corns, calluses and bunions. Respondent causes said preparation, when sold, to be transported from his aforesaid place of business in the State of Minnesota to the purchasers thereof at their respective points of location in various States of the United States other than the State of Minnesota and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, 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; 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 the United States mails, by advertisements in circulars, leaflets, catalogs, pamphlets, and other advertising literature, are the following:

CORN-GO

Corn & Callous

Remover

* * *

No more sore and aching

Corns and Callouses

* * * Safely and cleanly removes

soft and hard corns, callouses

and Bunions.

LIQUID CORN-GO

* * * a painless, safe antiseptic corn
and callous remover. Safely and cleanly

removes soft and hard corns, callouses

and Bunions * * *

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative and therapeutic properties of respondent's said preparation, respondent represents and has represented, directly or by implication, that the use of said preparation will remove corns, calluses and bunions, and will prevent the recurrence of such conditions.

PAR. 5. The foregoing representations, used and disseminated by respondent as aforesaid, are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation is wholly incapable of removing bunions. While said preparation will effect the temporary removal of corns and calluses, it will not prevent the recurrence of such conditions. Said preparation has no effect upon the underlying causes of corns and calluses.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations and advertisements, disseminated as aforesaid, has had, and now has, the capacity and tendency to and does mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that such false statements, representations and advertisements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said product.

CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice and injury of the public and constitute unfair

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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 the material allegations of fact set forth in said complaint and states that he 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, Frank Spors, individually and trading as Spors Co. and as Quality Products Co., or trading under any other name, his representatives, agents, 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 "Corn-Go" and "Liquid Corn-Go," or any preparation of substantially similar composition 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 advertisement represents, directly or through inference, that said preparation will remove, or has any value in the treatment of, bunions; that said preparation will prevent the recurrence of corns or calluses or has any value in the treatment of such conditions in excess of the temporary removal thereof; or that the action of such preparation in removing calluses or corns accomplishes anything other than a temporary removal.

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.

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

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IN THE MATTER OF

EDWARD SHILL AND SANFORD C. CHESICK, TRADING
AS THE CHESHILL MANUFACTURING COMPANY

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

Docket 4123. Complaint, May 1, 1940—Decision, Jan. 22, 1941

Where two individuals engaged in interstate sale and distribution of their
"Safety-Bell Chain Lock" door device—

- (a) Represented, through use of word "Manufacturing" in trade name employed by them, and through display thereof and word "Manufacturers" and "Manufactured" in letterheads and other advertising, as case might be, and on cartons of their products, that they were manufacturers of said and other patented protective devices, facts being they did not own, operate, or control any factory wherein any of said products were made, and were in no sense manufacturers thereof, or a manufacturer, by purchase from whom, direct, according to common belief among wholesalers, retailers, and members of purchasing public, superior grade of merchandise can be secured and at considerable saving in price, due to elimination of middlemen's profit and for other reasons; and
- (b) Represented and implied that said device and other protective or safety devices offered and sold by them were patented, and that application for patent on said "Safety Bell Chain Lock" or some of the parts thereof was pending in the United States Patent Office, through such statements as "* * * Manufacturers of Patented Protective Devices * * *," and "Safety Bell Chain Locks, The Automatic Burglar Alarm * * * Pat. Pend.," facts being they were not holders of letters patent on said "Safety Bell Chain Lock" device or any protective devices or other articles of commerce, and had not applied for patent on former or any of the parts thereof, and had no such application pending, none of their said devices was a patented product or one for which application for patent was pending, and, as such, article which, according to common belief among wholesalers, retailers and members of purchasing public, is a superior product and one to be preferred over nonpatented article or one for which application for patent has not been made;

With effect, through use of word "Manufacturing" by them in their trade name and of other representations and implications aforesaid, of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that they were the manufacturers of protective devices and that they manufactured said "Safety Bell Chain Lock" device in factory owned, operated or directly and absolutely controlled by them, and that said device was patented or that an application for patent for said device or some of the parts thereof was pending, and with result, as consequence of such erroneous and mistaken belief, that substantial number of members of purchasing public brought substantial volume of their said device in commerce: