

Complaint

32 F. T. C.

IN THE MATTER OF
**THE REVIGATOR CORPORATION, AND E. O. LOEBER,
INDIVIDUALLY, AND AS PRESIDENT OF THE REVIGA-
TOR CORPORATION**

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

Docket 4329. Complaint, Oct. 3, 1940—Decision, Feb. 5, 1941

Where a corporation engaged in interstate sale and distribution of its ReVigator Pressure Cap and also of its ReVigator Liquid Home Treatment for Scalp and Hair, and ReVigator Liquid Shampoo and pair of circular combs constituting its ReVigator System of Home Treatment for the Scalp and Hair, and an individual who was its president and controlled and directed its advertising sales policies and general business practices; in advertisements which they disseminated and caused to be disseminated concerning said device and preparations through the mails and by other means in commerce and otherwise and including testimonial or purported testimonial statements or excerpts therefrom and which advertisements were intended and likely to induce purchase of said device and preparations—

Represented directly and by implication that use of said ReVigator Automatic Pressure Cap device provided a cure or remedy for falling hair, fading hair, thinning hair, and dandruff and baldness, and constituted a competent and effective treatment therefor and that its use would cause new hair to grow;

Facts being use of said device, either alone or in combination with such preparations, would not constitute a cure or remedy for aforesaid conditions or ailments, and had no therapeutic value in the treatment of any such conditions or disorders in excess of cleansing the hair and scalp and removing accumulated dandruff scales, and said device, either alone or in combination with said preparations, would have no therapeutic value in treatment of baldness and would not cause new hair to grow;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and advertisements were true and with effect of inducing purchase of said device and preparations by reason thereof:

Held, That said 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.

Mr. Robert H. Jamison, of Cleveland, Ohio, for respondents.

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 ReVigator

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Corporation, a corporation, and E. O. Loeber, individually and as president of The ReVigator Corporation, hereinafter referred to as respondents, have 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, The ReVigator Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Ohio, having its principal place of business at 1630 Hanna Building, in the city of Cleveland, State of Ohio. Respondent, E. O. Loeber, is an individual and president of said corporation. Said individual respondent has his principal place of business at the aforementioned address of said corporate respondent and controls and directs its advertising, sales policies, and general business practices.

PAR. 2. Respondent, The ReVigator Corporation, is now, and for more than 1 year last past has been, engaged in the business of selling and distributing a device known as "ReVigator Pressure Cap," which with the preparations "ReVigator Liquid Home Treatment for Scalp and Hair" and "ReVigator Liquid Shampoo" and a pair of circular combs constitutes what is designated by the corporate respondent as "The ReVigator System of Home Treatment for the Scalp and Hair." Said respondent, The ReVigator Corporation, causes said device and said preparations when sold either separately or in combination to be transported from its said 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. Said corporate respondent maintains, and at all times mentioned herein has maintained, a course of trade in said device and preparations 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 the aforesaid business, the respondents, acting as aforesaid, have disseminated, and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning said device and preparations by United States mails and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, and respondents have also disseminated and are now disseminating, and have caused, and are now causing the dissemination of false advertisements concerning said device and preparations by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said device and preparations in commerce, as commerce is defined in the Federal Trade Commission

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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:

* * * Those who suffer from dandruff or other common scalp disorders—those whose hair is thinning or falling out excessively, due to neglect, those who are facing the prospect of premature baldness, are urged to follow the ReVigator System and get the full benefit of the regular daily treatment.

Losing your Hair? Are You Troubled With Dandruff, Itching Scalp, Excessively Falling or Thinning Hair?—these conditions CAN and should BE CORRECTED. Call at our office and we will tell you what our new and effective method has done for others right here in Cleveland and can do for you. * * *

The Re-Vigator Corp * * *

“* * * I can truthfully state that I have worn the cap consistently and there is no question but that I have grown hair. * * *”

“* * * My hair has stopped falling out and new hair has started to grow since I have been using the Cap. * * *”

“I wish to express my appreciation for the benefits received from the use of your pressure caps for restoring my hair. * * *”

“Have used it only a short time but my scalp and hair is very much improved; there is a good sized growth of new hair over the bald places and my hair is lustrous and healthy with some of the old color also restored. * * *”

“I have been wearing your scalp stimulator at least an hour a day since December, 1938, and can honestly say that it grows new hair. * * *”

PAR. 4. Through the use of the statements and representations hereinbefore set forth, and others similar thereto, not specifically set out herein, the respondents have represented directly and by implication that the use of said device, the ReVigator Automatic Pressure Cap, provides a cure or remedy for falling hair, fading hair, thinning hair, dandruff, and baldness, and constitutes a competent and effective treatment therefor, and that its use will cause new hair to grow.

PAR. 5. The foregoing statements and representations used and disseminated by the respondents, as herein set forth, are grossly exaggerated, false, and misleading. In truth and in fact, the use of said device, the ReVigator Automatic Pressure Cap, either alone or in combination with said preparations, does not constitute a cure or remedy for falling hair, fading hair, thinning hair, or dandruff, and has no therapeutic value in the treatment of any of such disorders or conditions in excess of cleansing the hair and scalp and temporarily removing accumulated dandruff scales. Said device alone or in combination with said preparations will have no therapeutic value in the treatment of baldness and will not cause new hair to grow.

PAR. 6. The use by respondents of the aforesaid false and misleading statements, representations, and advertisements, disseminated, as aforesaid, with respect to said device, the ReVigator Automatic Pressure Cap, when used either alone or in combination with said preparations, has had and now 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, representations, and advertisements are true, and induce the purchase of said device and preparations because of such erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of the respondents, 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 October 3, 1940, issued and on October 4, 1940, served its complaint in this proceeding upon respondents, The ReVigator Corporation, a corporation, and upon E. O. Loeber, individually and as president of The ReVigator Corporation, 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 and the filing of respondents' answers, the Commission by order entered herein granted respondents' motions for permission to withdraw their said answers and to substitute therefor answers admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answers were duly filed in the office of the Commission. Thereafter, this proceeding came on for final hearing before the Commission on the said complaint and substitute answers, 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

PARAGRAPHS 1. Respondent, The ReVigator Corporation, is a corporation organized and existing under and by virtue of the laws of the State of Ohio, having its principal place of business at 1630 Hanna Building, in the city of Cleveland, State of Ohio. Respondent, E. O. Loeber, is an individual and president of said respondent corporation. Said individual respondent has his principal place of

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business at the aforementioned address of said corporate respondent and controls and directs its advertising, sales policies, and general business practices.

PAR. 2. Respondent, The ReVigator Corporation, is now, and for more than 1 year last past has been, engaged in the business of selling and distributing a device known as "ReVigator Pressure Cap," which with the preparations "ReVigator Liquid Home Treatment for Scalp and Hair" and "ReVigator Liquid Shampoo" and a pair of circular combs constitutes what is designated by the corporate respondent as "The ReVigator System of Home Treatment for the Scalp and Hair." Said respondent, The ReVigator Corporation causes said device and said preparations when sold either separately or in combination to be transported from its said 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. Said corporate respondent maintains, and at all times mentioned herein has maintained, a course of trade in said device and preparations 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 the aforesaid business, the respondents, acting as aforesaid, have disseminated, and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning said device and preparations by United States mails and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning said device and preparations by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said device and 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:

* * * Those who suffer from dandruff or other common scalp disorders—those whose hair is thinning or falling out excessively, due to neglect, those who are facing the prospect of premature baldness, are urged to follow the ReVigator System and get the full benefit of the regular daily treatment.

Losing your Hair? Are You Troubled With Dandruff, Itching Scalp, Excessively Falling or Thinning Hair?—these conditions CAN and should BE CORRECTED. Call at our office and we will tell you what our new and effective method has done for others right here in Cleveland and can do for you. * * *

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"* * * I can truthfully state that I have worn the cap consistently and there is no question but that I have grown hair * * *"

"* * * My hair has stopped falling out and new hair has started to grow since I have been using the Cap. * * *"

"I wish to express my appreciation for the benefits received from the use of your pressure caps for restoring my hair. * * *"

"Have used it only a short time but my scalp and hair is very much improved; there is a good sized growth of new hair over the bald places and my hair is lustrous and healthy with some of the old color also restored. * * *"

"I have been wearing your scalp stimulator at least an hour a day since December, 1938, and can honestly say that it grows new hair. * * *"

PAR. 4. Through the use of the statements and representations hereinbefore set forth, and others similar thereto, not specifically set out herein, the respondents have represented directly and by implication that the use of said device, the ReVigator Automatic Pressure Cap, provides a cure or remedy for falling hair, fading hair, thinning hair, dandruff, and baldness, and constitutes a competent and effective treatment therefor, and that its use will cause new hair to grow.

PAR. 5. The foregoing statements and representations used and disseminated by the respondents, as herein set forth, are grossly exaggerated, false, and misleading. In truth and in fact, the use of said device, the ReVigator Automatic Pressure Cap, either alone or in combination with said preparations, does not constitute a cure or remedy for falling hair, fading hair, thinning hair, or dandruff, and has no therapeutic value in the treatment of any such disorders or conditions in excess of cleansing the hair and scalp and temporarily removing accumulated dandruff scales. Said device alone or in combination with said preparations will have no therapeutic value in the treatment of baldness and will not cause new hair to grow.

PAR. 6. The use by respondents of the aforesaid false and misleading statements, representations, and advertisements, disseminated, as aforesaid, with respect to said device, the ReVigator Automatic Pressure Cap, either alone or in combination with said preparations, has had and now 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, representations, and advertisements are true, and induces the purchase of said device and preparations because of such erroneous and mistaken belief.

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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 and the answers of the respondents, in which answers 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 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, The ReVigator Corporation, a corporation, and its officers, and E. O. Loeber, individually and as president of The ReVigator Corporation, and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of their product, a device known as "ReVigator Pressure Cap," either alone or in combination with respondents' preparations "ReVigator Liquid Home Treatment for Scalp and Hair" and "ReVigator Liquid Shampoo," or any other device or products of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisements (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 the use of said device, ReVigator Pressure Cap, either alone or in combination with respondents' products, ReVigator Liquid Home Treatment for Scalp and Hair and ReVigator Liquid Shampoo, or with either of them, or in combination with any other similar preparation or preparations, constitutes a cure or remedy for falling hair, fading hair, thinning hair, or dandruff, or has any therapeutic value in the treatment of any of such disorders or conditions in excess of cleansing the hair and scalp and temporarily removing accumulated dandruff scales, or has any therapeutic value in the treatment of baldness or causes new hair to grow.

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2. Disseminating or causing to be disseminated any advertisements by any means for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said device, Revigator Pressure Cap, either alone or in combination with respondents' preparations, which advertisements contain any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondents shall, within 60 days after the 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.

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IN THE MATTER OF

E. B. HALL, TRADING AS E. W. HALL

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

Docket 4330. Complaint, Oct. 3, 1940—Decision, Feb. 5, 1941

Where an individual engaged in interstate sale and distribution of his "Texas Wonder" medicinal preparation in advertisements thereof which he disseminated and caused to be disseminated through the mails and newspapers and periodicals, and by radio continuities, and in circulars, leaflets, pamphlets, and other advertising literature, and otherwise in commerce and by various means, and including also use of purported testimonial letters or excerpts thereof in pamphlets, booklets and other advertising copy—

Represented, directly and through inference, that his said product constituted a cure or remedy for, and possessed substantial therapeutic value in treatment of, kidney and bladder disorders, including inflammation of bladder and kidneys, stones in kidneys, and tuberculosis of kidneys, diabetes, rheumatism, swollen joints, weak and lame back, pains in the back, and lumbago, facts being it did not constitute a cure or remedy for said various ailments and conditions or possess any therapeutic value in the treatment thereof, in excess of such slight symptomatic relief as it might afford in cases of swollen joints and pains in the back by reason of its properties as a mild diuretic;

With the effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false representations were true, and with result, as consequence of such erroneous and mistaken belief, that purchasing public was induced to and did purchase substantial quantities of 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. J. W. Brookfield, Jr. for the Commission.

Flynn & Mohrman, of St. Louis, Mo., for respondent.

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 E. B. Hall, an individual trading as E. W. Hall, 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