

IN THE MATTER OF
THE RU-EX COMPANY

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

Docket 4387. Complaint, Nov. 25, 1940—Decision, Feb. 27, 1941

Where a corporation engaged in interstate sale and distribution of its "Ru-Ex" medicinal preparation; in advertisements disseminated through the mails, in newspapers, circulars, and other advertising literature, and by various other means—

- (a) Represented, directly and by implication, that its said product was entirely safe and harmless and might be used without danger to health of user, through statements captioned "LEMON JUICE RECIPE CHECKS RHEUMATIC PAIN QUICKLY" and inviting sufferers "from rheumatic, arthritis or neuritis pain" to "try this simple inexpensive home recipe" (of Ru-Ex with lemons and water) "that thousands are using," and through use of other statements of similar import;
- Facts being such preparation was not in all cases safe or harmless, due to potassium iodide content in quantity sufficient to cause, in some instances, injury to health if used under conditions prescribed in said advertisements or under such conditions as are customary or usual, and including use by those with goiter or tuberculosis in either active or arrested stage; and
- (b) Failed to reveal facts material in light of representations contained in said advertisements, and that use of such preparation, under conditions prescribed in said advertisements or under such conditions as are customary or usual, might result in injury to health, in that they contained neither caution against its use by persons having such ailments, nor to effect that it should be used only as directed on label;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and into purchase of substantial quantities of its said preparation:

Held, That such acts and practices, under circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Maurice C. Pearce for the Commission.

Frank E. & Arthur Gettleman, of Chicago, Ill., 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 The Ru-Ex Co., a corporation, 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, The Ru-Ex Co., is a corporation duly chartered, organized, and existing under and by virtue of the laws of Minnesota, with its principal office and place of business located at 500 Foot-Schulze Building, in the city of St. Paul, State of Minnesota. Respondent is now and since April 1, 1940, has been engaged in the sale and distribution of a certain medicinal preparation designated as "Ru-Ex."

In the course and conduct of its business, respondent causes said medicinal preparation, when sold, to be transported from its place of business in the State of Minnesota 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 its said medicinal preparation in commerce between and among 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 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 its said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its 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 newspapers, and by circulars and other advertising literature, are the following:

LEMON JUICE RECIPE CHECKS RHEUMATIC PAIN QUICKLY

If you suffer from rheumatic, arthritis or neuritis pain, try this simple inexpensive home recipe that thousands are using. Get a package of old reliable Ru-Ex Compound today. Mix it with a quart of water, add the juice of 4 lemons. It's easy. No trouble at all and pleasant. You need only 2 tablespoons two times a day. Often within 48 hours—sometimes overnight—splendid results are obtained. If the pains do not quickly leave and if you do not feel better, Ru-Ex will cost you nothing to try as it is sold under an absolute money-back guarantee. We recommend RU-EX Compound.

Findings

32 F. T. C.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and others of similar import not specifically set out herein, respondent represents, directly or by implication, that its said preparation is entirely safe and harmless and may be used without danger of ill effects upon the health of the user.

PAR. 4. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation is not in all cases safe or harmless, as it contains the drug potassium iodide in a quantity sufficient to cause, in some instances, injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

The use of said preparation, as aforesaid, may be harmful to those having goiter or tuberculosis in either the active or arrested stage. In cases of goiter the tendency of potassium iodide is to convert a benign adenoma to a toxic adenoma. In cases of arrested tuberculosis the tendency of potassium iodide is to dissolve the fibrous tissues about the healed lesions and thereby to reactivate the tubercular process. In cases of active tuberculosis potassium iodide tends to prevent or retard the healing process.

PAR. 5. The advertisements disseminated by the respondent, as aforesaid, contain neither a statement to the effect that said preparation should not be used by persons having tuberculosis or goiter, nor a cautionary statement to the effect that said preparation should be used only as directed on the label thereof. Consequently, such advertisements constitute false advertisements in that they fail to reveal facts material in the light of the representations contained therein, and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in injury to health.

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

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 25, 1940, issued and thereafter served its complaint in this proceeding upon respondent,

The Ru-Ex 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. After the issuance of said complaint and the filing of respondent's answer, the Commission by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer 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 answer was 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 answer 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. Respondent, The Ru-Ex Co., is a corporation duly chartered, organized, and existing under and by virtue of the laws of Minnesota, with its principal office and place of business located at 500 Foot-Schulze Building, in the city of St. Paul, State of Minnesota. Respondent is now and since April 1, 1940, has been engaged in the sale and distribution of a certain medicinal preparation designated as "Ru-Ex."

In the course and conduct of its business, respondent causes said medicinal preparation, when sold, to be transported from its place of business in the State of Minnesota 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 its medicinal preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning its 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 its product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its product in commerce, as commerce

Findings

32 F. T. C.

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 newspapers, and by circulars and other advertising literature, are the following:

LEMON JUICE RECIPE CHECKS RHEUMATIC PAIN QUICKLY

If you suffer from rheumatic, arthritis or neuritis pain, try this simple inexpensive home recipe that thousands are using. Get a package of old reliable Ru-Ex Compound today. Mix it with a quart of water, add the juice of 4 lemons. It's easy. No trouble at all and pleasant. You need only 2 tablespoonfuls two times a day. Often within 48 hours—sometimes overnight—splendid results are obtained. If the pains do not quickly leave and if you do not feel better, Ru-Ex will cost you nothing to try as it is sold under an absolute money-back guarantee. We recommend Ru-Ex Compound.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and others of similar import not specifically set out herein, respondent represents, directly or by implication, that its said preparation is entirely safe and harmless and may be used without danger of ill effects upon the health of the user.

PAR. 4. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, respondent's preparation is not in all cases safe or harmless, as it contains the drug potassium iodide in a quantity sufficient to cause, in some instances, injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

The use of said preparation, as aforesaid, may be harmful to those having goiter or tuberculosis in either the active or arrested stage. In cases of goiter the tendency of potassium iodide is to convert a benign adenoma to a toxic adenoma. In cases of arrested tuberculosis the tendency of potassium iodide is to dissolve the fibrous tissues about the healed lesions and thereby to reactivate the tubercular process. In cases of active tuberculosis potassium iodide tends to prevent or retard the healing process.

PAR. 5. The advertisements disseminated by the respondent as aforesaid, contain neither a statement to the effect that said preparation should not be used by persons having tuberculosis or goiter, nor a cautionary statement to the effect that said preparation should be used only as directed on the label thereof. Consequently, such advertisements constitute false advertisements in that they fail to reveal facts material in the light of the representations contained

776

Order

therein, and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in injury to health.

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

CONCLUSION

The acts and practices of 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 Ru-Ex Co., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its medicinal preparation designated as "Ru-Ex," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or 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 is in all cases safe or harmless; or which advertisement fails to reveal that said preparation should not be used by those having tuberculosis or goitre: *Provided, however*, That such advertisement need contain only a statement that said preparation should be used only as directed on the label thereof, when such

Order

32 F. T. C.

label contains a warning to the effect that the preparation should not be used by those having tuberculosis or goitre.

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 said preparation should not be used by those having tuberculosis or goitre: *Provided, however,* That such advertisement need contain only a statement that said preparation should be used only as directed on the label thereof, when such label contains a warning to the effect that the preparation should not be used by those having tuberculosis or goitre.

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

Complaint

IN THE MATTER OF

WORTHMORE SALES PROMOTION SERVICE, INC.

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

Docket 4430. Complaint, Dec. 20, 1940—Decision, Feb. 27, 1941

Where a corporation engaged in manufacture of its Rap-A-Pak device or novelty holder for cigarette packages, and in competitive interstate sale and distribution thereof—

Falsely represented in advertisements in various magazines and other periodicals of interstate circulation and through circulars and letters sent to prospective or potential representatives, that "A man should make \$75 to \$100 commission weekly" and "Earn \$75 to \$100 commission weekly" selling its device, when in fact it was impossible for such persons thus to earn in usual or normal course of business any amount approximating either of such figures, and average earnings of its said representatives were but a small percentage of those so represented;

With effect of misleading and deceiving a substantial number of prospective agents and salesmen into mistaken and erroneous belief that earnings to be achieved through sale of its device were far in excess of those possible in fact, and with result that substantial number of such persons were induced to accept employment from him rather than his competitors, many of whom do not falsely represent amounts which representatives thereof may thus earn:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

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 Worthmore Sales Promotion Service, Inc., a corporation, 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 the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois and has its principal office and place of business at 221 East Twentieth Street, Chicago, Ill. Respondent for more than 1 year last past has