

IN THE MATTER OF

AMERICAN MEDICINAL PRODUCTS, INC., AND ERNEST G. RURUP, AN INDIVIDUAL TRADING AS SCIENTIFIC LABORATORIES OF AMERICA AND AS CALIFORNIA SUNSHINE PRODUCTS, INC., AND AS OFFICER OF AMERICAN MEDICINAL PRODUCTS, INC.

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

Docket 4159. Complaint, June 8, 1940—Decision, Apr. 30, 1941

Where a corporation and an individual who was its president and directing manager, and a second concern, likewise controlled by said individual prior to its suspension by operation of law; engaged in interstate sale and distribution of their "Re-Duce-Oids" medicinal preparation for obesity, use of which in accordance with directions would result in the ingestion of 1½ grains of desiccated thyroid daily; by means of advertisements disseminated through the mails, newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, including purported testimonial quotations—

- (a) Represented directly and indirectly that their said Re-Duce-Oids constituted a cure or remedy and safe, competent, and effective treatment for obesity; facts being that it did not constitute such a cure or remedy or safe, effective treatment, due to the potentialities of thyroid extract for injury to health; only a small percentage of cases of obesity is due to lack of sufficient thyroid secretion, far more being due to excess food intake, and treatment aimed at stimulation of the glands and increasing the metabolism rate abnormally is not proper in all cases; it is impossible for the layman to determine whether he is suffering from hypothyroidism, or the dosage of thyroid extract which his particular condition might require; said preparation might seriously aggravate tuberculosis, diabetes, or goiter, while the continued taking thereof over a long period by a normal individual could result in impairment of health and cardiac damage; and
- (b) Failed sufficiently to apprise the purchaser through certain cautioning advertisements and statements on label and circulars accompanying package, of the danger involved in use of said preparation; that it should only be taken under competent medical supervision; that unsupervised use thereof by persons not skilled in the diagnosis and treatment of thyroid conditions might result in serious and irreparable injury to health; that it was definitely harmful if used by those having diabetes, goiter, tuberculosis, arteriosclerosis, or coronary disease; or that use thereof over a long period of time might cause injurious effects or possible irreparable injury to health, even in case of a normal individual;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and inducing it, by reason thereof, to purchase their said medicinal preparation:

1376

Complaint

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. John P. Bramhall*, trial examiner.

Mr. Gerard A. Rault for the Commission.

Mr. Carl B. Sturzenacker, of Los Angeles, Calif., and *Hall & Cotton*, of Oklahoma City, Okla., 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 American Medicinal Products, Inc., a corporation, and Ernest G. Rurup, an individual trading as Scientific Laboratories of America and as California Sunshine Products, Inc., and as officer of American Medicinal Products, Inc., 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. The respondent American Medicinal Products, Inc., is a corporation organized, existing, and doing business under the laws of the State of California, with its principal office and place of business located at 6630 Santa Monica Boulevard, Los Angeles, Calif.

The respondent Ernest G. Rurup is an individual trading as Scientific Laboratories of America and as California Sunshine Products, Inc., and is also president of the American Medicinal Products, Inc., and has his office and place of business located at 6630 Santa Monica Boulevard, Los Angeles, Calif.

The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of a certain medicinal preparation known as Re-Duce-Oids, which is recommended by the respondents as a cure or remedy for, and a competent treatment of, obesity. In the course and conduct of their business, the respondents cause said medicinal preparation, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said medicinal preparation in commerce among and between the various States of the United States and in the District of Columbia.

Complaint

32 F. T. C.

PAR. 2. In the course and conduct of their aforesaid business, the respondents have disseminated, and are now disseminating, and have caused, and are now causing the dissemination of, false advertisements concerning their 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 respondents have also disseminated, and are now disseminating, and have caused, and are now causing the dissemination of, false advertisements concerning their product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their 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 periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Reducible FAT GOES!

* * * * *

Since individuals vary, as do the causes of overweight, we do not claim that everyone using RE-DUCE-OIDS will receive the same splendid results. RE-DUCE-OIDS are intended for the reduction of reducible fat, to be used only by adults who are otherwise healthy and normal, and whose fat is caused by a disturbance of some of the glands of internal secretion, known as hypothyroidism and accompanying subnormal metabolic rate, one of the common causes. In other words, when these glands do not aid the system in using a sufficient amount of calories, energy is not made available for the system to maintain proper functioning. Therefore, weight usually increases. RE-DUCE-OIDS are intended to aid these glands. RE-DUCE-OIDS must be used according to the easily understood full directions given on the label and pamphlet accompanying each package, which may be seen at your druggist's. No other claims are made, and as you can readily understand, we do not diagnose or prescribe.

XTRA

Read all about the NEW PROFIT DEAL ON RE-DUCE-OIDS

Backed by NEW NATION-WIDE ADVERTISING!

* * * * *

RE-DUCE-OIDS, the Safe Old favorite * * * bought by customers from Maine to California for 24 years * * *

PAR. 3. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out, all of which purport to be descriptive of the remedial, curative, or therapeutic properties of respondents' product, respondents have represented, and do now

1376

Findings

represent, directly and indirectly, that their preparation re-duce-oids is a cure or remedy for obesity and constitutes a safe, competent and effective treatment therefor.

PAR. 4. The drug preparation Re-Duce-Oids sold and distributed by the respondents by means of the aforesaid advertising is composed principally of the following ingredients:

Desiccated thyroid,
Whole pituitary substance,
Ovarian substance,
Potassium iodide, and
Phenolphthalein.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondents, as hereinabove described, are grossly exaggerated, misleading, and untrue. In truth and in fact, respondents' preparation Re-Duce-Oids is not a cure or remedy for obesity and does not constitute a safe, competent, or effective treatment therefor. Preparations containing thyroid have been used for the treatment of obesity due to endocrine disfunction, but when so used, the patient must be constantly under specialized medical supervision so that the treatment may be regulated in accordance with the result of physical examination, laboratory findings, and subjective study, in order to avoid serious injury to the health.

PAR. 6. In addition to the false and misleading statements hereinabove set forth, respondents are also engaged in the dissemination of false advertisements as aforesaid in that the respondents fail to reveal to purchasers and prospective purchasers that the use of said medicinal preparation Re-Duce-Oids 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 in that said preparation contains a dangerous drug, desiccated thyroid, the continued ingestion of which accelerates the rate of metabolism, thereby burning the body tissues, especially that of fat tissue, in excess of that which is normal. Thyroid is a dangerous drug, the use of which may produce headaches, muscular and auricular pains, nausea, vomiting, vertigo, insomnia, physical exhaustion, tremor, tachycardia, permanent injury to tissues, organic function and the entire body mechanism, irreparable injury to the heart muscles, with auricular fibrillations and premature death. Furthermore, by reason of the existence of potassium iodide in said preparation, its use would be definitely harmful to those persons suffering from goiter or pulmonary tuberculosis in either the active or quiescent state.

Findings

32 F. T. C.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements, representations and advertisements disseminated as aforesaid with respect to said medicinal preparation 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 false statements, representations and advertisements are true, and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase medicinal preparations containing drugs.

PAR. 8. The aforesaid acts and practices of the respondents 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 8, A. D., 1940, issued and subsequently served its complaint in this proceeding upon the respondents, American Medicinal Products, Inc., a corporation, and Ernest G. Rurup, an individual trading as Scientific Laboratories of America and as California Sunshine Products, Inc., and as officer of American Medicinal Products, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. The respondents filed an answer to said complaint and subsequently thereto obtained leave to withdraw said answer and file an amended answer to said complaint. After the issuance of said complaint and the filing of respondents' amended answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Gerard A. Rault, attorney for the Commission, and in opposition to the allegations of the complaint by Carl B. Sturzenacker, attorney for the respondents, before John P. Bramhall, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, the report of the trial examiner upon the evidence, and briefs in support of the complaint and in opposition thereto (oral argument not having been requested), 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 American Medicinal Products, Inc., is a corporation organized, existing, and doing business under the laws of the State of California, with its principal office and place of business located at 6630 Santa Monica Boulevard, Los Angeles, Calif.

The respondent Ernest G. Rurup is an individual and is president and directing manager of American Medicinal Products, Inc., and is actively in control of, and formulates and directs the policies of the American Medicinal Products, Inc.

The Scientific Laboratories of America was a corporation organized under and by virtue of the laws of the State of California and has been suspended by operation of law. During its authorized legal existence its policies were formulated and directed by the respondent Ernest G. Rurup.

PAR. 2. The Commission finds that the respondents American Medicinal Products, Inc., and Ernest G. Rurup, an individual, for more than 1 year last past have been engaged in the sale and distribution of a certain medicinal preparation known as Re-Duce-Oids, which is recommended by the respondents as a cure or remedy for and a competent treatment of obesity. Prior to its suspension, the Scientific Laboratories of America was also engaged in the sale and distribution of said product.

In the course and conduct of the business of the respondent American Medicinal Products, Inc., and, during its existence, the Scientific Laboratories of America, the respondents sold and transported said medicinal preparation Re-Duce-Oids from their places 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 maintain, and at all times mentioned herein have maintained, a course of trade in said medicinal preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. The Commission further finds that in the course and conduct of their aforesaid business the respondents have disseminated and have caused the dissemination of false advertisements concerning their said medicinal preparation, by 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 were likely to induce, directly or indirectly, the purchase of said medicinal preparation; and respondents have also disseminated and have caused the dissemination of advertisements concerning their said medicinal

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, 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 periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Lose reducible fat

Ohio nurse lost 45 pounds. Tells how. Look—feel like a new person. Would you like to get rid of reducible fat quickly? You are possibly one of those many overweight people who are embarrassed and made uncomfortable with unsightly fat. Mrs. Gladysse Hyer, registered nurse of Dayton, Ohio, writes:

"I had been overweight for 13 years * * * was getting heavier. Then I tried Re-Duce-Oids and lost 47 lbs. Results were most satisfactory."

We believe that you will agree that Re-Duce-Oids are worthy of a trial. Surely no woman would want to be burdened with reducible fat by choice. Don't let this ugly reducible fat rob you of your success and happiness! Re-Duce-Oids have been on the market for over 20 years and millions have been sold. Testimonials tell of their results.

Reducible fat goes. She lost 55 lbs. this easy way. "I look 10 years younger."

Don't just sit back and envy slender women! If many fat people only knew it their type of fat often may be reduced. It is possible that you are one of these people. If so, try the modern Re-Duce-Oids Way like Mrs. L. R. Schulze of Jackson, Michigan.

PAR. 4. The Commission finds that 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, or therapeutic properties of respondents' product, respondents represent, directly and indirectly, that their preparation Re-Duce-Oids is a cure or remedy for obesity and constitutes a safe, competent, and effective treatment therefor.

PAR. 5. The Commission further finds that each capsule of respondents' preparation Re-Duce-Oids contains the following ingredients: Desiccated thyroid, $\frac{1}{2}$ grain; whole pituitary substance, $\frac{3}{10}$ grain; ovarian substance, 1 grain; potassium iodide, 1 grain; phenolphthalein, $\frac{1}{40}$ grain; sugar of milk, q. s. The use of respondents' preparation in accordance with directions would result in the ingestion of $1\frac{1}{2}$ grains of desiccated thyroid per day.

The Commission further finds that respondents' preparation Re-Duce-Oids is not a cure or remedy for obesity. Even in those cases where the use of thyroid extract might be of value in reducing weight,

such reduction would be only temporary, as the ingestion of thyroid extract, by persons requiring such drug, supplies thyroid without increasing the secretory powers of the thyroid gland. After a reduction of weight to what may be considered normal, if the use of thyroid is discontinued a recurrence of the condition of obesity and other symptoms of thyroid deficiency would result. Due to the necessity of competent medical supervision in the use of thyroid extract, its potentialities for injury to health, and the small percentage of obese cases due to lack of sufficient thyroid secretion, it is misleading to represent that the use of respondents' preparation is a safe, competent, or effective treatment for obesity.

Thyroid extract is a very potent medicine and very effective where it is indicated, provided its administration is carefully supervised, as it is also potentially dangerous. The action of this drug, through continued ingestion, is to accelerate the rate of metabolism, thereby causing the breaking down of tissues. In this action the effects of this drug are not confined to fat tissue, but also affect muscular and other tissues of the body, and its continued use over a period of time can cause an incalculable amount of damage, even to a normal individual.

The use of desiccated thyroid has therapeutic value where the condition known as hypothyroidism exists and which condition is caused when the thyroid gland is not secreting as much of the active principle of thyroid into the blood stream as is needed by the individual. The amount of thyroid prescribed to remedy such condition depends upon the needs of the patient, and the quantity must be carefully controlled and changed from time to time. The blood pressure, the heart rate, the general condition, and the loss of weight compared to caloric intake must be checked frequently for each patient and the dosage adjusted according to the requirements.

Thyroid extract is prescribed for hypothyroid individuals who may or may not be obese. In fact, by far the greater percentage of obese individuals are not suffering from hypothyroidism. Obesity, or overweight, is not necessarily due to endocrine disfunction, but is more often due to excess ingestion of food. Any treatment aimed primarily to stimulate the various glands within the body and to abnormally increase the metabolism rate is not the proper form of treatment in all cases. Such treatment should be limited to those obese cases where the condition is due to a lack of normal thyroid secretion, with limitation to the needs of the particular individual.

In the treatment of a hypothyroid condition the dosage of thyroid extract is in part determined by a basal metabolism test, which consists of measuring the amount of oxygen consumed by an individual

per square meter of body surface, as compared with normal consumption, usually allowing 10 percent either above or below normal. If the consumption of oxygen is below normal, it indicates, in some cases, the condition of hypothyroidism and the need of thyroid extract adjusted to the specific needs of the individual. Excess dosage of thyroid may cause a change in such basal metabolism to above normal, causing such person to become extremely nervous, with increase of heart rate and other symptoms of toxic effect.

The use of thyroid extract by a normal person might produce a disorder known as hyperthyroidism, and by producing this disorder would cause the patient to lose weight. It is possible for a person to recover from this disorder if the use of thyroid is discontinued, but if such person happens to be suffering from some other condition, serious results might occur. The use of thyroid extract causes a definite strain on the organs of the body, and should the user be suffering from heart disease or some other disease the excess strain due to the ingestion of thyroid might be of serious danger to health.

Even a normal person suffering from no disease who might take thyroid extract in the dosage prescribed by the respondents in their preparation Re-Duce-Oids could suffer an impairment of health and could get cardiac damage without any particular symptom which the patient would readily recognize. The Commission further finds that the ingestion of desiccated thyroid by a normal individual in the amounts prescribed by respondents over a long period of time would cause such individual to become nervous and irritable, sustain an increased heart rate, and perhaps induce the condition known as hyperthyroidism, resulting in symptoms such as nervousness, easy fatigability, rapid pulse, and good appetite but loss of weight. There may be present in an individual many conditions which are adversely affected by the use of thyroid, such as the presence of diabetes (which is often associated with obesity), arteriosclerosis, coronary disease, tuberculosis, and goiter.

A person suffering from tuberculosis, latent or active, diabetes, or goiter who might take respondents' preparation according to directions might seriously aggravate this condition, with danger to health or life, dependent upon the extent or severity of such condition. In the case of diabetes, it would tend to make this condition worse, increase blood sugar, and cause loss of weight more rapidly.

It is impossible for a layman, by means of self-diagnosis, to determine whether or not he is suffering from the condition of hypothyroidism or to determine the extent or dosage of thyroid extract

which his particular condition might require. Furthermore, there are many persons suffering from tuberculosis or goiter, in either the latent or active state, diabetes, or cardiac conditions, who would not be able to determine their condition by self-diagnosis or have any knowledge that such condition exists.

The ingredients pituitary substance and ovarian substance in respondents' preparation are of no value in the amounts contained therein under the conditions of use.

The use of potassium iodide in excess doses or for prolonged periods of time might have a tendency to aggravate tuberculosis. Under certain conditions potassium iodide might have some effect on the thyroid gland. However, if a person is suffering from hypothyroidism it would have no beneficial influence, and the condition of hyperthyroidism, where this drug might have some influence, is not generally associated with obesity or overweight.

PAR. 6. In their advertising the respondents in some cases advise that said preparation is not offered as a cure-all for all ailments and that said preparation is not to be taken by children and not intended and should not be used by persons suffering from active or latent tuberculosis, diabetes, or goiter, but that said advertisement is intended only for fat adult persons, for use according to directions, who are otherwise healthy and normal and whose overweight condition is caused by disturbance of the glands of internal secretion which accompany subnormal metabolic rate.

In other advertisements the respondents make no reference to the above conditions where their preparation should not be used but simply state that said preparation is intended for the reduction of reducible fat, for adults who are otherwise healthy and normal and whose fat is caused by a disturbance of some of the glands of internal secretion known as hyperthyroidism and accompanying subnormal metabolic rate, and that said preparation must be used according to the easily understood, full directions given on the label and pamphlet accompanying such package.

On the label on their package the respondents place the following statement:

CAUTION.—For use by adults only who are otherwise normal and healthy; whose fatness is due to hypothyroidism and accompanying subnormal metabolic rate which is caused chiefly by the deficient action of the thyroid gland and sometimes the deficient action of the pituitary or ovarian glands. Most naturally Re-Duce-Oids capsules are not to be taken by children or those adults suffering from pathological conditions such as tuberculosis, diabetes, hyperthyroidism, dropsy, toxic goiter, rapid pulse, or during pregnancy.

Findings

32 F. T. C.

In a circular accompanying the package the respondents place the following statement:

Average directions.—Take 1 capsule daily for 6 days, then 1 capsule 2 times a day for 6 days, then 1 capsule 3 times a day with all following bottles. When you approach your normal weight, discontinue using. After taking 6 bottles of Re-Duce-Oids, discontinue their use for a period of 2 weeks before resuming and use according to directions.

Re-Duce-Oids are for adults only and most naturally are not to be taken by children or those suffering from pathological conditions such as: tuberculosis, diabetes, dropsy, toxic goiter, rapid pulse or hyperthyroidism. Should nervousness, nausea or other distress such as increased pulse rate develop while taking Re-Duce-Oids, decrease the dose until the condition disappears. Half a glass of milk taken with the capsule will often prevent any tendency to nausea. However, should distress still be experienced after decreasing the dose discontinue taking Re-Duce-Oids entirely and this distress condition should disappear.

Sometimes an individual may experience distress in the form of nausea which may be caused by an idiosyncrasy for some of the ingredients. Of course as you probably know, individuals vary greatly and some people are unable to tolerate many of our simplest foods such as strawberries, grapes, cabbage or onions, etc. After a few days many individuals build up a tolerance for the ingredients in Re-Duce-Oids.

Based upon the testimony of witnesses with reference to the extent to which the use of thyroid extract should be supervised in order to avoid any possibility of injury even to normal individuals, and the testimony with reference to the inability of a person to self-diagnose or determine the condition of hypothyroidism, and also the lack of knowledge in many cases by individuals as to the existence of conditions such as tuberculosis, diabetes, and various cardiac disorders, the Commission finds that the statements appearing in respondents' advertising are not sufficient to fully apprise the purchaser or prospective purchaser with reference to the danger involved in the use of such preparation.

Based upon such testimony the Commission further finds that in addition to the false and misleading statements hereinabove set forth, the respondents are also engaged in the dissemination of false advertisements, in that said advertisements so disseminated fail to reveal all facts material in the light of such representations, or material with respect to the consequences which may result from the use of respondents' preparation Re-Duce-Oids under the conditions as are customary or usual, and that said preparation should only be used under competent medical supervision and that the unsupervised use of said preparation by persons not skilled in the diagnosis and treatment of thyroid conditions may result in serious and irreparable injury to health, and that said preparation is definitely harmful if

1376

Order

used by persons having diabetes, goiter, tuberculosis, arteriosclerosis, or coronary diseases, and that the use of said preparation over a long period of time may cause the breaking down of muscular and other tissues, as well as fat tissues, causing irritation of nerve tissue, nervousness, irritability, and increased heart rate, with possible irreparable injury to health even to a normal individual.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid with respect to said medicinal preparation Re-Duce-Oids 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 false statements, representations, and advertisements are true, and induces a 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, the amended answer of the respondents, testimony and other evidence taken before John P. Bramhall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and report of the trial examiner upon the evidence, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents, American Medicinal Products, Inc., a corporation, and Ernest G. Rurup, an individual and as officer of American Medicinal Products, Inc., have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent American Medicinal Products, Inc., a corporation, its officers, representatives, agents, and employees, and the respondent Ernest G. Rurup, an individual, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or dis-

tribution of their medicinal preparation known as Re-Duce-Oids, or any other preparation of 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 by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that respondents' preparation Re-Duce-Oids is a cure or remedy for obesity or constitutes a safe, competent, or effective treatment therefor, or which advertisement fails to reveal that respondents' preparation should only be used under competent medical supervision and that the unsupervised use of said preparation by persons not skilled in the diagnosis and treatment of thyroid conditions may result in serious and irreparable injury to health, and that said preparation is definitely harmful if used by persons having diabetes, goiter, tuberculosis, arteriosclerosis, or coronary diseases, and that the use of said preparation over a long period of time may cause the breaking down of muscular and other tissues, as well as fat tissues, causing irritation of nerve tissue, nervousness, irritability, and increased heart rate, with possible irreparable injury to health even to a normal individual.

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 respondents' preparation Re-Duce-Oids, which advertisement contains any of the representations prohibited in paragraph 1 hereof or which fails to reveal that respondents' preparation should only be used under competent medical supervision and that the unsupervised use of said preparation by persons not skilled in the diagnosis, analysis, and treatment of thyroid conditions may result in serious and irreparable injury to health, and that said preparation is definitely harmful if used by persons having diabetes, goiter, tuberculosis, arteriosclerosis, or coronary diseases, and that the use of said preparation over a long period of time may cause the breaking down of muscular and other tissues, as well as fat tissues, causing irritation of nerve tissue, nervousness, irritability, and increased heart rate, with possible irreparable injury to health even to a normal individual.

It is further ordered, That the respondents shall, within 10 days after service upon them of this order, file with the Commission an interim report in writing, stating whether they intend to comply with

1376

Order

this order, and, if so, the manner and form in which they intend to comply; and that within 60 days after service upon them of this order, said respondents shall file with this 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

M. J. & H. J. MEYER 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 3086. Complaint, Mar. 24, 1937—Decision, May 7, 1941

Where Lea and Perrins' Worcestershire sauce had long been made in England and imported into the United States in bottles or containers, wrappers, and markings of a highly distinctive character, and, as thus made and imported, and later made in the United States in accordance with the original recipe and sold in the same distinctive container and dress of goods had come to be highly regarded as such product, identified by said distinctive containers, labels thereon, etc., and to be preferred to other sauces of the same general nature, of which it was by far the most expensive; and thereafter a competitor engaged in interstate sale and distribution of a much cheaper "Worcestershire sauce"—

- (a) Packaged its said sauce in containers which closely resembled those of said Lea & Perrins' Worcestershire sauce, having the same distinctive size and shape, wrappers of same type and color along with typography, border, dividing lines, color scheme, and to some extent identical wording placed in the identical position on the wrapper, and simulated other distinctive features in the printed matter of said prior and well-known product, including the Lea & Perrins facsimile signature; and
- (b) Represented to prospective purchasers and members of consuming public, through use of trade name "Pride of England Worcestershire Sauce" in describing its said wholly domestic product, that the same was made in England and imported into this country;

With tendency and capacity to induce members of the public to form the mistaken belief that its product was in fact the Worcestershire sauce made and sold by Lea & Perrins, Inc., and that it was made in England, with result of thereby inducing substantial numbers of them to purchase its said product, whereby trade was unfairly diverted to it from said Lea & Perrins and also from other competitors who do not simulate the dress and package of aforesaid concern or falsely represent their products as being of English origin:

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.

Before *Mr. W. W. Sheppard* and *Mr. Lewis C. Russell*, trial examiners.

Mr. Alden S. Bradley and *Mr. Karl Stecher* for the Commission.

Mr. Harry Yarm, of New York City, for respondent.