

Complaint

IN THE MATTER OF

EDWARD C. ROSE, INDIVIDUALLY AND TRADING AS
ROSSE PRODUCTS COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4428. Complaint, Dec. 20, 1940—Decision, July 25, 1941

Where an individual engaged in interstate advertisement, sale, and distribution of his "Rosse Rheuma Tabs" medicinal preparation; by means of advertisements disseminated through the mails and otherwise, including numerous purported quotations from testimonials—

Represented, directly and by implication, that his said product was a cure or remedy for rheumatism, rheumatic pains, and sensitive joints and constituted a competent and effective treatment therefor, and that it would relieve the pain attendant upon such conditions for a longer period of time than any other preparation;

Facts being it was nothing more than a laxative and diuretic with mild analgesic properties, had no therapeutic value in the treatment of said ailments and conditions, in excess of furnishing temporary relief from the symptoms of pain, and had no special properties which would permit it to relieve pain more quickly or for a longer period of time than many other similar preparations;

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

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. John W. Carter, Jr. 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 Edward C. Rose, individually and trading under the style and firm name of Rosse Products Co., 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 Edward C. Rose is an individual trading under the style and firm name of Rosse Products Co. with his principal place of business located at 2708 West Farwell Avenue, Chicago, Ill.

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PAR. 2. Acting in his individual capacity and trading under the style and firm name of Rosse Products Co., respondent is now, and for more than 1 year last past has been, engaged in the advertising, sale and distribution of a medicinal preparation designated as "Rosse Rheuma Tabs," in commerce among and between the various States of the United States."

Respondent causes said medicinal preparation, designated as aforesaid, when sold, to be transported from respondent's place of business in the State of Illinois to purchasers thereof located in various other States of the United States.

Respondent maintains and at all times mentioned herein has maintained a course of trade in the said medicinal preparation in commerce between and among the various States of the United States.

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 preparation "Rosse Rheuma Tabs" by the United States mails and by various other means in commerce, as commerce is defined by 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 preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said preparation in commerce, as commerce is defined by the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in the aforesaid advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

My rheumatism disappeared, and I am deeply grateful to you, even though I was very dissatisfied at first; I felt it would not help, but after three weeks I learned the value of the tablets * * *. I can now do all my work and I am well satisfied and happy.

It is three years since your tablets rid me of rheumatism.

My rheumatism, God be praised, never returned. It is all of nine or ten years. I am 78 now, do my own house and garden work. I will feel thankful to you as long as I live.

I wish to write in regard to your Rheuma Tabs. They have relieved me entirely and I don't feel a sign of rheumatism. I am able to work every day and sleep then at night. Your tablets are wonderful and surely worth the money I paid for them.

I am glad and thankful that I used your good tablets. I could not walk up or down the church stairs, but now I am able to do it without difficulty.

If you have pains in your limbs, or, if your joints are very sensitive, if you have suffered torture with the change of the weather, now you have an

opportunity to obtain this simple and cheap remedy which brought relief to hundreds of other people.

It is all of 14 years ago that I had a bad case of rheumatism. I doctored and spent a lot of money, but it grew worse. I was so bad and my pains so great that my wife had to dress and undress me like a child. I heard of your Rosse Rheuma Tabs. You sent me a package and in two weeks I had lost my pains. I am deeply grateful and consider yours an excellent remedy for rheumatism.

PAR. 4. Through the use of the statements and representations hereinabove set forth and in other statements and representations not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of said preparation, respondent represents, directly and by implication, that his said product "Rosse Rheuma Tabs" is a cure or remedy for rheumatism, rheumatic pains, and sensitive joints and constitutes a competent and effective treatment therefor, and that it will relieve the pain attendant upon such conditions for a longer period of time than any other preparation.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's product "Rosse Rheuma Tabs" is nothing more than a laxative and diuretic having mild analgesic properties. Such product has no curative action on the underlying factors that cause rheumatic pains. Respondent's product is not a cure or remedy for rheumatism, rheumatic pains, or sensitive joints and has no therapeutic value in the treatment of such conditions in excess of furnishing temporary relief from the symptoms of pain. The ingredients of this preparation are similar to those found in many other like preparations and this preparation has no special therapeutic properties which would permit it to relieve pain more quickly or for a longer period of time than many other preparations of a similar nature now on the market.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, and others of a similar nature, 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, 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 preparations.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 20, 1940, issued, and on December 21, 1940, served its complaint in this proceeding upon respondent Edward C. Rose, charging the said Edward C. Rose, individually and trading under the style and firm name of Rosse Products Co., with unfair and deceptive acts and practices in commerce in violation of the provisions of said act.

After 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 regularly came on for final hearing before the Commission on 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, Edward C. Rose, is an individual trading under the style and firm name of Rosse Products Co., with his principal place of business located at 2708 West Farwell Avenue, Chicago, Ill.

PAR. 2. Acting in his individual capacity and trading under the style and firm name of Rosse Products Co., respondent is now, and for more than 1 year last past has been, engaged in the advertising, sale, and distribution, in commerce between and among the various States of the United States, of a medicinal preparation designated as "Rosse Rheuma Tabs." Respondent causes said medicinal preparation, when sold, to be transported from his place of business in the State of Illinois to purchasers thereof located in various other States of the United States, and he maintains, and at all times mentioned herein has maintained, a course of trade in the said medicinal preparation, designated as aforesaid, in commerce between and among the various States of the United States.

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 preparation, "Rosse Rheuma Tabs," by the United

States mails and by various means in commerce, as commerce is defined by 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 medicinal preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said medicinal preparation in commerce, as commerce is defined by the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in the aforesaid advertisements, disseminated and caused to be disseminated as aforesaid, by the United States mails, and by various other means in commerce, are the following:

My rheumatism disappeared, and I am deeply grateful to you, even though I was very dissatisfied at first; I felt it would not help, but after three weeks I learned the value of the tablets * * *. I can now do all my work and I am well satisfied and happy.

It is three years since your tablets rid me of rheumatism.

My rheumatism, God be praised, never returned. It is all of nine or ten years. I am 78 now, do my own house and garden work. I will feel grateful to you as long as I live.

I wish to write in regard to your Rheuma Tabs. They have relieved me entirely and I don't feel a sign of rheumatism. I am able to work every day and sleep then at night. Your tablets are wonderful and surely worth the money I paid for them.

I am glad and thankful that I used your good tablets. I could not walk up or down the church stairs but now I am able to do it without difficulty.

If you have pains in your limbs, or, if your joints are very sensitive, if you have suffered torture with the change of the weather, now you have an opportunity to obtain this simple and cheap remedy which brought relief to hundreds of other people.

It is all of 14 years ago that I had a bad case of rheumatism. I doctored and spent a lot of money, but it grew worse. I was so bad and my pains so great that my wife had to dress and undress me like a child. I heard of your Rosse Rheuma Tabs. You sent me a package and in two weeks I had lost my pains. I am deeply grateful and consider yours an excellent remedy for rheumatism.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and in other statements and representations similar thereto but not specifically set out herein, all purporting to be descriptive of the therapeutic properties of the aforesaid medicinal preparation, respondent represents, directly and by implication, that his said product, "Rosse Rheuma Tabs," is a cure or remedy for rheumatism, rheumatic pains, and sensitive joints and constitutes a competent and effective treatment therefor, and that it will relieve the pain attendant upon such conditions for a longer period of time than any other preparation.

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PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's products, "Rosse Rheuma Tabs," is nothing more than a laxative and diuretic having mild analgesic properties. Such product has no curative action on the underlying factors that cause rheumatic pains. Respondent's product is not a cure or remedy for rheumatism, rheumatic pains, or sensitive joints, and has no therapeutic value in the treatment of such conditions in excess of furnishing temporary relief from the symptoms of pain. The ingredients of this preparation are similar to those found in many other like preparations and this preparation has no special therapeutic properties which would permit it to relieve pain more quickly or for a longer period of time than many other preparations of a similar nature now on the market.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, and others of a similar nature, 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, 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 preparation.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all of 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, Edward C. Rose, individually or when trading under the style and firm name of Rosse Products Co., or 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

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preparation, "Rosse Rheuma Tabs," or any other 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 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 respondent's medicinal preparation, "Rosse Rheuma Tabs":

(a) Is a cure or remedy for rheumatism, rheumatic pains, or sensitive joints;

(b) Has any curative action on the underlying factors which cause rheumatic pains;

(c) Constitutes a competent or effective treatment for rheumatism, rheumatic pains, or sensitive joints;

(d) Will relieve the pain attendant upon rheumatism or sensitive joints for a longer period of time than any other preparation of a similar nature; or

(e) Possesses any therapeutic value in the treatment of rheumatism, rheumatic pains, or sensitive joints, in excess of furnishing temporary relief from the symptoms of pain;

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 medicinal preparation, "Rosse Rheuma Tabs," which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

MAJESTIC CHINA COMPANY, INC., ART CHINA COMPANY, HERMAN SIEGEL, SIGMUND GLADSTONE AND JOHN LINDSEY, TRADING AS ART CHINA COMPANY, AND JOHN H. FEINNE, TRADING AS WINDSOR CHINA COMPANY

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

Docket 3748. Complaint, Mar. 29, 1939—Decision, July 29, 1941

Where two corporations and four individuals, who controlled and directed their policies and practices, engaged, incident to their offer and sale to retailers of a business or sales stimulator plan, in interstate sale of chinaware to be distributed by retailers as premiums, in substantial competition with others who do not misrepresent their business or disparage their competitors' products; orally and through stationery, contracts, correspondence, and advertising media circulated generally—

- (a) Represented that they owned and operated or directly controlled a pottery plant or factory located at Sebring, Ohio, wherein they manufactured the chinaware they sold, and that one of said two corporations was a wholly owned subsidiary of a concern operating a pottery plant at said point;

When in fact none of them was engaged in manufacturing such chinaware, all of which they purchased from said Sebring concern, in which none of them had any financial or other interest, and of which corporation in question was not a wholly owned subsidiary, said Sebring concern having no interest therein or in the business of said corporations and individuals, other than sale of its products thereto, and its representations to the trade, made at their instance and in cooperation with them that some of individuals concerned were its direct salesmen being false; and, with intent of diverting business from a certain competitor to themselves, and well knowing falsity thereof—

- (b) Represented that such competitor's representative was no longer in business, and that the competitor itself was in the hands of "finance concerns"; and
- (c) Represented that said competitor had been selling inferior chinaware of second grade quality, while representing their own as of a superior grade, as a result whereof a customer canceled negotiations with such competitor, whose product was in fact of first quality;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and of causing it because of such mistaken belief, to purchase their sales stimulator plan and chinaware in preference to those of competitors, whereby trade was unfairly diverted from such competitors to them:

Held, That such acts and practices, 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.

Before *Mr. Edward E. Reardon*, trial examiner.
Mr. John M. Russell for the Commission.