

IN THE MATTER OF
**ROXIE THORSON, TRADING AS THORSON'S SOAP LAKE
PRODUCTS COMPANY**¹

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

Docket 2832. Complaint, June 3, 1936—Decision, Aug. 19, 1941

Where an individual engaged in the preparation and competitive interstate sale and distribution of packaged mineral salts, salt ingredients of which were obtained from Soap Lake in State of Washington, including salts, effervescent salts, "Linament," "Skin-Aid Soap Lake Ointment," "Shampoo," and "Skin-Aid Soap Lake Soap"; in advertising her said products through letters, pamphlets, and other material circulated through various States, and through radio broadcasts—

Falsely represented, featuring her trade name "Soap Lake Products Company," and making such statements as "A Short Cut to Health through Nature," "Health Through the Skin," "The World's Greatest Healing Spot," " * * * contain all the qualities of the lake itself," and "Bringing a great Health Resort to your Home," etc., in connection with references to said Soap Lake and Soap Lake salts, that her aforesaid products would prevent and cure, or be beneficial in the treatment of, a large number of diseases, ailments, and afflictions, including stomach, liver, bowel, and kidney troubles, rheumatism, diabetes, diseases of the skin and blood, high blood pressure, arthritis, and neuritis;

Facts being the therapeutic benefits, if any, obtained from use of her said products, were limited to those resulting from the laxative, diuretic, and cleansing properties thereof, and her said representations were grossly exaggerated, misleading, and untrue;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations were true, and with result, as direct consequence thereof, that a number of the consuming public bought a substantial volume of her said products and trade was unfairly diverted to her from her said competitors, many of whom truthfully represent the effectiveness of their respective products; to the substantial injury of competition in commerce;

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

Before *Mr. Henry M. White* and *Mr. Miles J. Furnas*, trial examiners.

Mr. R. A. McQuat for the Commission.

Mr. William M. Clapp, of Ephrata, Wash., for respondent.

Honorable Clarence D. Martin, Governor of the State of Washington, and *Honorable W. A. Toner*, Assistant Attorney General for

¹For original findings and order in this matter, set aside by the Commission on Aug. 5, 1939, by order reopening the proceeding, *see* 28 F. T. C. 82.

1012

Complaint

the State of Washington, of Olympia, Wash., for State of Washington, amicus curiae.

COMPLAINT

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Roxie Thorson, trading as Thorson's Soap Lake Products Co., hereinafter referred to as respondent, has been and now is using unfair methods of competition in commerce as "commerce" is defined in 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, Roxie Thorson, trading as Thorson's Soap Lake Products Co., has her place of business at Soap Lake, in the State of Washington. Respondent is now, and has been for some years, engaged in the business of preparing, distributing, and selling, in commerce as herein set out, certain packaged mineral salts designated as "Thorson's Soap Lake Salts," "Thorson's Effervescent Soap Lake Salts," and packaged kindred products designated as "Thorson's Soap Lake Liniment," "Thorson's Skin-Aid Soap Lake Ointment," "Thorson's Soap Lake Shampoo," and "Thorson's Skin-Aid Soap Lake Soap," obtained from Soap Lake, located in the State of Washington.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes said salts and kindred products, when sold, to be transported from her place of business in the State of Washington to purchasers thereof located at various points in other States of the United States and in the District of Columbia. There is now, and has been for several years, a constant current of trade and commerce in said products so prepared, distributed, and sold by the respondent, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of her business, respondent is now, and has been, in substantial competition with other individuals and with firms and corporations likewise engaged in the business of manufacturing, distributing, and selling mineral salts or other products designed, intended, and sold for the same purposes for which respondent's products are sold, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course of the operation of said business, and for the purpose of inducing the purchase of said salts and kindred

Complaint

33 F. T. C.

products, respondent has printed and circulated throughout the several States to customers and prospective customers, through the United States mails and otherwise, advertising folders, pamphlets, circulars, letters, and other literature, and has made use of radio broadcasts over stations of sufficient power to convey the programs emanating therefrom into the various States of the United States to advertise the products sold by her; in all of which advertisements, respondent has caused her trade name, Thorson's Soap Lake Products Co., to be prominently and conspicuously displayed, together with the following statements:

A Short Cut to Health through Nature.

Learn to Get Well Quick and Be Well Always.

Relieve your Ailments—While at Home.

Thorson's Soap Lake Salts Give Health Through the Skin.

Most persons who come to Soap Lake do so on the advice of friends who have been benefited by the Health Giving Water of Soap Lake which shows that the water, as well as the Sun Evaporated Minerals produced from it, is all it is claimed to be.

Soap Lake—Unequaled Health Giving Water.

The World's Greatest Healing Spot.

Thorson's Soap Lake Salts contain all of the qualities of the lake itself.

Bringing a Great Health Resort to your Home.

You can now take this Soap Lake Mineral Water treatment right in your home, without loss of time—of the vast expense of travel—the Soap Lake Mineral Water Treatment has been used successfully in the treatment of the following Disorders and Ailments:

High Blood Pressure.

Stomach Disorders.

Liver and Bladder Troubles.

Auto-Intoxication.

Nervous Ailments.

Skin Afflictions.

Kidney Trouble.

Excess Acidity.

Constipation.

Rheumatism.

Arthritis.

Diabetes.

Neuritis.

THORSON'S SOAP LAKE SHAMPOO—It is a marvelous combination of all the ingredients essential to Hair Health.

THORSON'S SKIN-AID SOAP LAKE SOAP—Used in connection with SKIN-AID OINTMENT is without equal in the treatment of Skin Diseases and Eruptions.

THORSON'S EFFERVESCENT SOAP LAKE SALTS—Relief for all Stomach Trouble.

By a special process of crystallization you can now make this wonderful product in your own home without losing any of the curative power of the water.

All of said statements, together with many similar statements appearing in respondent's advertising literature, purport to be descriptive of respondent's products and their effectiveness in treating or curing many of the diseases, ailments, afflictions, and conditions of the human body. In all of her advertising literature, respondent represents, through the statements and representations herein set out

1012

Complaint

and other statements of similar import and effect, that her various packaged products to wit: Thorson's Soap Lake Salts, Thorson's Effervescent Soap Lake Salts, Thorson's Soap Lake Liniment, Thorson's Skin-Aid Soap Lake Ointment, Thorson's Soap Lake Shampoo, and Thorson's Skin-Aid Soap Lake Soap, will prevent and cure, or are beneficial in the treatment of, many of the diseases, ailments, afflictions, and conditions which may be present or exist in the human body.

Among the diseases, ailments, afflictions, and conditions named by the respondent in said radio broadcasts and advertising literature as diseases, ailments, afflictions, and conditions which the use of said above-named packaged products will prevent and cure, or is beneficial in the treatment of, are the following:

Stomach, liver, bowel and kidney trouble, rheumatism, diabetes, catarrh, skin diseases, female trouble, diseases of the blood, psoriasis, pyorrhea and sore gums, gangrene, foot trouble, eye trouble, eczema, lumbago, dropsy, pleurisy, dyspepsia, ivy oak poison, sunburn, insect bites, chilblains, frostbite, cramps of muscles, scalds, wounds and sores, high blood pressure, auto-intoxication, nervous ailments, excess acidity, constipation, arthritis, neuritis, and Buerger's disease.

PAR. 5. The representations made by the respondent with respect to the nature and effect of her products when used are grossly exaggerated, false, misleading, and untrue. In truth and in fact, the use of respondent's packaged products will not prevent and cure, nor are any of said products beneficial in the treatment of all, or any of, the diseases, ailments, afflictions, and conditions hereinabove named. The benefits, if any, generally obtained from a use of any or all of said products are limited to those resulting from the laxative and diuretic properties and action of said products and the use of said products as either an external or an internal cleansing agent. Said packaged products have no therapeutic value in the treatment of the diseases, ailments, afflictions, and conditions above named.

PAR. 6. There are among respondent's competitors many who manufacture, distribute, and sell various products designed, intended and sold for the purpose of curing, relieving, or treating some, or all, of the various diseases, ailments, afflictions, and conditions of the human body hereinabove named and who do not, in any way, misrepresent the quality or character of their respective products or their effectiveness when used.

PAR. 7. Each and all of the false and misleading statements and representations made by the respondent in designating or describing her products and the effectiveness of said products for curing, treating, or relieving the diseases, ailments, afflictions, and conditions of

the human body herein named, in offering for sale and selling her said products were, and are, calculated to, and had, and now have, a tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that all of said representations are true and that said products will, in truth, accomplish the results claimed. Further, as a direct consequence of the mistaken and erroneous beliefs, induced by the acts and representations of the respondent, as hereinabove detailed, a number of the consuming public have purchased a substantial volume of respondent's products with the result that trade has been unfairly diverted to the respondent from competitors likewise engaged in the business of distributing and selling similar products or other products designed, intended, and sold for use in the cure, relief, or treatment of the various diseases, ailments, afflictions, and conditions named herein, and who truthfully represent the effectiveness of their respective products. As a result thereof, injury has been, and is now being, done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The above and foregoing acts, practices, and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 3, 1936, issued, and on June 8, 1936, served its complaint in this proceeding upon respondent, Roxie Thorson, trading as Thorson's Soap Lake Products Co., charging her with the use of unfair methods of competition 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 regularly 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 fully advised in the premises, on January 16, 1939, made its findings as to the facts and its conclusion drawn therefrom, and issued its order requiring the respondent to cease and desist from the use of said unfair methods of competition.

Subsequently, the State of Washington, appearing as amicus curiae, filed a petition alleging that the findings of the Commission reflected adversely upon the therapeutic properties of the water of Soap Lake, Wash., and requesting that the proceeding be reopened for the taking of testimony. Upon consideration of said petition, the Commission, on August 5, 1939, entered its order directing that the proceeding be reopened for the purpose of taking testimony and other evidence in support of and in opposition to certain allegations of the complaint, the Commission thereby setting aside its original findings as to the facts and order to cease and desist. Pursuant to such order, supplemental hearings were held at which testimony and other evidence were introduced in support of and in opposition to said allegations of the complaint. Thereafter the proceeding regularly came on for final hearing before the Commission upon the complaint, answer, testimony and other evidence, and brief of counsel for the Commission (no briefs having been filed by either the respondent or the State of Washington, and oral argument not having been requested); and the Commission, having duly considered the matter and being 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, Roxie Thorson, is an individual trading as Thorson's Soap Lake Products Co., with her principal office and place of business located at Soap Lake, in the State of Washington. Respondent is now, and for some years last past has been, engaged in the business of preparing, distributing, and selling in commerce, certain packaged mineral salts designated as "Thorson's Soap Lake Salts," "Thorson's Effervescent Soap Lake Salts," and kindred products designated as "Thorson's Soap Lake Lini-ment," "Thorson's Skin-Aid Soap Lake Ointment," "Thorson's Soap Lake Shampoo," and "Thorson's Skin-Aid Soap Lake Soap."

The salt ingredients that go to make up these products are obtained by respondent from a body of water called Soap Lake, which is a lake located in the State of Washington.

PAR. 2. Respondent causes her products, when sold, to be transported from her place of business at Soap Lake in the State of Washington to purchasers thereof located at various points in other States of the United States and in the District of Columbia. There is now, and has been for some time last past, a course of trade by the respondent in her products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. The respondent, in the course of the operation of her business, is in competition with other individuals and with firms and corporations also engaged in the business of preparing, distributing and selling mineral salt products or other products prepared, intended and sold for the same purpose as those for which respondent's products are sold, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In order to induce customers and prospective customers to purchase her products, respondent causes to be printed and circulated throughout the various States of the United States certain advertising matter which consists for the most part of letters, pamphlets, and circulars. Respondent has also made use of the radio for the purpose of creating a demand for her products by broadcasting advertising statements concerning her products over radio stations which have sufficient power to reach audiences in other states.

In all of her advertising matter respondent has featured her trade name, Thorson's Soap Lake Products Co., together with the following statements and representations which purport to be descriptive of respondent's products, the names of which are set forth in full in paragraph 1 hereof, and the effectiveness of said products in treating and curing many of the diseases, ailments, afflictions, and conditions of the human body:

A Short Cut to Health through Nature.

Learn to Get Well Quick and Be Well Always.

Relieve your Ailments—While at Home.

Thorson's Soap Lake Salts Give Health Through the Skin.

Most persons who come to Soap Lake do so on the advice of friends who have been benefited by the Health Giving Water of Soap Lake which shows that the water, as well as the Sun Evaporated Minerals produced from it, is all it is claimed to be.

Soap Lake—Unequaled Health Giving Water.

The World's Greatest Healing Spot.

Thorson's Soap Lake Salts contain all of the qualities of the lake itself.

Bringing a great Health Resort to your Home.

You can now take this Soap Lake Mineral Water treatment right in your home, without loss of time—of the vast expense of travel—the Soap Lake

1012

Findings

Mineral Water Treatment has been used successfully in the treatment of the following Disorders and Ailments:

High Blood Pressure.	Excess Acidity.
Stomach Disorders.	Constipation.
Liver and Bladder Troubles.	Rheumatism.
Auto-Intoxication.	Arthritis.
Nervous Ailments.	Diabetes
Skin Afflictions.	Neuritis.
Kidney Trouble.	

THORSON'S SOAP LAKE SHAMPOO—It is a marvelous combination of all the ingredients essential to Hair Health.

THORSON'S SKIN-AID SOAP LAKE SOAP.—Used in connection with SKIN-AID OINTMENT is without equal in the treatment of Skin Diseases and Eruptions.

THORSON'S EFFERVESCENT SOAP LAKE SALTS—Relief for all Stomach Trouble.

By a special process of crystallization you can now make this wonderful product in your own home without losing any of the curative power of the water.

In all of her advertising literature respondent represents through statements and representations herein set out and through other statements of similar import and effect that her products will prevent or cure, or are beneficial in the treatment of the following diseases, ailments, and afflictions:

Stomach, liver, bowel and kidney troubles, rheumatism, diabetes, catarrh, skin diseases, female trouble, diseases of the blood, psoriasis, pyorrhea and sore gums, gangrene, foot trouble, eye trouble, eczema, lumbago, dropsy, pleurisy, dyspepsia, ivy and oak poison, sunburn, insect bites, chilblains, frostbite, cramps of muscles, scalds, wounds, and sores, high blood pressure, autointoxication, nervous ailments, excess acidity, constipation, arthritis, neuritis, and Buerger's disease.

PAR. 5. The Commission finds that the representations set forth in paragraph 4 hereof, which respondent makes with respect to the therapeutic value of her products when used, are grossly exaggerated, misleading, and untrue. In truth and in fact, respondent's products will not prevent or cure, nor do they constitute competent treatments for, all or any of the diseases, ailments, or afflictions set forth in paragraph 4 hereof. The therapeutic benefits, if any, generally obtained from the use of any or all of said products are limited to those resulting from the laxative, diuretic and cleansing properties of said products.

PAR. 6. Testimony adduced at the instance of the State of Washington during the supplemental hearings shows that in 1938 the State established, and has since maintained, a hospital at Soap Lake for the study and treatment of Buerger's disease, the hospital being primarily for the benefit of American veterans of the World War.

Up to the present time some twenty-five to thirty patients have received treatment at the hospital. The usual treatment includes rest in bed, cessation from smoking, and the use of the lake water as a bath and for soaking the feet. The testimony of the head of the institution is to the effect that while substantial progress appears to have been made in certain cases, it is too early to form any definite conclusions as to the effectiveness of the treatment or as to the therapeutic properties of Soap Lake water.

Neither the effectiveness of the hospital's method of treatment nor the therapeutic properties of the natural waters of Soap Lake is involved in this proceeding. The proceeding has to do only with the representations made by respondent with respect to her own packaged products.

PAR. 7. Each and all of the false and misleading statements and representations made by respondent, as hereinabove set forth, in her advertising, letters, circulars, pamphlets, and over the radio and by other advertising media in offering for sale and selling her products, have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true.

As a direct result of these mistaken and erroneous beliefs induced by the acts and misrepresentations of respondent as hereinabove enumerated, a number of the consuming public have purchased a substantial volume of respondent's products, with the result that trade has been diverted unfairly to respondent from her said competitors, many of whom truthfully represent the effectiveness of their respective products.

As a result thereof substantial injury has been done and is now being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition 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 respondent, in which answer respondent admitted all of the material

1012

Order

allegations of fact set forth in said complaint and stated that she waived all intervening procedure and further hearing as to said facts, and upon testimony and other evidence introduced in certain supplemental hearings before trial examiners of the Commission theretofore duly designated by it, in support of and in opposition to the allegations of the complaint, and upon brief of counsel for the Commission (no brief having been filed by the respondent and oral argument not having been requested); 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, Roxie Thorson, individually and trading as Thorson's Soap Lake Products Company, or trading under any other name, and her representatives, agents, and employees, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of her packaged mineral salts now designated as "Thorson's Soap Lake Salts," "Thorson's Effervescent Soap Lake Salts," "Thorson's Soap Lake Liniment," "Thorson's Skin-Aid Soap Lake Ointment," "Thorson's Soap Lake Shampoo," and "Thorson's Skin-Aid Soap Lake Soap," or any other products of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from representing:

That said mineral salt preparations will prevent or cure, or that they constitute competent treatments for, stomach, liver, bowel or kidney disorders, rheumatism, diabetes, catarrh, skin diseases, female trouble, diseases of the blood, psoriasis, pyorrhea, sore gums, gangrene, foot trouble, eye trouble, eczema, lumbago, dropsy, pleurisy, dyspepsia, ivy or oak poisoning, sunburn, insect bites, chilblains, frostbite, cramps of muscles, scalds, wounds or sores, high blood pressure, autointoxication, nervous ailments, excess acidity, constipation, arthritis, neuritis, or Buerger's disease; or that said preparations possess any therapeutic value in excess of their laxative, diuretic, and cleansing properties.

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

IN THE MATTER OF

WILLIAM CLARENCE OHLENDORF, TRADING AS W. C. OHLENDORF, CLARENCE OHLENDORF, C. OHLENDORF, AND DR. OHLENDORF

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

Docket 4079. Complaint, Apr. 3, 1940—Decision, Aug. 19, 1941

Where practicing physician, engaged in interstate sale and distribution of his "Dr. Ohlendorf's Tonic," which he compounded from a formula originated by his father, also a physician; by means of advertisements in periodicals of general circulation and circulars sent through the mails, directly or by implication—

Represented that his said preparation constituted a cure or remedy and a competent and effective treatment for kidney, bladder, and nervous disorders, rheumatism, neuritis, diabetes, and catarrh of the bladder and bowels, and that it would tone up the nerves and acted as a diuretic; the facts being ferric chloride, only active ingredient of the product in question, while having some value as an iron tonic and treatment in cases of anemia due to deficiency of iron in the blood, possesses no therapeutic value in treatment of ailments and disorders named, and is not capable of acting as a diuretic;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such advertisements were true, and to cause it, as a result of such belief, to purchase substantial quantities of his said product:

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

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. Joseph C. Fehr 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 William Clarence Ohlendorf, an individual trading under the names W. C. Ohlendorf, Clarence Ohlendorf, C. Ohlendorf, and Dr. Ohlendorf, 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, William Clarence Ohlendorf, is an individual trading under the names W. C. Ohlendorf, Clarence Ohlen-