

Complaint

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IN THE MATTER OF

W. S. McClymonds and G. L. McClymonds, Doing
Business as Oxol LaboratoriesCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4208. Complaint, July 31, 1940—Decision, Sept. 17, 1941*

Where two individuals engaged in manufacture and interstate sale and distribution of their "Trox Tablets," ingredients of which included powdered extract triticum repens, oxyquinoline sulphate, charcoal, starch, and sugar of milk; by means of advertisements disseminated through the mails and otherwise—

Falsely represented that said preparation was a cure or remedy for various diseases and ailments of the kidneys and prostate gland, and constituted an effective treatment therefor; facts being tablets in question were without therapeutic value; modern pharmacologists ascribe no therapeutic properties to said first ingredient or conch grass, second ingredient is a decidedly less efficient antiseptic than phenol, with amount contained in said tablets so insignificant that no beneficial action would result therefrom for said ailments, and other ingredients are of no medical value;

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 erroneous belief, to purchase substantial quantities of their said "Trox Tablets":

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. William C. Reeves*, trial examiner.

Mr. Donovan R. Divet 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 W. S. McClymonds and G. L. McClymonds, individuals, doing business as Oxol Laboratories, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondents, W. S. McClymonds and G. L. McClymonds, are individuals doing business under the firm name and style of Oxol Laboratories with their principal office and place of business at 1042-48 Santa Fe Drive, Denver, Colo.

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Respondents are now and for more than 2 years last past have been engaged in the business of manufacturing, selling, and distributing a drug preparation designated as "Trox Tablets." The respondents cause said preparation when sold, to be shipped from their said place of business in the State of Colorado 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 preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their aforesaid business, respondents have disseminated, and are now disseminating and have caused and are now causing, the dissemination of false advertisements concerning their said preparation, "Trox Tablets," by United States mails, and by 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 their said preparation; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said preparation by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid, are the following:

Prostate and Kidney * * * sufferers? Amazing results with our ten day treatment with Trox Tablets. Quick relief or your money back * * *

Prostate and Kidney sufferers. Use Trox Tablets for instant relief; money back offer.

PAR. 3. Through the use of the aforesaid statements and representations and other statements and representations of similar import or meaning not herein set out, respondents represent and have represented that their said preparation, "Trox Tablets," is a cure or remedy for various diseases and ailments of the kidneys and of the prostate gland, and constitutes a competent and effective treatment for such diseases and ailments.

PAR. 4. The aforesaid statements and representations by respondents relating to said preparation, to wit, "Trox Tablets," are exaggerated, misleading, and untrue. In truth and in fact, said preparation, "Trox Tablets," has no therapeutic value in the treatment of diseases and ailments of the kidneys or prostate gland and does not constitute a cure

or remedy for any ailment or disease of the kidneys or prostate gland. Said preparation has no value with respect to relieving any such disease or ailment or any symptom thereof.

PAR. 5. The use by the respondents of the aforesaid false and misleading statements, representations, and advertisements disseminated as aforesaid with respect to said preparation has had and now has the capacity and tendency to, and does, mislead and deceive a substantial number of the members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading statements, representations, and advertisements are true and induce the purchase of substantial quantities of respondents' said preparation because of said erroneous and mistaken belief.

PAR. 6. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 31st day of July 1940, issued and served its complaint in this proceeding upon the respondents, W. S. McClymonds and G. L. McClymonds, individuals, doing business as Oxol Laboratories, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 21, 1940, the respondents filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and Richard P. Whiteley, assistant chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, W. S. McClymonds and G. L. McClymonds, are individuals and for more than 2 years prior to May 1, 1941, did business under the firm name and style of Oxol Laboratories, with their office and principal place of business located at 1042-48 Santa Fe Drive, Denver, Colo.

For more than 2 years prior to May 1, 1941, the respondents were engaged in the business of manufacturing, selling, and distributing a drug preparation designated as "Trox Tablets," the formula for which is:

Powdered extract triticum repens	4 grs.
Oxyquinoline sulphate	1/20 gr.
Charcoal	1 gr.
Starch	3/4 gr.
Sugar of milk	1/4 gr.

During the time that respondents were so engaged in said business, they caused said preparation when sold to be shipped from their said place of business in the State of Colorado to the purchasers thereof located in the various other States of the United States and in the District of Columbia. Respondents, at all times mentioned herein prior to May 1, 1941, maintained a course of trade in said preparation in commerce among and between various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their aforesaid business, respondents disseminated and caused the dissemination of false advertisements concerning their said preparation, "Trox Tablets," by means of the United States mails and by other means in commerce as commerce is defined in the Federal Trade Commission Act; and have disseminated and have caused the dissemination of false advertisements concerning their said preparation by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said produce in commerce as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, were the following:

Prostate and kidney—sufferers? Amazing results with our ten-day treatment with Trox Tablets. Quick relief or your money back * * *

Prostate and kidney sufferers. Use Trox Tablets for instant relief; money back offer.

PAR. 3. Through the use of the aforesaid statements and representations, and other representations of similar import or meaning not herein set out, respondents represented that their said preparation,

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"Trox Tablets," was a cure or remedy for various diseases and ailments of the kidneys and of the prostate gland, and constituted a competent and effective treatment for such diseases and ailments.

PAR. 4. The aforesaid statements and representations by respondents relating to said preparation, "Trox Tablets," were exaggerated, misleading, and untrue. In truth and in fact, no therapeutic properties are ascribed to *triticum repens* (conch grass) by modern pharmacologists. Oxyquinoline sulphate is an antiseptic decidedly less efficient in its killing power than phenol. The standard dose of oxyquinoline sulphate is 5 to 15 grains, and the amount of oxyquinoline sulphate contained in "Trox Tablets" is so insignificant that no beneficial action would result from its use in kidney or prostate disorders. The other ingredients of "Trox Tablets," to wit, starch, sugar of milk, and charcoal, are of no medical value. "Trox Tablets" have no therapeutic value, and the claims made by respondents as to the therapeutic value of "Trox Tablets," as hereinabove set forth, are false and misleading in their entirety.

PAR. 5. The use by respondents of the aforesaid false and misleading statements, representations, and advertisements, disseminated as aforesaid, has had the capacity and tendency to, and did, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading statements, representations, and advertisements were true, and has induced a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' said "Trox Tablets."

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 answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and Richard P. Whiteley, assistant chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the

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facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, W. S. McClymonds and G. L. McClymonds, individually and doing business as Oxol Laboratories, or trading under any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of their product "Trox Tablets," or any product 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 advertisements represents, directly or through inference:

(a) That respondents' product "Trox Tablets" constitutes a cure or remedy for diseases and ailments of the kidneys or of the prostate gland, or constitutes a competent or effective treatment therefor.

(b) That respondents' product "Trox Tablets" possess any therapeutic value in the treatment of diseases and ailments of the kidneys or of the prostate gland.

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 product, "Trox Tablets," which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF
THE BRABANT NEEDLE 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 4212. Complaint, Aug. 2, 1940—Decision, Sept. 17, 1941

Where a corporation engaged in importing needles and needle threaders from England, Germany, Holland, and Czechoslovakia, and in interstate sale and distribution thereof—

- (a) Packaged needles—the container pads or flaps of which, at time of importation and pursuant to the laws of the United States, bore the name of the country of origin—in a manner which concealed said name, and in booklets or other containers which usually bore the words “Printed in U. S. A.,” and sold and distributed its needles, thus packaged, without disclosure of fact that they were made in Germany or other foreign country, to dealers for resale, and to manufacturers, dealers, and others for distribution to the public as part of a sales promotion plan to act as sales reminders and create good will for the supplying concern; and
- (b) Made use of such statements, in invoices, letterheads, and other materials, as “Factory Lion Works, George St. Redditch—England U. S. Factory and Sales Rooms 47 Great Jones Street, New York, N. Y.”;

The facts being needles of English manufacture are considered by trade and consuming public as superior in quality to those manufactured in Germany, Holland, or Czechoslovakia; there is a prejudice on the part of a substantial part of said purchasing public against products manufactured in Germany; and said corporation had not for many years, and did not then, own, control, or operate any needle factory in the United States or in England, and was not a manufacturer, for dealing with whom there is a decided preference on the part of a substantial portion of the purchasing public, as affording, in its belief, a saving of the middleman's profit and other advantages;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that its needles were of domestic or English origin and that it owned or controlled factories in which such needles were produced, and with result, as consequence of said erroneous belief, that a substantial portion of said public was induced to purchase its products, and there was thereby placed in the hands of dealers a means whereby they were enabled to mislead and deceive members of the purchasing public as to the source of such products and the business status of said company:

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

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

Mr. Carrel F. Rhodes for the Commission.

Mr. William Kessler, of New York City, 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