

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 1, 1942, TO DECEMBER 31, 1942

IN THE MATTER OF CHARLES ROEHM, TRADING AS CHUMANIE MEDICINE COMPANY

MODIFIED CEASE AND DESIST ORDER¹

Docket 4530. Order, July 1, 1942

Modified order requiring respondent, his agents, etc., in connection with offer, etc., of his "Chumanie's Triple XXX Tablets," "Iron Tonic Pills," "Yellow Jacket Pills," "Double RR Tablets," and "Plantation C. M. Q. Capsules," or any other substantially similar preparation, to cease and desist from disseminating or causing to be disseminated, as in detail below set out, advertisements which (1) represent that said preparations constitute safe, competent, or effective treatments for various ailments and conditions, unless limited as specified; (2) falsely claim certain properties therefor, or set out falsely the causes of certain ailments and conditions; and (3) fail to reveal that his Triple XXX Tablets are not a safe or competent treatment for irregular or delayed menstruation, and to reveal the dangerous consequences which may result from the use thereof.

Before *Mr. William C. Reeves* and *Mr. Lewis C. Russell*, trial examiners.

¹ For complaint, findings, and original order, slightly modified hereby, see 34 F. T. C. 1181, 1190.

Commission's modifying order, on respondent's motion to modify, was as follows:

"This matter coming on to be heard by the Commission upon the respondent's motion to modify the order to cease and desist heretofore issued by the Commission on May 11, 1942, and the Commission having duly considered said motion and the record herein and being now fully advised in the premises:

"*It is ordered*, That respondent's motion for an order modifying the order to cease and desist be, and the same hereby is, granted insofar as said motion moves the deletion of the words 'or nutritional lack of iron' in lines 4 and 5 of subsection (a) of paragraph 1 of the order to cease and desist issued on May 11, 1942.

"*It is further ordered*, That respondent's motion be, and the same hereby is, denied insofar as it moves the deletion of the word 'competent' from the second line of subsection (a) of paragraph 1 and the insertion of the clause 'or that the nutritional lack of iron has any influence in delaying or preventing the onset of menstruation other than confined to certain well-defined limits' immediately preceding the semicolon in line 7 of subsection (a) of paragraph 1.

"*It is still further ordered*, That except as hereinabove modified the order to cease and desist issued by the Commission on May 11, 1942, remain in full force and effect."

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35 F. T. C.

Mr. J. V. Buffington and *Mr. John W. Carter, Jr.*, for the Commission.

Mr. Jack Glenn Williams, of Cincinnati, Ohio, for respondent.

MODIFIED 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 respondent, and a stipulation as to the facts entered into by and between counsel for the Commission and counsel for the respondent, which stipulation provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent 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 facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Charles Roehm, individually and trading under the name Chumanie Medicine Co., or trading under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his medicinal preparation now known as Chumanie's Triple XXX Tablets, Chumanie's Iron Tonic Pills, Chumanie's Yellow Jacket Pills, Chumanie's Double RR Tablets, and Chumanie's Plantation C. M. Q. Capsules, or of any other preparations of substantially similar properties, whether sold under the same names 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 represent, directly or through inference:

(a) That the preparation, Chumanie's Triple XXX Tablets, is a safe or competent treatment for irregular or delayed menstruation; or that cold feet has any substantial influence in delaying or preventing the onset of menstruation; or which advertisement fails to reveal that the use of said preparation may cause gastro-intestinal disturbances, pelvic congestion, excessive uterine hemorrhages and, in cases of pregnancy, infection of the pelvic organs and blood poisoning.

(b) That said preparation, Chumanie's Iron Tonic Pills, is an effective treatment for anemia, except in cases of anemia resulting from a deficiency of iron in the diet, or that the symptoms of feeling

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old, played out, or nervousness indicate a deficiency of iron in the diet.

(c) That said preparation, Chumanie's Yellow Jacket Pills, is a stimulant to the kidneys, except as a mild diuretic, or is an effective treatment for kidney or bladder disorders, or for such symptoms as backache, leg pains, puffy or swollen eyes, or that such symptoms indicate kidney or bladder disorders.

(d) That said preparation, Chumanie's Double RR Tablets, is an effective treatment for rheumatism or inflamed, painful joints, or that it will have any therapeutic effect in the treatment of said conditions in excess of mitigating distress and discomforts thereof; or that stiff or painful joints are caused only by a rheumatic condition of the human body;

(e) That said preparation, Chumanie's Plantation C. M. Q. Capsules, is a treatment for the relief of the common cold.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, or any of them, which advertisement contains any of the representations prohibited in paragraph 1, hereof, or which advertisement with respect to the preparation, Chumanie's Triple XXX Tablets, fails to reveal the dangerous consequences which may result from the use of said preparation, as required in paragraph 1 hereof.

It is further ordered, That the respondent shall within 10 days after service upon him of this order, file with the Commission an interim report in writing, stating whether he intends to comply with this order, and, if so, the manner and form in which he intends to comply; and that within 60 days after the service upon him of this order, said respondent shall 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
DAVID CHALMERS TOBACCO COMPANY

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

Docket 4746. Complaint, Apr. 13, 1942—Decision, July 2, 1942

Where a corporation, engaged in the competitive interstate sale and distribution, among other things, of assortments of pipes so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers, a typical assortment consisting of twelve of its "Yello-Bole" pipes and a punch-board for use in sale thereof under a plan by which purchasers securing, by chance, certain numbers received said pipes, as did those making last punch in each of sections into which board was divided, those securing certain other numbers each received 20 cents, and others received nothing, and under which the amount paid for a chance was determined by the number punched—

Sold such assortments to wholesalers, jobbers, and retailers by whom they were exposed and sold to the purchasing public in accordance with aforesaid plan involving sale of chance to procure pipes at much less than retail price thereof, and thereby supplied to, and placed in the hands of others the means of conducting lotteries in the sale of its products; contrary to established Government policy, and in competition with many who do not use such or other methods contrary to public policy;

With the result that many persons were attracted by said chance sales plan, and were thereby induced to buy and sell products of said corporation in preference to pipes of said competitors, whereby trade was unfairly diverted to it from them, and substantial injury was done to competition;

Held, That such acts and practices, under the circumstances set forth, constituted unfair methods of competition in commerce and unfair acts and practices therein.

Mr. J. W. Brookfield, Jr., for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it my said act, the Federal Trade Commission, having reason to believe that David Chalmers Tobacco Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues it complaint stating its charges in that respect as follows: