

IN THE MATTER OF

PURITY PRODUCTS, INC., THE JOURNAL OF LIVING
PUBLISHING CORPORATION, AND VICTOR H.
LINDLAHRCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4021. Complaint, Feb. 6, 1940—Decision, Feb. 9, 1943*

Where a corporation engaged in interstate sale and distribution of a preparation known as "VBev" recommended for use as a tonic and to overcome certain vitamin deficiencies; the editor of a publication known as "Journal of Living" which he controlled and used as a medium for advertising said VBev; and a corporation engaged in sale and distribution of said publication; through advertisements in the mails and newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature and radio broadcasts—

Represented, directly and indirectly, that "VBev" was of substantial therapeutic value in the treatment of numerous diseases and ailments including loss of sleep, nervousness, nervous indigestion, tired feeling, lack of energy, underweight, and general run-down condition, and that it supplied the necessary amounts of vitamins B₁ and G to persons suffering from a deficiency thereof;

The facts being that "VBev" was nothing more than a food supplement which supplied certain vitamins in quantities which could easily be obtained through the ingestion of ordinary food; by reason of its small content of vitamin B₁ units, it had no therapeutic value in the treatment of any condition caused by deficiency thereof and none in the treatment of the other diseases or conditions listed; nervousness, nervous indigestion, sleeplessness, etc., are symptomatic of many diseases and conditions not associated with any vitamin deficiency and may result from psychological causes such as worry and irritation; and while a hot drink before retiring may induce sleep, it has no increased value for such purpose through addition of product in question;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such false representations were true, thereby inducing its purchase of 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.

Before *Mr. Arthur F. Thomas* and *Mr. Robert S. Hall*, trial examiners.

Mr. William L. Taggart for the Commission.

Mr. Julian D. Heath, of New York City, and *Mr. Irving Robert Rosenhaus*, of Newark, N. J., for respondents.

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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 Purity Products, Inc., a corporation, The Journal of Living Publishing Corporation, a corporation, and Victor H. Lindlahr, an individual, 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. Respondent, Purity Products, Inc., is a corporation, organized under the laws of the State of New Jersey, with its principal office and place of business at 1060 Broad Street, Newark, N. J. Said respondent is now and for more than 1 year last past has been engaged in the sale and distribution of a medicinal preparation known as "V-Bev" which is recommended for use as a tonic.

Said respondent, Purity Products, Inc., causes its product, when sold, to be transported from its place of business in the State of New Jersey to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in its products in commerce among and between the various States of the United States and in the District of Columbia.

Respondent, Victor H. Lindlahr, is an individual, with his principal office located at 1819 Broadway, New York, N. Y. Said respondent directs and controls the practices and methods of respondent, Purity Products, Inc., with respect to the advertising of its said product.

Respondent, The Journal of Living Publishing Corporation, is a corporation organized under the laws of the State of New York, with its principal office located at 1819 Broadway, New York, N. Y. The respondent, Victor H. Lindlahr, directs and controls the practices and methods of said Publishing Corporation and uses said Corporation as a medium for the advertising of said medicinal preparation. Among the publications issued and disseminated by said corporation is a periodical known as "The Journal of Living," which is used to advertise said preparation. The said Victor H. Lindlahr is editor of said periodical.

All of the respondents have acted in conjunction and cooperation with each other in carrying on the acts and practices hereinafter alleged.

PAR. 2. In the course and conduct of their aforesaid businesses, the respondents have disseminated and are now disseminating, and

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have caused and are now causing the dissemination of, false advertisements concerning said product by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by continuities broadcast from radio stations which have sufficient power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originate, 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 the said product; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said product by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product 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, with respect to the product V-Bev, are the following:

THOUSANDS of clinical tests have conclusively proven that very often nervousness is due to nothing more than vitamin deficiency—particularly the lack of Vitamins B₁ and G. These precious elements may actually mean the difference between good health and the "half health," run-down condition that handicaps so many people.

Thousands who had suffered for years from nervousness, insomnia, poor digestion and a general below-par feeling, have been astonished to see what the simple addition of more Vitamins B and G have done for them. But heretofore getting an EXTRA supply of these vitamins was a real problem—very often unpleasant, always expensive.

Now, thanks to modern science, you can make sure of getting these extra Vitamins B and G—in the pleasantest and most inexpensive way yet discovered . . . simply by treating yourself to this delicious VBEV Confection regularly. As stated on every package, VBEV Confection has these vital food elements in concentrated form—actually 150 Units of Vitamin B-1, and 130 Units of Vitamin G.

If you're nervous and irritable, if you tire easily, and suffer from insomnia why not try eating this tempting, vitamin-concentrated confection every day, and supplement your diet with a rich extra supply of the vitamins you need! See if you don't find you're less nervous and jittery—if you're not sleeping better, looking better and feeling more vibrantly alive and well than ever before! Get a box at your health food or drug store today (or send in the coupon below) and start eating it regularly—for your health's sake!

Through the use of the representations hereinabove set forth and others of similar import not specifically set out herein, all of which

purport to be descriptive of the remedial, curative, and therapeutic properties of respondents' preparation, respondents have represented, and do now represent, directly and indirectly, that the preparation V-Bev possesses substantial therapeutic value in the treatment of numerous diseases and ailments of the human body, including loss of sleep, nervousness, poor digestion, tired feeling, lack of energy, bad health generally, and run-down condition; that V-Bev supplies to persons suffering from a deficiency of vitamins B₁ and G the necessary amount of such vitamins.

PAR. 3. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact V-Bev is without any therapeutic value in the treatment of loss of sleep, nervousness, poor digestion, tired feeling, lack of energy, bad health generally, run-down condition, or any other disease or ailment of the human body. It will not supply any deficiencies of vitamins B₁ and G or deficiencies in any other vitamins. In truth and in fact V-Bev consists principally of a mixture of ordinary foods and no therapeutic or other benefits are to be derived from its use beyond those which would be derived from the consumption of a like quantity of ordinary food.

PAR. 4. The use by the respondents of the foregoing false, deceptive and misleading representations with respect to their said product 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 and misleading representations are true, and, as a result of such erroneous and mistaken belief, the purchasing public is induced to and does purchase a substantial quantity of respondents' product.

PAR. 5. 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 February 6, 1940, issued and subsequently served its complaint in this proceeding upon the respondents, Purity Products, Inc., a corporation, The Journal of Living Publishing Corporation, a corporation, and Victor H. Lindlahr, an individual, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of, and in opposition to, the allegations of said complaint were introduced before trial ex-

aminers 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, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of Trial Examiner Arthur F. Thomas upon the evidence, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; 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, Purity Products, Inc., is a corporation, organized and existing under the laws of the State of New Jersey, with its principal office and place of business at 1060 Broad Street, Newark, N. J. Said respondent is now, and for several years last past has been, engaged in the sale and distribution of a preparation known as V-Bev, which is recommended for use as a tonic and to overcome certain vitamin deficiencies in the diet. Said respondent, Purity Products, Inc., causes its preparation, when sold, to be transported from its place of business in the State of New Jersey to the purchasers thereof located in the various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, Victor H. Lindlahr, is an individual with his principal office located at 1819 Broadway, New York, N. Y. Said respondent, for several years prior to the issuance of the complaint herein and during all the times mentioned in the complaint, has disseminated and has caused the dissemination of various advertisements concerning the preparation VBev by United States mails, by insertions in newspapers and periodicals having a general circulation, by circulars and other printed matter distributed in commerce, and by continuities broadcast from radio stations.

PAR. 3. Respondent, The Journal of Living Publishing Corporation, is a corporation, organized and existing under the laws of the State of New York, with its principal office located at 1819 Broadway, New York, N. Y. Said respondent is engaged in the sale and distribution of a publication known as "Journal of Living," which has a general circulation among the various States of the United States. Re-

spondent, Victor H. Lindlahr, is editor of said publication "Journal of Living." Said respondent, The Journal of Living Publishing Corporation, together with respondent, Victor H. Lindlahr, has at all times mentioned in the complaint herein been engaged in the dissemination of advertising and advertisements concerning the preparation VBev, which is manufactured and distributed by the respondent, Purity Products Co. Said respondent, Victor H. Lindlahr, directs and controls the practices and methods of said The Journal of Living Publishing Corporation and uses said corporation as a medium for the advertising of said preparation known as VBev.

PAR. 4. In the course and conduct of their aforesaid businesses the respondents, acting in conjunction and cooperation with each other, have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said preparation VBev, by United States mails and by various other means in commerce as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said preparation VBev by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said 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 United States mails, by advertisements inserted in newspapers and periodicals, by circulars, leaflets, pamphlets, and other advertising literature, and by continuities broadcast from radio stations which have the power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the State from which said broadcasts originate, are the following:

Another thing—sleep is all important—because one of the surest signs of nervous indigestion is insomnia—sleeplessness. And right here we have one of the most effective uses of VBev. If you suffer from nervous indigestion or if you know any one who does just try VBev. Mixed in warm milk after a soothing bath in the evening just before retiring it invites sleep like nothing else. The kind of sleep that is renewing and energizing. It'll break right through the vicious nervous circle and set you right. Aside from that you have vitamin B in VBev—which is an essential factor in combating nervous disorders.

It helps—by quieting your nerves and in general raising the level of health to the point where you do have control over your sleeping habits. You get your nerves under control—because VBev gives you the nervous reserve to fall back on.

VBev gives you the precious vitamins B₁ and G which are the key to assimilation and you can eat all sorts of food and you can even eat balanced menus and

not gain any if your assimilative powers are below par. And assimilation rests so much upon the nerves. VBev is important.

I heartily endorse VBev because I know that it helped me. VBev coupled with the 7-day diet is God's gift to the skinnies. I know I haven't felt so well, so peppy, and so full of energy in years as when I was following the diet. And I intend to go on it again and stay on it, till I add enough pounds to satisfy myself in weight.

The very important part that VBev plays hinges on its vitamin B and G content, especially vitamin G. You see this vitamin helps you assimilate foods and to absorb them. * * * Assimilation means turning the foods that you have absorbed, into body tissue.

For such modern ailments as nerve tension, lack of energy, and sleeplessness due to just plain "nerves," VBev offers a safe drugless solution.

Well, here's one easy way to keep your child's appetite up to par at all times, every day! Just see that *your* child gets VBev, the tonic food beverage every day at mealtime. The clew to what VBev can do for your child is the very name itself. It stands for V as in vitamin, Bev as in beverage. Yes, VBev is a vitamin beverage, extra rich in vitamin B, the appetite stimulating vitamin. But VBev contains vitamin G, too, for robust vitality and such health giving minerals as iron, calcium and copper, all in highly concentrated form.

Believe me healthy nerves need vitamins B and G. Overtaxed nerves need much more of it. It isn't a long, dreary process of waiting weeks and months for results. If a vitamin deficiency is in any way or any degree responsible for irritable, worn, jittery nerves, then the response is fast, quick and satisfactory.

You have probably noticed that your digestion tends to be good or bad, according to your various emotional states. When you are high strung and jittery, normal digestion is indeed hard to achieve. But there is a very effective way to combat ordinary "nerves" that play havoc with digestion. That's the VBev way! The name VBev has a very special meaning for you. It stands for V as in vitamin and Bev as in beverage—VBev, the vitamin B and G beverage—designed to steady jangled, irritated nerves. VBev contains vitamin B₁, the nerve factor, and vitamin G, the vitality vitamin, in highly concentrated form. Then, too, it is fortified with essential minerals everyone needs.

VBev is a pure food auxiliary to the diet. It contains food essentials like vitamin B, for sound nerves, vitamin G, for high vitality, and important minerals to help round out the picture of glowing health. For such modern ailments as nervous tension, lack of energy and sleeplessness due to just plain "nerves."

When you take VBev from now on—you can remember that this vitamin B element—so highly concentrated in VBev—has known, beneficial effect in arthritis. I think that's so important that you arthritis sufferers should make a note of it.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others of similar import not specifically set out herein, respondents have represented directly and indirectly that the preparation VBev possesses substantial therapeutic value in the treatment of numerous diseases and ailments of the human body, including loss of sleep, nervousness, nervous indigestion, tired feeling, lack of energy, underweight, arthritis, and general run-down condition and that the preparation VBev supplies to persons suffering from a deficiency of vitamins B₁ and G the necessary amount of such vitamins.

PAR. 6. Respondents' preparation VBev, according to the representations appearing on the labels of this preparation and according to various tests made of this preparation, contains 250 Sherman units of vitamin B₁ and 200 Sherman-Bourquin units of vitamin G per ounce. The number of vitamin B₁ and vitamin G units supplied by the use of this preparation in the dosage prescribed is not sufficient to have any effect upon any manifestation of vitamin B₁ or vitamin G deficiency. This preparation is nothing more than a food supplement, which supplies certain vitamins in quantities which can easily be obtained through the ingestion of ordinary foods.

The number of vitamin B₁ units supplied by VBev is so small that this preparation has no therapeutic value in the treatment of any disease or condition caused by, or associated with, a vitamin B₁ deficiency, and it will not supply the necessary amount of vitamin B₁ to persons suffering from a vitamin B₁ deficiency. This preparation has no effect upon the assimilation or absorption of food to increase weight.

Nervousness, nervous indigestion, sleeplessness, jittery, or irritated nerves, tired feeling, and lack of energy are all symptoms of many diseases and conditions of the human body which are not associated with any vitamin deficiency. Furthermore, all of these symptoms may result from psychological causes, such as worry and irritation, even though the normal diet contains the full complement of vitamins.

A deficiency of vitamin B₁ causes a nerve disorder known as polyneuritis, which is characterized by inflammation of the nervous system. This is not the condition generally referred to or described as nervousness or jittery nerves. Consequently, the representation that nervousness, jittery nerves, and nervous indigestion are caused by a deficiency of vitamin B₁ is misleading to the general public.

The taking of a hot drink before retiring may have some value in inducing sleep, but the addition of VBev to such a drink gives no additional-value for this purpose. VBev, as such, has no value in inducing sleep or overcoming insomnia. It is of no value in the treatment of nervous indigestion, underweight, tired feeling, lack of energy, or general run-down condition or in the treatment of any disease or condition of which these may be symptoms. This preparation has no value whatsoever in the treatment of arthritis and will have no beneficial effect upon such condition.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their said preparation has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading representations are true and that respondents' preparation VBev has

therapeutic value in the treatment of various diseases and conditions of the human body, and as a result of such erroneous and mistaken belief, the purchasing public is induced to purchase a substantial quantity of respondents' preparation.

CONCLUSION

The 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, answer of the respondents, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it in support of the allegations of said complaint and in opposition thereto, report of Trial Examiner Arthur F. Thomas upon the evidence, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Purity Products, Inc., a corporation, and The Journal of Living Publishing Corporation, a corporation, and their respective officers, representatives, agents, and employees, and Victor H. Lindlahr, 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 distribution of their preparation known as "VBev," 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:

- (a) That the use of respondents' preparation VBev will have any beneficial effect upon any manifestation of vitamin B₁ or vitamin G deficiency,

- (b) That respondents' preparation is anything more than a food supplement, which supplies certain vitamins in quantities which can be obtained through the ingestion of ordinary foods,

(c) That respondents' preparation has any therapeutic value in the treatment of any disease or condition caused by, or associated with, a vitamin B₁ deficiency, or that it will supply necessary amount of vitamin B₁ to persons suffering from a vitamin B₁ deficiency,

(d) That respondents' preparation has any effect upon the assimilation or absorption of food to increase weight,

(e) That respondents' preparation has any therapeutic value in the treatment of nervousness, nervous indigestion, sleeplessness, tired feeling, lack of energy, underweight, or general run-down condition or that it has any therapeutic value in the treatment of any disease or condition of which these conditions may be symptomatic,

(f) That respondents' preparation has any therapeutic value in the treatment of arthritis or that it will have any beneficial effect upon this condition.

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 VBev which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

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
AMERICAN MEMORIAL COMPANY

COMPLAINT, MODIFIED FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914¹

Docket 3369. Complaint, Mar. 31, 1938—Decision, Feb. 16, 1943

Where a corporation, engaged in competitive interstate sale and distribution of marble and granite monuments, tombstones, and footstones; in advertisements in periodicals and newspapers, catalogs, pamphlets, booklets, and other literatures; directly or by implication—

- (a) Represented that its marble monuments were everlasting and that a tombstone selling for \$17.50 was a 400-pound stone; the facts being the marble tombstones, monuments, and footstones it sold were not everlasting, and many stones, represented by it to weigh 400 pounds, in fact weighed substantially less;
- (b) Represented falsely that it had executed a bond as a guaranty of the quality of its products, which insured full satisfaction on the part of the purchaser and conformed to the rules and regulations of the postal laws;
- (c) Represented that it was the manufacturer of both its marble and granite tombstones and that all profits of middlemen or commission firms were eliminated in purchase of such products from it; the facts being it was merely a jobber of its granite monuments, and profits referred to were not eliminated in purchase thereof;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said false representations were true, and into purchase of its products because of said mistaken belief; whereby trade was diverted unfairly to it from competitors who do not falsely represent their business status or products:

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 in commerce.

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. John Darsey and *Mr. Carrel F. Rhodes* for the Commission.

Douglas, Andrews & Cole, of Atlanta, Ga., 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 Trade Commission, having reason to believe that American Memorial Co., hereinafter referred to as respondent, has 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:

¹ The original findings and order published in 29 F. T. C. 323.