

Order

IN THE MATTER OF

ULTRA-VIOLET PRODUCTS, INC.

ORDER MODIFYING CERTAIN PORTIONS OF ORDER TO CEASE AND DESIST

Docket 4407. Order, August 26, 1944

Order modifying prior order, in connection with respondent's advertisement of its "Life Lite" therapeutic lamp, pursuant to provision of Sec. 5 (i) of the Federal Trade Commission Act and in accordance with decision below referred to, in proceeding in question, in which original order issued on June 8, 1942, 34 F. T. C. 1325, and in which Circuit Court of Appeals for the Ninth Circuit on June 30, 1944, 143 F. (2d) 814, 38 F. T. C. 923, handed down its opinion, which decreed the enforcement of the Commission's order with respect to certain items, modified it with respect to another item, and set it aside with respect to two others, but without prejudice to the Commission's right to treat the proceeding as submitted upon said items and to make such order with respect thereto as it may be advised to make; so as to modify such prior order with respect to the aforesaid two items in accordance with opinion and decision, as below set forth.

ORDER MODIFYING CERTAIN PORTIONS OF ORDER TO CEASE
AND DESIST

The Commission having on July 20, 1944, issued and subsequently served upon the respondent and its attorney of record an order requiring the respondent to show cause, if any it had, why subsections 1(a) and 1(f) of the Commission's order to cease and desist issued on June 8, 1942, should not, in conformity with the decision of the United States Circuit Court of Appeals for the Ninth Circuit, be modified as set forth in said order to show cause;

And the respondent having on August 12, 1944, filed with the Commission its return to said order to show cause;

And the Commission having duly considered said return and having further considered said subsections of said order to cease and desist and the record herein, and being of the opinion that said subsections should be modified as set forth below:

It is therefore ordered that subsections 1(a) and 1(f) of said order to cease and desist be, and they hereby are, modified to read as follows:

1 (a) that said lamp is a sun lamp; or that it affords benefits to the user comparable to those afforded by natural sunlight, other than the benefits resulting from the production of vitamin D, the benefits resulting from the bactericidal action of said lamp upon bacteria existing at the surface of the skin, and the benefits resulting from such stimulation of the skin as may be caused by the irritating effect of said lamp.

1 (f) that said lamp builds up in the body resistance to any diseases other than those, such as rickets, due to disorders of calcium and phosphorus metabolism arising from vitamin D deficiency.

Note: The original order reported with the complaint and findings in 34 F. T. C. 1325, follows:

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiner upon the evidence, briefs in support of and in opposition to the complaint, and oral argument, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Ultra-Violet Products, Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of respondent's therapeutic lamp designated as "Life Lite," or any other lamp of substantially similar construction, whether sold under the same name or 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 represents, directly or by implication,

(a) that said lamp is a sun lamp, or that it affords benefits to the skin or to the general health of the user comparable to those afforded by natural sunlight;

(b) that said lamp constitutes a cure or remedy or a competent or adequate treatment for barber's itch, ringworm, athlete's foot, acne, eczema, psoriasis, shingles, or erysipelas;

(c) that said lamp constitutes a cure or remedy for sores or ulcers, or that it constitutes a competent treatment therefor except insofar as it may stimulate the healing process in those cases in which the infection causing such conditions is confined to the surface of the skin;

(d) that said lamp possesses any therapeutic value in the treatment of asthma, hay fever, bronchitis, colds, sinus trouble, or discharge from the ears;

(e) that said lamp possesses any therapeutic value in the treatment of anemia;

(f) that said lamp builds up in the body resistance to disease;

(g) that said lamp has any tonic effect upon the blood, that it produces any chemical reaction with respect to the blood stream, or that it is of any assistance in overcoming a deficiency of white or red corpuscles;

(h) that said lamp builds up the resistance of the body to infection, or that it stimulates the endocrine glands;

(i) that said lamp affords any stimulation to the tissues of the skin in excess of such stimulation as may result from its irritating effect;

(j) that said lamp quiets or soothes the nerves or the nerve endings in the skin;

(k) that said lamp acts as an antacid or has any alkalizing effect upon the body;

(l) that said lamp improves the general tone of the body, makes the body strong, increases vitality, or improves mental reaction;

(m) that said lamp tones up the nervous system, induces sleep, or relieves pain;

(n) that said lamp normalizes the chemistry of the body, improves metabolism, or builds new tissues, except insofar as its use may result in the production of vitamin D.

2. 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 fails to reveal that excessive exposure to said lamp either with respect to proximity or length of time may result in injury to the user; that said lamp should not be used in the case of pellagra, lupus erythematosus, or certain types of eczema; and that said lamp should never be used unless goggles are worn to protect the eyes; provided, however, that such advertisement need contain only the statement, "CAUTION: Use Only as Directed," if and when the directions for use, wherever they appear on the label, in the labeling, or both on the label and in the labeling, contain a warning to the above effect.

3. 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 lamp, which contains any representation prohibited in paragraph 1 hereof, or which fails to comply with the affirmative requirements set forth in paragraph 2 hereof.

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

IN THE MATTER OF

FREDERICK J. SCHENCK AND MARY V. SCHENCK,
TRADING AS RUB-R-LYFE COMPANY

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

Docket 4775. Complaint, June 24, 1942—Decision, Aug. 26, 1944

Where two individuals engaged in the interstate sale and distribution of their "Rub-R-Lyfe" preparation for the treatment of rubber products; through statements in leaflets, circulars and other written or printed matter, directly and by implication—

Falsely represented that said preparation softened hardest rubber for commercial use; preserved and renovated rubber against atmospheric conditions; stopped checking, cracking, oxidation, or frictional heat; and restored the resiliency and original elasticity of rubber;

With tendency and capacity to mislead and deceive a substantial number of the purchasing public into the erroneous belief that said representations were true, whereby it was induced to purchase substantial quantities of their said product:

Held, That said 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. Carrel F. Rhodes for the Commission.

Ogden & Ogden, of Seattle, Wash., for respondents.

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 Frederick J. Schenck and Mary V. Schenck, 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. Respondents, Frederick J. Schenck and Mary V. Schenck, jointly and severally, trading as Rub-R-Lyfe Co., have their principal office and place of business at 1025 Medical-Dental Building, Seattle, Wash.

PAR. 2. Respondents now are, and for more than three years last past, have been engaged in the business of selling a preparation under the trade name "Rub-R-Lyfe" for the treatment of rubber products. Respondents cause said product when sold to be shipped from their place of business in the State of Washington to the purchasers thereof at their respective points of location in States other than the State of Washington and in the District of Columbia. Respondents now maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce between and among the several States of the United States and the District of Columbia.