

Complaint

39 F. T. C.

IN THE MATTER OF
CARLTON ROUTZAHN DOING BUSINESS AS BLAND
PRODUCTS COMPANY

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

Docket 5141. Complaint, Mar. 25, 1944—Decision, Sept. 7, 1944

Where an individual engaged in interstate sale and distribution of his "Flo Triple XXX Compound" and "An-Tex Inserts"; through advertisements of said medicinal preparations in circulars and other advertising literature—

- (a) Represented falsely that the former constituted an effective treatment for delayed menstruation caused by colds, over-exposure and similar conditions and could be depended upon to terminate pregnancy;
- (b) Represented that his "An-Tex Inserts" preparation was antiseptic or germicidal, and effective in the prevention of infection and diseases resulting therefrom, and was a dependable means of preventing conception;

The facts being that while said preparation might possess some antiseptic or germicidal properties, it would not, in use, destroy sufficient numbers of micro-organisms so as to prevent infection or diseases resulting therefrom, and use thereof was ineffective in preventing conception; and

- (c) Failed to reveal facts material in the light of said representations with respect to consequences which might result from the use of said "Flo Triple XXX Compound" under the prescribed or usual conditions, in that it was an irritant laxative and potentially dangerous when taken by persons suffering from abdominal pains, nausea, vomiting or other symptoms of appendicitis;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said "Flo Triple XXX Compound" might be taken at all times without ill effects; and that the aforesaid representations were true, and thereby to induce it to purchase said products:

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.

Mr. William L. Taggart 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 Carlton Routzahn, an individual, doing business as Bland Products Co., herein 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:

PARAGRAPH 1. Carlton Routzahn, is an individual, doing business under the name of Bland Products Co., with his principal office and place of business at 3716 North Clark Street, Chicago, Ill.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution of medicinal preparations designated as Flo Triple XXX Compound and An-Tex Inserts. Respondent causes said preparations, when sold, to be transported from his place of business in the State of Illinois to 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 said preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said preparations by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating and has caused and is now causing the dissemination of, false advertisements concerning his said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations 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 and by means of circulars and other advertising literature, are the following:

Representations with respect to Flo Triple XXX Compound:

FLO TRIPLE XXX
FOR PERIODIC FUNCTIONAL FAULTS

Read the letters of happy users in this folder.

Many women become quickly troubled with delayed menstruation due to a slight cold or unusual exposure and similar conditions.

These abnormal conditions, as a rule, are quickly given relief by our FLO Triple XXX compound. This statement is based largely on its formula and on the experience of many other ladies through their use of this friendly, potent compound help in functional normalcy.

A further assurance to you of the help you may expect from FLO Triple XXX and the confidence in it you can freely accept, is in the knowledge it is compounded by recognized chemists in a Standard Pharmaceutical Laboratory with U. S. Standard ingredients known to have definite value in such conditions as here described.

I am a married woman and have passed my period six weeks. I am sending you an order for 2 boxes of your Flo Periodic Compound, and please fill it and rush it right back to me. I have read many letters written by women, how happy they were after taking your Flo Compound.

Representations with respect to An-Tex Inserts:

Many women rely on the ever ready reliability of AN-TEX INSERTS.

AN-TEX INSERTS offers all the protection the modern women would want, which makes them a favorite with many women. They are easily and quickly inserted,

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immediately dissolved in the vagina by bodily warmth, and thoroughly cleanse the passages. As preventives, they ward off disease dangers and give that feeling of cleanly safety that is so important to a woman's happiness. Always ready, easy to carry with one—always reliable! AN-TEX INSERTS offers all the protection the modern women would want * *

I am going to recommend them to all my married women companions. I can assure you they are the best I have ever found.

PAR. 4. Through the use of the aforesaid statements and representations, and others of similar import but not set out herein, respondent represents and has represented, that his Flo Triple XXX Compound preparation constitutes a competent and effective treatment for delayed menstruation caused by colds, over exposure and similar conditions and that the use of said preparation can be depended upon to terminate pregnancy. Likewise, that his preparation An-Tex Inserts is antiseptic or germicide and is effective in the prevention of infection and conditions or diseases resulting therefrom and is a dependable means of preventing conception.

PAR. 5. The foregoing statements are false, misleading and deceptive. In truth and in fact respondent's preparation Flo Triple XXX Compound is not a competent and effective treatment for delayed menstruation regardless of the cause thereof. The use of said preparation will terminate pregnancy only in extremely rare instances and cannot be depended upon to produce such results. While respondent's preparation An-Tex Inserts may possess some antiseptic or germicidal properties it will not, in use, destroy sufficient numbers of micro-organisms so as to prevent infection or the various conditions and diseases resulting therefrom. Its use is ineffective in preventing conception.

PAR. 6. With respect to the preparation Flo Triple XXX Compound, respondent's aforesaid advertisements constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the preparation to which the advertisements relate, under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact this preparation is an irritant laxative and potentially dangerous when taken by persons suffering from abdominal pains, nausea, vomiting or other symptoms of appendicitis.

PAR. 7. The use by respondent of the aforesaid false, misleading and deceptive statements and representations with respect to his said preparations, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said preparation Flo Triple XXX Compound may be taken at all times without ill effects and that the aforesaid statements and representations are true and to induce a substantial portion of the purchasing public to purchase said products because of such erroneous belief.

PAR. 8. The aforesaid acts and practices of the respondent, 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 March 25, 1944, issued and on March 29, 1944 served its complaint in this proceeding upon respondent, Carlton Routzahn, doing business as Bland Products Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On May 30, 1944, the respondent filed his answer, in which answer he admitted that prior to January 29, 1942, he engaged in all the acts and practices set forth in said complaint, and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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. Carlton Routzahn, is an individual, doing business under the name of Bland Products Co., with his principal office and place of business at 3716 North Clark Street, Chicago, Ill.

PAR. 2. Respondent prior to January 29, 1942, engaged in the sale and distribution of medicinal preparations designated as Flo Triple XXX Compound and An-Tex Inserts. Respondent caused said preparations, when sold, to be transported from his place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintained a course of trade in said preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated, and has caused the dissemination of, false advertisements concerning his said preparations by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated, and has caused the dissemination of, false advertisements concerning his said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations 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 and by means of circulars and other advertising literature, are the following:

Representations with respect to Flo Triple XXX Compound:

FLO TRIPLE XXX
FOR PERIODIC FUNCTIONAL FAULTS

Read the letters of happy users in this folder.

Many women become quickly troubled with delayed menstruations due to a slight cold or unusual exposure and similar conditions.

These abnormal conditions, as a rule, are quickly given relief by our FLO Triple XXX compound. This statement is based largely on its formula and on the experience of many other ladies through their use of this friendly, potent compound help in functional normalcy.

A further assurance to you of the help you may expect from FLO Triple XXX and the confidence in it you can freely accept, is in the knowledge it is compounded by recognized chemists in a Standard Pharmaceutical Laboratory with U. S. Standard Ingredients known to have definite value in such conditions as here described.

I am a married woman and have passed my period six weeks. I am sending you an order for 2 boxes of your Flo Periodic Compound, and please fill it and rush it right back to me. I have read many letters written by women, how happy they were after taking your Flo Compound.

Representations with respect to An-TeX Inserts:

Many women rely on the ever ready reliability of AN-TEX INSERTS.

AN-TEX INSERTS offers all the protection the modern women would want, which makes them a favorite with many women. They are easily and quickly inserted, immediately dissolved in the vagina by bodily warmth, and thoroughly cleanse the passages. As preventives, they ward off disease dangers and give that feeling of cleanly safety that is so important to a woman's happiness. Always ready, easy to carry with one—always reliable! AN-TEX INSERTS offers all the protection the modern women would want * * *

I am going to recommend them to all my married women companions. I can assure you they are the best I have ever found.

PAR. 4. Through the use of the aforesaid statements and representations, and others of similar import but not set out herein, respondent represented that his Flo Triple XXX Compound preparation constitutes a competent and effective treatment for delayed menstruation caused by colds, over exposure and similar conditions and that the use of said preparation can be depended upon to terminate pregnancy. Likewise, that his preparation An-TeX Inserts is antiseptic or germicidal and is effective in the prevention of infection and conditions or diseases resulting therefrom and is a dependable means of preventing conception.

PAR. 5. The foregoing statements are false, misleading and deceptive. In truth and in fact, respondent's preparation Flo Triple XXX Compound is not a competent and effective treatment for delayed menstruation regardless of the cause thereof. The use of said preparation will terminate pregnancy only in extremely rare instances and cannot be depended upon to produce such results. While respondent's preparation An-TeX Inserts, may possess some antiseptic or germicidal properties, it will not, in use, destroy sufficient numbers of micro-organisms so as to prevent infection or the various conditions and diseases resulting therefrom. Its use is ineffective in preventing conception.

PAR. 6. With respect to the preparation Flo Triple XXX Compound, respondent's aforesaid advertisements constitute false advertisements for the further reason that they fail to reveal facts material in the light of

such representations or material with respect to consequences which may result from the use of the preparation to which the advertisements relate, under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact this preparation is an irritant laxative and potentially dangerous when taken by persons suffering from abdominal pains, nausea, vomiting or other symptoms of appendicitis.

PAR. 7. The use by respondent of the aforesaid false, misleading and deceptive statements and representations with respect to his said preparations, has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said preparation Flo Triple XXX Compound may be taken at all times without ill effects and that the aforesaid statements and representations are true and to induce a substantial portion of the purchasing public to purchase said products because of such erroneous belief.

CONCLUSION

The aforesaid acts and practices of the respondent, 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, and the answer of respondent, in which answer respondent admits that prior to January 29, 1944, he engaged in all the acts and practices set forth in said complaint, and states that he waives all intervening procedure and further hearing as to said facts, 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, Carlton Routzahn, trading as Bland Products Co., or trading under any other name, and 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 preparations designated as "Flo Triple XXX Compound" and "An-Tex Inserts," or any other preparations of substantially similar composition or possessing substantially similar properties, under whatever names sold, 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 by implication—

(a) That respondent's preparation Flo Triple XXX Compound constitutes a competent or effective treatment for delayed menstruation, or that the use of said preparation can be depended upon to terminate pregnancy;

(b) That the preparation An-Tex Inserts is effective in the prevention of infection or conditions or diseases resulting therefrom, or that its use is an effective means of preventing conception.

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 advertisement fails to reveal that said Triple XXX Compound preparation should not be used in the presence of nausea, vomiting, abdominal pains, or other symptoms of appendicitis; *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, 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 of said preparations in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement 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 him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF

ALFRED UNGAR, TRADING AS AMERICAN FOOD
SHIPPING COMPANY

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

Docket 5147. Complaint, Apr. 1, 1944—Decision, Sept. 7, 1944

Where an individual engaged in the interstate sale and distribution of combination packages of food, candy, cigarettes, razor blades, and other merchandise to members of the armed forces of the United States and foreign countries, on orders from relatives and friends; through statement in newspapers, periodicals, and circular letters—

Represented that for the price shown he supplied and mailed to members of such forces the articles included in the listed combination package, and was equipped to handle orders thus solicited, and had specialized in sending packages to soldiers;

The facts being he failed to supply all the articles listed, substituted items of lesser value, had neither experience nor facilities for handling such orders, which in many instances he referred to others for filling and mailing, in which event he had no knowledge as to the actual contents of the packages shipped, and maintained no stock of merchandise for supplying orders;

With effect of misleading and deceiving a substantial portion of the buying public, into the erroneous belief that the packages shipped by him consisted of the items described and were of the value represented in said lists, and thereby into purchasing aforesaid packages:

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.

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 by said act, the Federal Trade Commission having reason to believe that Alfred Ungar, an individual, trading as American Food Shipping Co., 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, Alfred Ungar, is an individual, trading and doing business under the trade name of American Food Shipping Co., with his office and principal place of business located at 55 West 87th Street, in the city of New York, N. Y.

PAR. 2. Respondent is now and for more than six months last past has been engaged in the business of selling combination packages of food, candy, cigarettes, razor blades, and other items of merchandise, and shipping them to members of the armed forces at their points of location in the