

IN THE MATTER OF

E. GRIFFITHS HUGHES, INC.

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

Docket 4711. Complaint, Feb. 19, 1942—Decision, Apr. 25, 1945

Where a corporation engaged in the interstate sale and distribution of its "Kruschen Salts"; in advertisements in newspapers and otherwise—

- (a) Represented falsely, directly and by implication, that its said preparation "Kruschen Salts," taken repetitiously, constituted a cure or remedy for sick headache, biliousness, poor digestion, unnatural fatigue, and constipation, when such symptoms or conditions were caused by deficiency in liver bile secretion; that it would significantly increase the discharge of bile from the liver; was safe and harmless; and was an effective obesity remedy or treatment which would reduce fat promptly and safely, or was an effective part of, or adjunct to, a weight-, fat-, or flesh-reducing regime; and,
- (b) Failed to reveal facts material in the light of such representations, with respect to consequences which might result from the use of said preparation under usual or prescribed conditions, in that it was an irritant laxative and was potentially dangerous when taken by one suffering from abdominal pains, stomach-ache, cramps, nausea, vomiting, or other symptoms of appendicitis;

With the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and that said preparation might be taken under all conditions without ill effects, and thereby to induce the purchase of substantial quantities thereof:

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

Mr. William M. King for the Commission.

Strange, Myers, Hinds & Wight, 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 Trade Commission, having reason to believe that E. Griffiths Hughes, Inc., 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 public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, E. Griffiths Hughes, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 26 Forbes Street, Rochester, N. Y.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution of a drug known and designated as Kruschen Salts. Respondent causes its said product when sold to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times men-

tioned herein has maintained a course of trade in its said product 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 its aforesaid business, respondent has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said product, Kruschen Salts, by United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commerce Act, for the purpose of inducing and which are likely to induce; directly or indirectly, the purchase of its said product; and respondent has also disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said product 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 printed advertisements in newspapers and other advertising literature and by various other means in commerce, are the following:

DON'T STAY FAT AND UNATTRACTIVE

Read How Many Women Lose Fat Promptly—Safely! No Harmful Drugs.

If you are overweight, try this easy, sensible way to take off fat.

Get on the scales today and see how much you weigh, then get a bottle of Kruschen Salts (a famous English formula), which will last 4 weeks and is inexpensive. Take one-half teaspoonful in a glass of water every morning before breakfast. Cut out pastry and fatty meats—go light on white bread, potatoes, butter and cream, and when you have finished the first bottle weigh yourself again.

Now you'll know the safe, sensible way to lose ugly fat.

To Help Correct that "Half-Sick," "Tired," "All-Gone" Feeling

GIVE LIVER BILE FLOW A BOOST—

Do this Every Morning for 30 Days

Normally the liver should discharge about a quart of digestion-aiding bile juices a day. If it doesn't—a scanty flow—a slowing up may mean Sick Headaches, so-called Biliousness, poor Digestion, with that half-sick, tired, all-gone feeling and most probably Constipation.

There's no need to take Calomel or other risky drugs, just take a little daily dose of that world-famous Kruschen Salts—half a level teaspoonful in a glass of hot or cold water about half an hour before breakfast. This rouses the flow of bile with its gentle bowel action. Try it for 30 days and you, too, may shake off that "run-down" feeling and get a real "lift." But don't start unless you are willing to keep it up for 30 days. If then you do not feel 100% better get your money back.

PAR. 4. Through the use of the aforesaid statements and representations and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that headaches, biliousness, poor digestion, unnatural fatigue, and constipation are symptoms of a liver disorder or are symptoms of a deficiency in bile secretion which can be cured or corrected by the repetitious taking of Kruschen Salts; that in order to secure such relief from the aforesaid ailments or conditions, said preparation should be taken as directed for at least 30 days; that said

Complaint

40 F. T. C.

preparation, in contrast to calomel or other risky drugs, is safe and harmless; and that said preparation is an effective obesity remedy or treatment which, when taken as directed, will reduce fat promptly and safely, or that said preparation is an effective part of, or an effective adjunct to, a weight, fat or flesh reducing regime.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondent as hereinabove alleged are grossly exaggerated, false and misleading.

In truth and in fact, headaches, biliousness, poor digestion, unnatural fatigue, and constipation are not symptoms of a liver disorder or of a deficiency in bile secretion which can be cured or corrected by the repetitious taking of Kruschen Salts in any dosage or dose schedule. In fact, the taking of the said preparation in the manner directed will interfere with the normal digestive process, thereby tending to produce indigestion rather than to correct such condition. In addition, said preparation is an irritant laxative or cathartic, depending upon the size of the dose, and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramp, nausea, vomiting, or other symptoms of appendicitis. Its daily or repetitious use as recommended, or its continued use for a period of thirty days, may result in dependency upon a laxative. The aforesaid dangers involved in the use of said preparation are concealed in the respondent's advertisement by the statement that the preparation, in contrast to calomel or other risky drugs, is safe.

Said preparation is not an effective obesity remedy or treatment and is not effective as part of a fat reducing program and will not serve as an effective adjunct to a fat reducing regime. Furthermore, said preparation is of no substantial therapeutic value in excess of its laxative or cathartic properties.

PAR. 6. The aforesaid representations and advertisements of respondent's said preparation 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 advertisement relates under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

In truth and in fact, said preparation is an irritant laxative or cathartic, depending upon the size of the dose, and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramp, nausea, vomiting or other symptoms of appendicitis. Its daily or repetitious use as recommended, or its continuous use for a period of thirty days, may result in dependency upon a laxative.

PAR. 7. The use by the respondent of the aforesaid false, misleading and deceptive statements and representations with respect to said product, Kruschen Salts, disseminated as aforesaid, and its failure to reveal the dangers inherent in the use of such preparation, have had and now have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and into the purchase by the public of substantial quantities of respondent's said product.

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 February 19, 1942, issued and subsequently served its complaint in this proceeding upon respondent, E. Griffiths Hughes, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After respondent filed its answer, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by counsel for respondent, 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 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 now being 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, E. Griffiths Hughes, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 26 Forbes Street, Rochester, N. Y.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the sale and distribution of a medicinal preparation known and designated as "Kruschen Salts." Respondent causes its said preparation, when sold, to be transported from its place of business in the State of New York 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 its said preparation 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 its aforesaid business, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said preparation by means of 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 its said preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said product 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 the United States mails, by printed advertisements in

newspapers and other advertising literature, and by various other means in commerce, are the following:

To Help Correct that "Half-Sick,"
"Tired," "All-Gone," Feeling

GIVE LIVER BILE
FLOW A BOOST—

Do this Every Morning for 30 days

Normally the liver should discharge about a quart of digestion-aiding bile juices a day. If it doesn't—a scanty flow,—a slowing up may mean Sick Headaches, so-called Biliousness, poor Digestion, with that half-sick, tired, all-gone feeling and most probably Constipation.

There's no need to take Calomel or other risky drugs, just take a little daily dose of that world-famous Kruschen Salts—half a level teaspoonful in a glass of hot or cold water about half an hour before breakfast. This rouses the flow of bile with its gentle bowel action. Try it for 30 days and you, too may shake off that "run-down" feeling and get a real "lift." But don't start unless you are willing to keep it up for 30 days. If then you do not feel 100% better get your money back.

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DON'T STAY FAT AND UNATTRACTIVE

Read How Many Women Lose Fat
Promptly—Safely!
No Harmful Drugs.

If you are overweight, try this easy, sensible way to take off fat.

Get on the scales today and see how much you weigh, then get a bottle of Kruschen Salts (a famous English formula), which will last 4 weeks and is inexpensive. Take one-half teaspoonful in a glass of water every morning before breakfast. Cut out pastry and fatty meats—go light on white bread, potatoes, butter and cream, and when you have finished the first bottle weigh yourself again.

Now you'll know the safe, sensible way to lose ugly fat.

PAR. 4. Through the use of the aforesaid statements and representations, and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that its preparation "Kruschen Salts," taken repetitiously, constitutes a cure or remedy for sick headache, biliousness, poor digestion, unnatural fatigue, and constipation, when such symptoms or conditions are caused by deficiency in liver bile secretion; that said preparation will significantly increase the discharge of bile from the liver; that said preparation is safe and harmless; and that said preparation is an effective obesity remedy or treatment which, when taken as directed, will reduce fat promptly and safely, or is an effective part of, or an effective adjunct to, a weight-, fat-, or flesh-reducing regime.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondent are grossly exaggerated, false, and misleading. In truth and in fact, the taking of Kruschen Salts in any dosage or on any dose schedule does not constitute a cure or remedy for sick headache, biliousness, poor digestion, unnatural fatigue, or constipation caused by deficiency in liver bile secretion. Said preparation will not cause any increase in the discharge of bile from the liver. Said preparation is not

an effective obesity remedy or treatment, is not effective as part of a fat-reducing program, will not serve as an effective adjunct to a fat-reducing regime, and is not safe and harmless under all conditions of use.

PAR. 6. The aforesaid representations and advertisements of respondent's said preparation 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 advertisement relates under the conditions prescribed in said advertisements, or under such conditions as are customary or usual. Said preparation is an irritant laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach-ache, cramps, nausea, vomiting, or other symptoms of appendicitis.

PAR. 7. The use by the respondent of the aforesaid false, misleading, and deceptive statements and representations, disseminated as aforesaid, and its failure to reveal the dangers inherent in the use of its said preparation, have had, and now have, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such statements and representations are true and that said preparation may be taken under all conditions without ill effects to the user, and to induce the purchase by the public of substantial quantities of respondent's preparation.

CONCLUSION

The foregoing 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, the answer of the respondent, and a stipulation as to the facts entered into between the respondent 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 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 respondent, E. Griffiths Hughes, Inc., a corporation, its officers, directors, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its preparation "Kruschen Salts," 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, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or through inference:

- (a) That said preparation will increase the discharge of bile from the liver, or is a cure or remedy for any condition caused by deficiency in bile secretion by the liver.

Order

40 F. T. C.

(b) That said preparation is safe and harmless under all conditions of use.

(c) That said preparation is effective as an obesity remedy or treatment, or is effective as a part of or adjunct to any fat- or weight- reducing regime.

2. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which fails to reveal that said preparation should not be used in the presence of abdominal pains, nausea, vomiting, 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, 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, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any representation prohibited in paragraph 1 hereof or which fails to comply with the affirmative requirements set out 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.

Complaint

IN THE MATTER OF

AL ROSENFELD, INC. AND AL ROSENFELD AND S. THEODORE LANDE, INDIVIDUALLY AND AS OFFICERS THEREOF

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

Docket 5051. Complaint, Sept. 20, 1943—Decision, Apr. 26, 1945

Where a corporation and its two officers, engaged in the packaging and competitive interstate sale and distribution of perfumes and toilet preparations, including those made and sold by the firms of Worth, Vigny, and Suzanne, of Paris, France, of which they had been the sole distributor for a number of years and which, prior to 1941, with two exceptions they imported, but which, subsequent thereto, were made in the United States from formulas supplied by said French concerns, by domestic firms, who placed on packages thereof the statement "Made in U. S. A."—Represented since 1941 through use of the trade names "Worth," "Vigny," and "Suzanne" and various French brand names such as "je reviens, WORTH," "Secret de Suzanne," "Heure intime VIGNY," "SUZANNE'S tout de suite," "WORTH Dans la Nuit," "Les Parfums WORTH," "Les Parfums SUZANNE" and "Les Parfums VIGNY," that the perfumes and toilet preparations they sold and distributed were compounded or manufactured in France by the firms of Worth, Vigny, or Suzanne, which had long made and compounded in Paris perfumes, colognes, and toilet preparations of high quality and enjoying general acceptance throughout the world;

With the effect of misleading a substantial part of the purchasing public into the erroneous belief that said perfumes, colognes, and toilet preparations were manufactured or compounded in France and imported into the United States, preferred over the less expensive domestic products, and of inducing it, because of such belief, to purchase substantial quantities of their products, whereby trade was diverted unfairly to them from their competitors who actually import perfumes and similar products, or who compound them in this country, and truthfully represent their place of origin:

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and their competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. John L. Horner*, trial examiner.

Mr. John M. Russell for the Commission.

Mock & Blum, of New York City, 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 Al Rosenfeld, Inc., a corporation, and Al Rosenfeld and S. Theodore Lande, individually, and as officers of Al Rosenfeld, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commis-