

Complaint

41 F. T. C.

IN THE MATTER OF
ZO-LON COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5132. Complaint, Feb. 24, 1944—Decision, July 12, 1945*

Where an individual engaged in the interstate sale and distribution of a medicinal preparation designated as "Zo-Lon Compound" and "Zo-Lon"; through advertisements in newspapers and by other means—

Represented falsely that said preparation constituted a competent and effective treatment for obesity and that its use would result in substantial and satisfactory reduction in weight without resort to strenuous exercise or starvation diet, through such statements as "Take off Ugly Fat With Grapefruit Juice Recipe. Now you may slim down your figure and lose pounds of ugly fat, without back-breaking exercises or starvation diet. Try this home recipe to bring back alluring curves and graceful slenderness. * * * Wonderful results may be obtained quickly. Just get four ounces of Zo-Lon Compound from your druggist. Stir two table-spoons in a glass of unsweetened grapefruit juice at mealtime. Reducing is Fun With This Home Recipe. * * * Results are guaranteed."

The facts being that any reduction in weight that might result from use of said preparation in connection with diet and exercise would be attributable to the diet and not to the preparation;

With effect of misleading a substantial portion of the purchasing public into the mistaken belief that said representations were true and into the purchase of substantial quantities of said product by reason thereof:

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. B. G. Wilson for the Commission.

Rosen, Francis & Cleveland, of Chicago, Ill., 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 A. T. Wilson trading as Zo-Lon Company, 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:

PARAGRAPH 1. Respondent, A. T. Wilson, is an individual, trading as Zo-Lon Company, with his principal place of business located at 422 South Akard Street, Dallas, Tex. Said business is conducted as a partnership, the partners being respondent A. T. Wilson and

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John T. Benson. The said John T. Benson is not at this time engaged actively in said business and his address is unknown.

PAR. 2. The respondent, A. T. Wilson is now, and for some time last past has been, engaged in the business of offering for sale, sale and distribution of a medicinal preparation, designated as "Zo-Lon Compound," and "Zo-Lon."

Respondent causes said product, when sold, to be shipped from his said place of business in the State of Texas 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 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 said business and for the purpose of inducing the purchase of said preparation, respondent has disseminated and is now disseminating and has caused and is now causing the dissemination of, false advertisements concerning said preparation by United States mails and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated, false advertisements concerning said preparation by various other 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, deceptive and misleading 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 by other means, are the following:

Take off Ugly Fat With Grapefruit Juice Recipe. Now you may slim down your figure and lose pounds of ugly fat, without back-breaking exercises or starvation diet. Try this home recipe to bring back alluring curves and graceful slenderness. * * * Wonderful results may be obtained quickly. Just get four ounces of Zo-Lon Compound from your druggist. Stir two tablespoonfuls in a glass of unsweetened grapefruit juice at mealtime.

Reducing Is Fun With This Home Recipe. Try this home recipe to bring back alluring curves and graceful slenderness. * * * Just get six ounces of powdered Zo-Lon compound from your druggist. Stir a teaspoonful in a glass of grapefruit juice at mealtime. Results are guaranteed.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning not set out herein, the respondent represents that said medicinal preparation constitutes a competent and effective treatment for obesity and that

the use of said preparation will result in substantial and satisfactory reduction in weight without resort to strenuous exercise or starvation diet.

PAR. 5. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact, the said medicinal preparation does not constitute a competent and effective treatment for obesity and has no value as a reducing agent. When used in connection with diet and exercise, any reduction in weight that might result would be attributable to the diet and not to the preparation.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements and representations has had, and now has, the capacity and tendency to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's product.

PAR. 7. 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 24, 1944, issued and subsequently served its complaint in this proceeding upon respondent A. T. Wilson, an individual trading as Zo-Lon Company, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the said act.

After the issuance of said complaint and the filing of respondent's answer the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer 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, A. T. Wilson, is an individual, trading as Zo-Lon Company, with his principal place of business located at 422 South Akard Street, Dallas, Tex.

PAR. 2. The respondent, A. T. Wilson, is now, and for some time last past has been, engaged in the sale and distribution of a medicinal preparation designated as "Zo-Lon Compound," and "Zo-Lon."

Respondent causes said product, when sold, to be shipped from his said place of business in the State of Texas 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 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 said business and for the purpose of inducing the purchase of said preparation, respondent has disseminated and is now disseminating and has caused and is now causing the dissemination of, false advertisements concerning said preparation by United States mails and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated, false advertisements concerning said preparation by various other 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, deceptive and misleading 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 by other means, are the following:

Take off Ugly Fat With Grapefruit Juice Recipe. Now you may slim down your figure and lose pounds of ugly fat, without back-breaking exercises or starvation diet. Try this home recipe to bring back alluring curves and graceful slenderness. * * * Wonderful results may be obtained quickly. Just get four ounces of Zo-Lon Compound from your druggist. Stir two tablespoonfuls in a glass of unsweetened grapefruit juice at mealtime.

Reducing Is Fun With This Home Recipe. Try this home recipe to bring back alluring curves and graceful slenderness. * * * Just get six ounces of powdered Zo-Lon compound from your druggist. Stir a teaspoonful in a glass of grapefruit juice at mealtime. Results are guaranteed.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import and meaning not set out

herein, the respondent represents that said medicinal preparation constitutes a competent and effective treatment for obesity and that the use of said preparation will result in substantial and satisfactory reduction in weight without resort to strenuous exercise or starvation diet.

PAR. 5. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact, the said medicinal preparation does not constitute a competent and effective treatment for obesity and has no value as a reducing agent. When used in connection with diet and exercise, any reduction in weight that might result would be attributable to the diet and not to the preparation.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements and representations has had, and now has, the capacity and tendency to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's product.

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 the respondent, in which answer respondent admits all the material allegations of fact 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That A. T. Wilson, an individual, trading as Zo-Lon Company, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of his preparation designated "Zo-Lon Compound," and "Zo-Lon," or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from, directly or indirectly:

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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 said preparation constitutes a competent or effective treatment for obesity or has any value as a reducing agent.

2. Disseminating or causing to be disseminated any advertising 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, which advertisement contains any of the representations prohibited in paragraph 1 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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