

Order

IN THE MATTER OF

AMERICANA CORPORATION ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 5085. Order Dec. 8, 1949

Modified order in proceeding in question, in which original order issued on July 14, 1948, 45 F. T. C. 32, requiring respondent, its officers, etc., in connection with the offering, etc., in commerce, of respondent's encyclopedia designated "Americana" or "Encyclopedia Americana" and material supplementary thereto, or any other publication, to cease and desist from representing that its said publication is the best known, etc., published in the United States, and contains more articles than any other encyclopedia, and from making various other misrepresentations in connection with the offer of said product, as below in detail set out.

Before *Mr. Randolph Preston*, trial examiner.

Mr. John M. Russell for the Commission.

Mr. J. Raymond Tiffany, of Hoboken, N. J., and *Mr. Benjamin Werne*, of New York City, for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the respondent's answers thereto, and a stipulation of facts entered into by and between counsel for the respondents and counsel in support of the complaint (the recommended decisions of the trial examiner, briefs, and oral argument having been waived); and the Commission, having made its findings as to the facts and its conclusion that the respondents had violated the provisions of the Federal Trade Commission Act, on July 14, 1948, issued, and on July 28, 1948, served upon each of the respondents its order to cease and desist. Thereafter, this matter came on for hearing before the Commission upon a petition, filed on behalf of the respondent, Americana Corporation, requesting certain modifications in the aforesaid order to cease and desist, and the answer to such petition filed by counsel in support of the complaint; and the Commission, having considered said petition and answer and the record herein, and being of the opinion that its order to cease and desist issued July 14, 1948, should be modified in certain respects:

It is ordered, That the respondent, Americana Corporation, a Delaware corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in con-

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nection with the offering for sale, sale or distribution of its encyclopedia designated "Americana" or "Encyclopedia Americana" and material supplementary thereto, or any other publication, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing, directly or by implication, that said publication is the best known or most authoritative encyclopedia published in the United States, or that it is America's supreme authority;

(2) Representing, directly or by implication, that said publication contains more articles than any other encyclopedia, or that it presents more information than any other set of books;

(3) Representing, directly or by implication, that said publication is the choice of all government departments, educational institutions, boards of education or public libraries as the official reference work;

(4) Representing, directly or by implication, that said publication is available only to selected individuals under special conditions when such is not the fact;

(5) Representing, directly or by inference, that individuals employed by the respondent to sell its publication are anything other than salesmen soliciting prospects to purchase said publication at prices regularly established by the respondent;

(6) Representing as the customary or usual price of said publication any price or value which is in fact in excess of the price at which it is customarily offered for sale and sold in the usual course of business;

(7) Representing that any issue of said publication constitutes a new edition thereof, unless and until the contents of former editions have been revised and new encyclopedic material has been added to the extent necessary to reflect the then current information on the various subjects covered by such publication.

It is further ordered, For reasons appearing in the Commission's findings as to the facts, that the complaint herein be, and it hereby is, dismissed as to the individual respondents, Fred P. Murphy, Joseph C. Graham, Jr., and Thomas J. Kirk.

It is further ordered, That the respondent, Americana Corporation, shall within sixty (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.

Commissioner Mason not participating.

Complaint

IN THE MATTER OF

JERRY ROTHSCHILD TRADING AS V. M. PRODUCTS

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

Docket 5574. Complaint, July 9, 1948—Decision, Dec. 14, 1949

Where an individual engaged in the interstate sale and distribution of a tablet drug preparation designated "V. M." or "VegeMucene"; through statements in newspapers and other advertising—

- (a) Falsely represented that colitis and gas stomach are due to hyperacid conditions of the stomach; when in fact the condition of gas stomach is usually caused by swallowing air, and colitis may be due to causes many of which are not definitely known, and all of which require careful examination, diagnosis, and medical experimentation before relief may be obtained;
- (b) Falsely represented that said preparation contained mucine, a gluco-protein material derived from the glands of various animals; the facts being it contained a vegetable material of a slimy, mucilaginous nature;
- (c) Falsely represented that said preparation, taken as directed, had therapeutic value in the relief and treatment of inflammation of the stomach and intestine, acid stomach, gas stomach, colitis, and ulcers of the stomach and intestines; and
- (d) Falsely represented that it would correct hyperacid conditions and absorb excess stomach acids, provide a lining for the stomach and connecting intestines, and give inflammation of those areas a chance to heal;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with capacity and tendency so to do, and thereby induce its purchase of his 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. Frank Hier*, trial examiner.

Mr. Joseph Callaway for the Commission.

Miller, Sher & Oppenheimer, of Washington, D. C., and *Gottlieb, Schwartz & Friedman*, 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 Jerry W. Rothschild, an individual, doing business as V. M. Products, 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: