

Complaint

IN THE MATTER OF

GENERAL PRODUCTS CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6303. Complaint, Mar. 2, 1955—Decision, Oct. 29, 1955*

Consent order requiring sellers in Los Angeles, Calif., to cease disseminating false advertisements, including powerful radio broadcasts from Mexico, concerning the therapeutic and health-giving qualities of their food supplement, "Autry's Minerals."

Before *Mr. Earl J. Kolb*, hearing examiner.

Mr. Joseph Callaway and *Mr. L. E. Creel, Jr.*, for the Commission.

Ervin, Cohen & Jessup, of Beverly Hills, Calif., 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 General Products Corporation, a corporation, and David Ormont and Alan Mann, individually and as officers of said corporation, and Dean Simmons, an individual, 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. Respondent General Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1016½ South Spaulding Avenue, Los Angeles, California. Respondents David Ormont and Alan Mann are the officers of the corporate respondent. These individuals control the policies, activities and practices of the corporate respondent, including the acts and practices hereinafter alleged. The addresses of these individual respondents is the same as that of the corporate respondent.

PAR. 2. Said respondents are now and have been since before the first of March, 1954, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs and food as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

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The designation used by said respondents for said preparation, the formula and directions for use thereof, as contained on the label are as follows:

Designation: Autry's Minerals, a mineral food supplement.

Formula: Dicalcium Phosphate, Dehydrated Kelp, Magnesium Sulfate, Sodium Ferric Pyrophosphate and a natural sedimentary mineral deposit consisting essentially of oxides of silicon with lesser amounts of other mineral elements with excipients, color and sugar coating.

Each 6 Tablets Daily (The Maximum Recommended Daily Dosage) will supply:

Calcium	666 mg	<i>MDR*</i> 88%
Phosphorous	500 mg	66%
Iron	13.3 mg	†133%
Iodine	.53 mg	530%
Magnesium	3 gr.	**

*Minimum daily requirements for Adults and Children 1 to 12.

†Children 1 to 6—177%.

**Need in human nutrition not established.

Directions for use: Take 2 or 3 tablets with the morning and noon meals as a dietary supplement for adults and children 1 to 12. (For smaller children it may be desirable not to exceed 3 tablets a day). Some people may find it desirable to start by taking the minimum dosage for the first 2 weeks. This is due to variation in tolerance in iron supplements when first added to the diet.

The said respondents cause the said preparation, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in various States of the United States. Said respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce between and among the various States of the United States. The business of said respondents in said preparations in commerce is substantial.

PAR. 3. The individual respondent Dean Simmons is now and has been since before March 1, 1954, engaged in the business of conducting an advertising agency, with his office and principal place of business located at 1430 South LaBrea Avenue, Los Angeles, California. As such advertising agency he has prepared, disseminated and caused the dissemination of advertising for the preparation Autry's Minerals, including the advertising hereinafter referred to.

PAR. 4. All of the respondents herein act and have acted in conjunction and cooperation with one another in the performance of the acts and practices hereinafter alleged.

PAR. 5. In the course and conduct of their said business, respondents have disseminated and caused the dissemination of certain adver-

tisements concerning said preparation by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to radio broadcasts transmitted from Mexico, (said broadcasts being of sufficient power to carry them into the United States and across state lines of states of the United States) for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and respondents have also disseminated and caused the dissemination of advertisements concerning said preparation by various means, including but not limited to the aforesaid radio broadcasts, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. Through the use of said advertisements, respondents have represented and are representing, directly and by implication:

1. That the use of said preparation, Autry's Minerals, is effective in the prevention, treatment, and relief of, and will cure aches and pains in the muscles and joints, arthritic and rheumatic pains, sinus trouble and colds.

2. That the use of said preparation, Autry's Minerals, is effective in the prevention and treatment of and will cure all nutritional anemia and in the prevention, treatment, relief and cure of tiredness and weariness.

3. That the use of said preparation, Autry's Minerals, will restore sight to the blind and is an effective treatment and cure for ulcer of the cornea, conjunctivitis and glaucoma.

4. That the use of said preparation, Autry's Minerals, is effective in the prevention and treatment of and will cure nearly all diseases due to mineral deficiencies.

5. That 99% of the people in this country are ill because of mineral deficiencies.

6. That 49% of those examined for service in the military forces of the United States during World War II failed to pass the physical examination because of mineral deficiencies.

PAR. 7. The said representations are false and deceptive in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. The use of said preparation is not effective in the prevention, treatment or relief of nor will its use cure aches or pains in the muscles or joints, arthritic or rheumatic pains, sinus trouble or colds.

2. There are several different types of nutritional anemia. Because of its iron content said preparation may be effective in the prevention of one type of nutritional anemia, known as iron deficiency anemia.

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In no other type of nutritional anemia is its use effective as a preventative. Its use is not effective as a treatment for, nor will its use cure any type of nutritional anemia due to any cause. Iron deficiency anemia may be the cause of tiredness and weariness. Said preparation may prevent only such tiredness and weariness as may be caused by iron deficiency anemia. There are many other causes. The use of said preparation is not an effective treatment or relief for, nor will its use cure tiredness or weariness.

3. The use of said preparation will not restore sight to the blind, nor is it an effective treatment or cure for ulcer of the cornea, conjunctivitis or glaucoma.

4. Said preparation is not effective in the prevention, treatment or cure of nearly all diseases due to mineral deficiency. Because of its iodine content, said preparation, may be effective in the prevention of that type of goiter caused by a deficiency of iodine. There are other types of goiter. Aside from its possible effect in the prevention of the one type of goiter, and in the prevention of iron deficiency anemia, the use of said preparation has no effect in the prevention, treatment or cure of any disease caused by mineral deficiencies.

5. No major portion of the people in this country are ill because of mineral deficiencies.

6. Mineral deficiencies were not the cause of the high percentage of people in this country who failed to pass the physical examination for military service during World War II.

PAR. 8. The use by the respondents of the said false advertisements with respect to said preparation 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 the representations contained in said advertisements are true and into the purchase of substantial quantities of said preparation by reason of such erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding charges the respondents General Products Corporation, a California corporation located at 1016½ South Spaulding Avenue, Los Angeles, California; David Ormont and Alan Mann, individually and as officers of said corporation; and Dean Simmons, an individual engaged in the business of conducting

an advertising agency at 1430 LaBrea Avenue, Los Angeles, California, with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act in connection with the sale and distribution of a preparation designated "Autry's Minerals, a mineral food supplement."

After the issuance of said complaint and the filing of their answer thereto, the respondents entered into an agreement for consent order with counsel in support of complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director of the Bureau of Litigation. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement, the answer heretofore filed by respondents was withdrawn and the parties expressly waived a hearing before the hearing examiner or the Commission, the making of findings of fact or conclusions of law by the hearing examiner or the Commission, the filing of exceptions and oral argument before the Commission, and all further and other procedure before the hearing examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by the statute for the orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the

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Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That the respondent General Products Corporation, a corporation, and its officers, and respondents David Ormont and Alan Mann, individually and as officers of said corporation, and respondent Dean Simmons, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Autry's Minerals, or any preparation of substantially similar composition or possessing substantially similar properties, 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 advertisement represents, directly or indirectly;

(a) That the use of said preparation is effective in the prevention, treatment or relief of, or will cure aches or pains in the muscles or joints, arthritic or rheumatic pains, sinus trouble, or colds;

(b) That the use of said preparation is effective in preventing any type of nutritional anemia, other than iron deficiency anemia;

(c) That the use of said preparation is effective in preventing tiredness and weariness, unless expressly limited to these conditions when they might result from iron deficiency anemia;

(d) That the use of said preparation is an effective treatment for or will cure any kind of anemia, or is effective in the treatment or relief of or will cure tiredness or weariness;

(e) That the use of said preparation will restore sight to the blind, or is an effective treatment for or will cure ulcer of the cornea, conjunctivitis or glaucoma;

(f) That the use of said preparation is effective in the treatment for or will cure any disease caused by mineral deficiencies, or is effective in the prevention of any disease caused by mineral deficiencies, except iron deficiency anemia and that type of goiter caused by a deficiency of iodine;

(g) That any major portion of the people in this country are ill because of mineral deficiencies, or that such deficiencies were the cause

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of the high percentage of the people in this country who failed to pass the physical examination for military service during World War II.

2. Disseminating or causing the dissemination of 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 preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 29th day of October, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

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IN THE MATTER OF

L. & I. FISHKIN, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 6378. Complaint, June 28, 1955—Decision, Nov. 5, 1955

Consent order requiring respondents to cease labeling interlinings of children's coats and jackets falsely as "100% Wool," failing to label certain garments, and furnishing false guarantees that such products were not misbranded, all in violation of the Wool Products Labeling Act.

Before *Mr. Everett F. Haycraft*, hearing examiner.

Mr. R. D. Young, Jr., for the Commission.

Mr. George M. Burgh, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that L. & I. Fishkin, Inc., a corporation, and Louis Fishkin individually and as an officer of said corporation and Irving Fishkin, individually, hereinafter referred to as respondents, have violated the provisions of said acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, starting its charges in that respect as follows:

PARAGRAPH 1. Respondent, L. & I. Fishkin, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York. Said corporation trades and does business under the name of Vogue Sportswear Company. Respondent Louis Fishkin is president and respondent Irving Fishkin is general manager of said corporation and these individuals formulate, direct and control the acts, policies and practices of said corporate respondent. The offices and principal place of business of said respondents are located at 112 West 34th Street, New York, N. Y.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, and more especially since January 1954, respondents have manufactured for introduction into commerce, introduced in commerce, sold, transported, distributed, delivered for ship-