

Complaint

57 F.T.C.

IN THE MATTER OF

HOLT, RINEHART AND WINSTON, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 8042. Complaint, July 13, 1960—Decision, Nov. 24, 1960*

Consent order requiring New York City publishers to cease representing falsely in advertising that the book "Folk Medicine" by Dr. D. C. Jarvis, which they published, was an effective treatment, cure, and prevention for a long list of ailments and diseases, was a guide to good health, and had been scientifically tested.

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 Holt, Rinehart and Winston, 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 Holt, Rinehart and Winston, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 383 Madison Avenue, in the City of New York, State of New York. The name of this corporation was formerly Henry Holt and Company, Inc.

PAR. 2. Respondent is now, and for more than three years last past has been, engaged in the publication, distribution and sale of books. Respondent causes said books when sold to be transported from its place of business in New York, 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 said books in commerce among and between the various States of the United States and in the District of Columbia. Respondent's volume of business in the sale of said books in commerce is, and has been, substantial.

Among said books, caused to be sold and distributed as aforesaid, is a book entitled "Folk Medicine" by Dr. D. C. Jarvis.

PAR. 3. In the course and conduct of its business as aforesaid, respondent has made many statements concerning said book "Folk

Medicine" in advertisements inserted in newspapers, having national circulation, and by means of circulars and other printed matter distributed through the United States mail. By means of the statements made in said advertisements, respondent represents, and has represented, directly and indirectly, that the regimen in said book:

1. Constitutes an adequate, effective or reliable treatment for the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or diseases which defy conventional medical diagnosis and treatment.

2. Arrests the progress of, corrects the underlying causes of, prevents or cures the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or diseases which defy conventional medical diagnosis and treatment.

3. Prevents or cures sickness, maintains good health or prolongs the life span.

4. Gives vigor to young and old and is a guide to good health.

5. Has been scientifically tested.

PAR. 4. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact, the regimen set forth in the book "Folk Medicine":

1. Does not constitute an adequate, effective or reliable treatment for the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or for diseases which defy conventional medical diagnosis and treatment.

2. Will not arrest the progress of, correct the underlying causes of, prevent or cure the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or diseases which defy conventional medical diagnosis and treatment.

3. Will not prevent or cure sickness, maintain good health or prolong the life span.

4. Will not give vigor to young and old and is not a guide to good health:

5. Has not been scientifically tested.

PAR. 5. The use by respondent of the foregoing false, misleading and deceptive statements has had, and now has, the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements are true and into the purchase of substantial quantities of respondent's said book by reason thereof.

PAR. 6. The aforesaid acts and practices of 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.

Mr. John W. Brookfield, Jr., for the Commission.

Satterlee, Warfield & Stephens, by *Mr. James F. Dwyer*, of New York, N.Y., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on July 13, 1960, charging Respondent with violation of the Federal Trade Commission Act by the use of false, misleading and deceptive statements in advertisements concerning a book entitled "Folk Medicine", which Respondent publishes, distributes and sells.

Thereafter, on September 23, 1960, Respondent, its counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on October 4, 1960, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Holt, Rinehart and Winston, Inc., as a Delaware corporation, with its office and principal place of business located at 383 Madison Avenue, New York, New York.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement;

that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by Respondent that it has violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist, finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent Holt, Rinehart and Winston, Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a book entitled "Folk Medicine", or any other book or books of the same or of approximately the same content, material, or methods, whether sold under the same name or any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that the regimen in said book:

1. Constitutes an adequate, effective or reliable treatment for the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or diseases which defy conventional medical diagnosis and treatment;

2. Arrests the progress of, corrects the underlying causes of, prevents or cures the common cold, arthritis, kidney trouble, digestive disorders, high blood pressure, overweight and obesity, chronic fatigue, headaches including migraine, hay fever, asthma, dizziness, run down feelings, lack of energy, lack of fertility, sinus infections, or other nagging ills and chronic ailments, or diseases which defy conventional medical diagnosis and treatment;

3. Prevents or cures sickness, maintains good health or prolongs the life span;

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4. Gives vigor to young and old or is a guide to good health;
5. Has been scientifically tested.

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 24th day of November 1960, become the decision of the Commission; and, accordingly;

It is ordered, That respondent Holt, Rinehart and Winston, Inc., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting