

IN THE MATTER OF
MAURICE VAN DYNE TRADING AS SOBERIN
AIDS COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 8366. Complaint, Apr. 20, 1961—Decision, Aug. 22, 1961

Consent order requiring the Brooklyn, N.Y., distributor of a drug preparation called "Soberin"—actually an emetic having as its principal ingredient Syrup of Ipecac—to cease representing falsely in advertisements in magazines and newspapers that the product is a "Marvelous new discovery"

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which "Relieves drunkenness in 5 days" "And easily helps bring relief from all desire of liquor", and enables one to "go to business and carry on your social life as usual".

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 Maurice Van Dyne, individually and trading as Soberin Aids Company, 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 Maurice Van Dyne is an individual trading and doing business as Soberin Aids Company with his office and principal place of business located in Brooklyn, New York. His mailing address is P. O. Box 42, Rugby Station, Brooklyn, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of a drug preparation called "Soberin", which preparation contains ingredients which come within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of this business, respondent now causes, and for some time last past has caused, the said "Soberin" when sold, to be shipped from his place of business in the State of New York to purchasers thereof located in various other states of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, respondent has disseminated, and caused the dissemination of certain advertisements concerning the said product by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act including advertisements inserted in various magazines and newspapers, for the purpose of inducing, and which are likely to induce, directly or indirectly the purchase of said product; and has disseminated, and caused the dissemination of, advertisements concerning the said product by various means, including the aforesaid media, 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. 5. Among and typical of the statements contained in said advertisements disseminated as hereinabove set forth are the following:

Doctors Marvelous new discovery
Relieves drunkenness in 5 days
And easily helps bring relief from all desire of liquor.
You can go to business and carry on your social life as usual.

PAR. 6. Through the use of said statements, and others similar thereto not specifically set out herein, respondent has represented, and is now representing, directly or by implication, that the said product and the technique of its use is a new medical or scientific discovery, that after five days anyone addicted to alcoholism will be cured and will no longer have a desire for alcohol, that the desire for liquor is easily overcome through the use of said product, that the use of said product will not interfere with one's business or social life and that the cure of alcohol addiction is so complete with said product that it will no longer interfere with one's business or social life.

PAR. 7. The said advertisements and statements contained therein were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, the product "Soberin" is not, nor is the technique of its use, a new medical or scientific discovery. It is nothing more than an emetic having as its principal ingredient Syrup of Ipecac which has long been in use by the medical profession as has been the technique of attempting to treat alcohol addiction by the use of a noxious substance which causes the addict to become nauseated or to vomit when such substance is added to his alcoholic drink, thus attempting to cause in the addict a conditioned reflex or "aversion" to alcohol by associating his nausea or vomiting with the consumption of alcohol. It cannot be claimed that one addicted to alcoholism will be cured after using "Soberin" for five days because there are many causes of alcoholism some of which are psychiatric which cannot be effectively treated by the conditioned reflex or "aversion" technique. The use of "Soberin" is not an easy way to overcome the desire for liquor. Since the use of "Soberin" contemplates nausea and vomiting its use would thereby interfere with one's business or social life. Since there are many causes of alcohol addiction, some of which cannot be cured by "Soberin" it cannot be said that said product will cure such addiction so completely that it will no longer interfere with one's business or social life.

PAR. 8. The dissemination by respondent of the false advertisements, as aforesaid and the acts and practices of respondent as aforesaid, constituted and now constitute, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Edward F. Downs for the Commission.

Mr. Charles A. Stanziale of Newark, N.J., for the respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

In a complaint issued April 20, 1961, the Federal Trade Commission charged that the respondent, Maurice Van Dyne, individually and trading under the firm name and style of Soberin Aids Company, in Brooklyn, New York, from a mailing address, P. O. Box 42, Rugby Station, Brooklyn, New York, had violated the Federal Trade Commission Act, it having been alleged that he had made deceptive statements in connection with the advertising, offering for sale and sale in commerce of a drug, "Soberin," for the treatment of alcoholism.

After issuance of the complaint and the filing of respondent's answer thereto, but prior to a hearing herein, the respondent (with the advice and agreement of his attorney) and counsel supporting the complaint entered into an agreement containing a proposed consent order to cease and desist which disposes of the entire proceeding.

The agreement provides that the signing thereof is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as in the complaint alleged.

The respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations. He expressly waives any further procedural steps before the Hearing Examiner and the Commission; the making of findings of fact or conclusions of law; and all right he may have to challenge or contest the validity of the order to cease and desist to be entered in accordance with the agreement.

Respondent further agrees that the order to cease and desist, to be issued in accordance with the agreement, shall have the same force and effect as if made after a full hearing.

It is further provided that the 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 to be issued pursuant thereto; and that such order may be altered, modified or

set aside in the manner prescribed by the statute for orders of the Commission.

The Hearing Examiner has considered the agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and shall be filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice.

Now, in consonance with the terms thereof, the Hearing Examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered. That respondent Maurice Van Dyne, an individual trading as Soberin Aids Company, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a drug preparation designated "Soberin", or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, forthwith cease and desist from:

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, directly or indirectly, represents:

(a) That said preparation or the technique of its use is a new medical or scientific discovery.

(b) That anyone addicted to alcoholism will be cured after taking said preparation and will no longer have a desire for alcohol.

(c) That the desire for liquor is easily overcome through the use of said preparation.

(d) That the use of said preparation will not interfere with the user's business or social life.

(e) That said preparation will completely cure alcohol addiction so that such addiction will no longer interfere with one's business or social life.

2. Disseminating or causing to be disseminated 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 any

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such 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 22d day of August 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a