

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

Docket C-2524. Complaint, July 23, 1974—Decision, July 23, 1974

Consent order requiring a Clarkston, Wash., retail drug and general merchandise store, among other things to cease falsely advertising its vitamin and mineral products through misrepresenting the effect Super B Vitamins have on an individual; that respondents' vitamins have been tested by the U.S. Food and Drug Administration and found respondents' advertising claims to be satisfactory; and that people do not receive enough vitamins through their diet, and need to supplement with Super B Vitamins. Further, respondents are required to devote, for a period of one year, 25 percent of their advertising to corrective statements exposing previous erroneous and misleading advertising claims.

Appearances

For the Commission: *Barry E. Barnes.*

For the respondents: *S. Dean Arnold, Clarkston, Wash.*

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 Wasem, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of Sections 5 and 12 of the Federal Trade Commission Act and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint, stating its charges as follows:

PARAGRAPH 1. Wasem's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 800 Sixth Street, Clarkston, Wash..

Clifford W. Wasem is an individual and part owner, manager and officer of Wasem's, Inc. He formulates, directs and controls the policies, acts and practices of Wasem's, including the acts and practices hereinafter set forth. His address is 655 Riverview Boulevard, Clarkston, Wash.

Weldon B. Wasem is an individual and officer of Wasem's, Inc. He formulates, directs and controls the policies, acts and practices of Wasem's, including the acts and practices hereinafter set forth. His address is 710 Riverview Boulevard, Clarkston, Wash.

PAR. 2. Respondents own and operate a retail drug and general merchandise store and soda fountain restaurant in Clarkston, Wash. In the operation of this retail store, respondents advertise, offer for sale, and sell "Super B Vitamins," a "food" or "drug," or both as those terms are defined in Section 15 of the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business, respondents disseminate or cause to be disseminated certain advertisements concerning Super B Vitamins - (1) by United States mails or by television transmissions received interstate and in commerce by other means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of Super B Vitamins, or (2) for the purpose of inducing or which is likely to induce the purchase of Super B Vitamins in commerce. Respondents' volume of business in commerce is substantial.

PAR. 4. In the course and conduct of their business, respondents have made certain statements and representations in their advertisements concerning the quality, use, and regulation of Super B Vitamins. Typical and illustrative of the statements and representations in said advertisements are the following:

KLEW-TV, Lewiston, Idaho, 11/15/72

I'd like to tell you about Wasem's Super B Vitamins. Super B is the highest potency B complex that you can buy, with liver and iron and Vitamin C. Super B from Wasem's really makes you feel better. In fact, I have never sold anything that's as much good for as many people, as Wasem's Super B Vitamins. Try some, they really work, they're only \$5.95 a hundred, they make you feel better, they make you a better person to live with, they help you do a better job on the job, because you're feeling better. Super B works, builds up your blood and nerves. We ship them all over the country, it's amazing, people order from California, Texas, Oklahoma, Ohio, Minnesota, Florida, just all around because they can't get a formula like this where they live. It just happens to be the best there is. Sure people will copy it some day, but you can get it now from Wasem's Rexall Drug Store in Clarkston for \$5.95 a hundred.

* * * * *

KLEW-TV, Lewiston, Idaho, 2/1, 2/7, 2/8, 2/9/73

I'd like to tell you about Wasem's Super B Vitamins, what we believe to be the highest potency B complex with liver, iron, and Vitamin C preparation on the market. But the Food and Drug Commission evidently thought otherwise because they came in and got three bottles of it from me the other day and checked the formula on it. And lo and behold they found out it was even more potent than what we claim it is on the label. Then the Federal Trade Commission, they wanted me to explain to them, because evidently they didn't really believe the things I told you on TV about Super B were really true. And I just told them that the things I say on TV are the same things that you people tell me that take it. You people tell me in the store that it does make you feel better, that it builds up your blood and nerves, that it's the best B complex formula that you ever purchased, and I think it is too. It's sold on a money-back guarantee though, so if you're not fully satisfied with our Super B Vitamins, bring it back to Wasem's Drugs for a refund. They're \$5.95 a hundred. Try some yourself, find out how good Super B from Wasem's Rexall Drug Store really is.

PAR. 5. By and through the use of the above statements and representations, respondents have represented directly and by implication that:

1. Super B Vitamins will make one feel better, make a person better to live with and work better on the job, or build up blood and nerves.
2. Super B Vitamins will contribute to better human physical or mental condition.
3. Super B Vitamins are scientifically tested and proven by acceptable standards to be the best B complex vitamin.
4. The United States Food and Drug Administration has tested Super B Vitamins and found them to be worthy of recommendation on the basis of potency or any other basis.
5. The Federal Trade Commission has accepted respondents' claims for their product as satisfactory and acquiesces in publicizing the results of its investigation of respondents' advertising.

6. People do not receive enough vitamins through their diet and need to supplement with Super B Vitamins.

7. A highly concentrated dosage of the Vitamins B₁, B₂, B₆, B₁₂, C and Niacinamide, Calcium Pantothenate, Iron and Liver is in some way beneficial and/or better than the "recommended daily allowance" as established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

These statements and representations are false, misleading, and deceptive and said advertisements constitute "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 6. The aforesaid acts and practices of respondents are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of the draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Wasem's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of Washing-

ton, with its office and principal place of business located at 800 Sixth Street, Clarkston, Wash.

Respondent Clifford W. Wasem is an individual, part owner, officer and manager of Wasem's, Inc. He participates in the formulation, direction and control of the policies, acts and practices of the corporation. His address is 655 Riverview Boulevard, Clarkston, Wash.

Respondent Weldon B. Wasem is an individual and president of Wasem's, Inc. He participates in the formulation, direction and control of the policies, acts and practices of the corporation. His address is 710 Riverview Boulevard, Clarkston, Wash.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Wasem's, Inc., its officers, and Clifford W. Wasem and Weldon B. Wasem, their successors and assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing in writing, orally, visually, or in any other manner, directly or by implication, that:

1. a. Vitamin, mineral, or vitamin and mineral products will make people feel better, make people better to live with, improve job performance, or build up blood and nerves.

b. Vitamin, mineral, or vitamin and mineral products should be used for the treatment or relief of symptoms like tiredness, nervousness and rundown conditions without prior medical consultation.

c. Vitamin, mineral, or vitamin and mineral products will aid in the betterment of human physical or mental condition.

UNLESS at the time any such representation is made, respondents have a reasonable scientific basis for such representation available for public inspection at the point of sale.

2. Particular vitamin, mineral, or vitamin and mineral products are scientifically tested and proven by acceptable standards to be the best or superlative in any respect, unless such is the fact.

3. The United States Food and Drug Administration or any other federal, state, local, or private agency or source whatsoever has tested particular vitamin, mineral, or vitamin and mineral products and found them to be worthy of recommendation on any basis.

4. The Federal Trade Commission or any other federal, state,

local, or private agency or source whatsoever has accepted respondents' claims for particular vitamin, mineral, or vitamin and mineral products as satisfactory and acquiesces in publicizing the results of its investigation.

5. Most people do not receive enough vitamins or minerals through their normal diet and need to supplement their diet with vitamin, mineral, or vitamin and mineral products.

6. A highly concentrated dosage of vitamins or minerals is in some way beneficial or better than the "Recommended Daily Allowances" as established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

It is further ordered, That respondents shall forthwith cease and desist, for a period of one (1) year from the date this order becomes final, from disseminating or causing to be disseminated any advertisement, promotional material or other material of similar nature concerning Wasem's Super B Vitamins unless not less than twenty-five (25) percent of the expenditures (excluding production costs) for each media in each market used be devoted to advertising, in a manner approved by authorized representatives of the Seattle Regional Office of the Federal Trade Commission, that contrary to prior advertising, Wasem's Super B Vitamins do not have the previously claimed health benefits, have not been recommended or approved by any outside source, and are not in any way necessary or helpful in larger than "recommended daily allowance" dosages. Said ads shall also contain the statement that the ad is being run pursuant to order of the Federal Trade Commission.

It is further ordered, That respondents place seven sixty-second retractive advertisements on consecutive days with the same television stations at the same approximate time of day used by respondents for previous Wasem's Super B Vitamins advertisements. Such advertisements shall follow the same general format as previous television ads, with Clifford Wasem making the following audio presentation:

This advertisement is run pursuant to an order of the Federal Trade Commission. I have previously been advertising Wasem's Super B Vitamins and have made various claims which are erroneous and misleading. Contrary to what I have told you previously, Super B will not make you feel better nor make you better to live with nor work better on the job. There is no need for most people to supplement their diet with vitamins or minerals. Excess dosages over the recommended daily adult requirements of most vitamins will be flushed through the body and be of no benefit whatsoever. Contrary to my previous ads, neither the Food and Drug Administration nor the Federal Trade Commission nor anyone else has recommended Super B or approved our prior claims. Super B Vitamins are sold on a money-back guarantee, so if you are not fully satisfied, then return them to me at Wasem's Rexall Drug Store in Clarkston for a refund.

Such advertisement shall be run no later than sixty (60) days after service upon respondents of this order.

It is further ordered, That respondents cease and desist from representing, directly or indirectly, in their advertising, promotional material, package label, or any other similar material that their vitamin, mineral, or vitamin and mineral products have "super potency," and from using the word "super" or any word of similar import or meaning as a part of the trade name of their vitamin, mineral, or vitamin and mineral products.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

IN THE MATTER OF

GEORGE V. DUGAN D/B/A GEORGE DUGAN CHEVROLET

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket C-2525. Complaint, July 30, 1974—Decision, July 30, 1974

Consent order requiring a Klamath Falls, Oreg., new and used automobile dealer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of credit, such information as required by Regulation Z of the said Act.