

IN THE MATTER OF
ELKHORN MINING COMPANY T/A FREE ENTERPRISE
URANIUM-RADON MINE, ET AL.

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

Docket C-2721. Complaint, Aug. 5, 1975--Decision, Aug. 5, 1975

Consent order requiring a Boulder, Mont., owner and operator of a uranium mine, among other things to cease misrepresenting the curative or physiological effect of radon gas on disease; and failing to disclose to prospective customers that radon gas has any provable physiological effect on disease, including arthritis, sinusitis, eczema and asthma.

Appearances

For the Commission: *Thomas C. Armitage.*

For the respondents: *John F. Bell, Bolkovatz & Romine, Helena, Mont.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Elkhorn Mining Company, a corporation dba Free Enterprise Uranium-Radon Mine, Radon Research Foundation, a corporation, and John T. Lewis, individually and as an officer of Elkhorn Mining Company (hereinafter respondents), have violated Section 5 of the Federal Trade Commission Act, and that a proceeding would be in the public interest, hereby issues its complaint:

PARAGRAPH 1. Elkhorn Mining Company is a Montana corporation with its office located at Boulder Bank Bldg., Boulder, Mont. It does business under the name Free Enterprise Uranium-Radon Mine.

Radon Research Foundation is a Montana nonprofit corporation with its office located at Boulder Bank Bldg., Boulder, Mont. It had no receipts or disbursements in the past three years. It employed no one to do research. All expenses were paid by the Elkhorn Mining Company or its former president Wade V. Lewis personally. It distributes promotional literature for the Free Enterprise Mine and authors promotional literature distributed by the Elkhorn Mining Company. Its activities therefore inure to the monetary benefit of the Elkhorn Mining Company. It is therefore subject to Federal Trade Commission jurisdiction, 15 U.S.C. §44.

John T. Lewis is an individual and officer of Elkhorn Mining Company. He formulates, directs and controls the policies of said corporation, and his address is the same as that of said corporation.

PAR. 2. Respondents carry on the following business: The Free Enterprise Uranium-Radon Mine is a vertical shaft some eighty-five feet in depth with a horizontal shaft at the bottom some four hundred feet in length. Persons afflicted with various diseases, principally arthritis, are taken into this mine for a fee. In the mine shaft they remain for various periods of time breathing air which contains radon, a gaseous element derived from the decaying uranium surrounding the shaft. It is claimed that breathing radon will benefit these persons by curing or improving various afflictions.

PAR. 3. Respondents advertise in media of interstate dissemination and ship advertisements and brochures in commerce through the mails.

PAR. 4. Respondents' advertisements and brochures claim that the cause of arthritis is known and that cause is hormone deficiencies. Respondents claim that radon gas, derived from the ore in the mine, stimulates the production of ACTH, a hormone, which in turn stimulates the production of hydrocortisone. These hormones, it is claimed, are beneficial to and curative of arthritis, bursitis, sinusitis, asthma, eczema, skin affliction, and kindred ailments.

PAR. 5. Illustrative of respondents' advertising claims are the following quotations:

NATURE'S RADON THERAPY and IONIZATION are now recognized as REACHING THE CAUSE OF ARTHRITIS and many kindred afflictions.

NATURE reaches CAUSE OF ARTHRITIS.

Visit the Free Enterprise Uranium-Radon Mine at Boulder, Montana, for arthritis, sinusitis, asthma, skin afflictions and kindred ailments.

* * * radiation due to RADON GAS transmutation elements in the air of the mine workings, is of such type and amount as to stimulate the master pituitary gland in its production of ACTH, this body product thereupon acting upon the adrenal cortex to produce hydrocortisone, the great pain killer.

Research through Radon Research Foundation indicates there are two basic causes of arthritis and kindred glandular connected ailments:

1. AN EXTERNAL CAUSE: Stress, strain or shock of physical, mental or emotional origin.

2. AN INTERNAL CAUSE: Retardation of the glands' activities, resulting in non-normal production of body hormones.

Exposure to the mild radiation from breathing transmuted elements from radon, a gas * * * represents a scientific break-through, offering a remedy reaching a principal CAUSE of rheumatoid arthritis and allied glandular afflictions.

It (radon gas) exerts an influence on the autonomic nervous system, improves the circulatory state, and causes removal of waste from the organism and an activation of hormone producing organs, particularly the pituitary-adrenal system.

PAR. 6. These statements and others contained in respondents' advertisements and promotional literature are false, misleading and deceptive as follows:

- A. Radon gas and the Free Enterprise Uranium-Radon Mine do not have any curative or physiological effect upon any disease or bodily

condition, including arthritis, sinusitis, eczema or other skin afflictions, or asthma.

B. Radon gas does not have any beneficial effect on the autonomic nervous system, the circulatory state, the removal of waste, and the utilization of oxygen by defense cells of the body.

C. There is no one cause for arthritis. There are more than sixty (60) forms of joint disease now recognized by the American Rheumatism Association, and it is unlikely that any two have the same cause. Some of these causes are well known; a number of causes are unknown.

D. The role of stress, either internal or external, in causing or aggravating arthritis is unknown.

E. Below normal production of adrenal hormones is a well-known condition named Addison's Disease. Underproduction of hormones is not related to any form of joint disease.

F. Lack of or deficiency in ACTH and hydrocortisone does not cause joint disease.

G. Radon gas does not increase production of ACTH, hydrocortisone, or any other hormone.

H. White blood cells are the most sensitive to radiation. If the radiation in respondents' mine is not great enough to affect these cells, it does not affect the body at all. If, on the other hand, the radiation is sufficient to affect white blood cells, it is dangerous and requires careful monitoring. The level of radiation in respondents' mine is in fact not dangerous to humans.

I. Even if the production of ACTH and hydrocortisone were increased by the inhalation of radon gas, the beneficial effects would be only symptomatic, failing to reach the causes of arthritis.

J. The use of radon gas does not represent a scientific breakthrough.

K. Such "cures" as are claimed by customers of respondents' mine are either of psychosomatic origin or are due to the coincidental cyclical remission of arthritis.

PAR. 7. Respondents further fail to disclose, prior to the purchase of visits to the mine by customers, a number of material facts as follows:

A. Neither radon gas nor the Free Enterprise Mine has any physiological effect on any disease or bodily condition, including arthritis, sinusitis, eczema or other skin afflictions, or asthma.

B. Any benefits claimed by visitors to the Free Enterprise Mine are psychosomatic or are due to the coincidental cyclical remission of a disease.

C. Patients should consult their doctors before and/or after going to the Free Enterprise Mine. They may be missing the benefits of known and medically approved forms of therapy. Lack of medically accepted

treatment of arthritis may result in greater pain and possible permanent disability.

Knowledge of these facts may affect a customer's decision as to whether to purchase visits to respondents' mine.

PAR. 8. The above-described conduct constitutes unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, 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 sixty days, and having duly considered the comments filed thereafter pursuant to Section 2.34 of its rules, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

A. Respondent Elkhorn Mining Company is a Montana corporation with its office located at Boulder Bank Bldg., Boulder, Mont. It does business under the name Free Enterprise Uranium-Radon Mine.

Respondent Radon Research Foundation is a Montana corporation with its office located at Boulder Bank Bldg., Boulder, Mont.

Respondent John T. Lewis is an individual and officer of Elkhorn Mining Company. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

B. The Federal Trade Commission has jurisdiction of the subject

matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Elkhorn Mining Company, a corporation dba Free Enterprise Uranium-Radon Mine, Radon Research Foundation, a corporation, their successors and assigns, and their officers, and John T. Lewis, individually and as an officer of Elkhorn Mining Company, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing directly or by implication, that:

A. Radon gas or the Free Enterprise Uranium-Radon Mine has any curative or physiological effect upon any disease or bodily condition, including arthritis, sinusitis, eczema or other skin afflictions, or asthma.

B. Radon gas has any beneficial effect on the autonomic nervous system, the circulatory state, the removal of waste, or the utilization of oxygen by defense cells of the body.

C. There is a single cause of arthritis or that the cause or causes of arthritis are known.

D. Arthritis is caused by or has any relationship to stress, either internal or external.

E. Arthritis or any form of joint disease is caused by hormone deficiencies of any type.

F. Arthritis is caused by underproduction of ACTH or any hormone associated with the pituitary gland or the adrenal gland.

G. Radon gas increases production of ACTH, hydrocortisone, or any other hormone.

H. Exposure to any radioactive gas has any physiological effect on any disease or bodily condition.

I. ACTH or hydrocortisone, no matter how administered, results in anything but temporary symptomatic relief of arthritis.

J. The use of radon gas represents a scientific breakthrough.

K. Improvements in condition claimed to result from visits to the Free Enterprise Uranium-Radon Mine are neither psychosomatic nor the result of coincidental remission of a disease.

It is further ordered, That respondents shall clearly and conspicuously (a) include in all advertising and promotional materials for radon gas or the Free Enterprise Uranium-Radon Mine, and (b) provide by means of a separate written statement furnished to each prospective customer prior to the time he or she pays for the Free Enterprise Uranium-Radon Mine visit, the following form of notice:

Decision and Order

86 F.T.C.

NOTICE

Neither radon gas nor the Free Enterprise Uranium-Radon Mine has any provable physiological effect on any disease or bodily condition, including arthritis, sinusitis, eczema or other skin afflictions, or asthma.

You are advised to consult with your doctor before and/or after going to the Free Enterprise Uranium-Radon Mine. You may be missing the benefits of known and medically approved forms of treatment. Lack of medically accepted treatment of arthritis may result in greater pain and possible permanent disability.

This notice is made pursuant to order of the Federal Trade Commission.

In addition to the above, the separate written statement shall set forth the following language:

I have read and understand the above information.

Name (please print)

Signature

Address (please print)

Date

Respondents shall retain for their records, for a period of at least three years, copies of such written statements which have been signed and dated by the customers.

It is further ordered, That respondents shall forthwith distribute a copy of this complaint and order to each of their employees and shall continue such distribution to each new employee for a period of two years from the date this order becomes effective.

It is further ordered, That respondents shall maintain such records as will fully disclose the manner and form of their compliance with this order.

It is further ordered, That the corporate respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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 corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

IN THE MATTER OF
JAMES SLYMAN T/A SLYMAN REAL ESTATE
COMPANY

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

Docket C-2714. Complaint, Aug. 7, 1975-Decision, Aug. 7, 1975

Consent order requiring a Knoxville, Tenn., real estate broker, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Charles C. Murphy, Jr.*

For the respondent: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing Regulation promulgated thereunder and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts; the Federal Trade Commission, having reason to believe that James Slyman, an individual trading and doing business as Slyman Real Estate Company, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts and implementing regulation, 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 James Slyman is an individual trading and doing business as Slyman Real Estate Company, with his principal office and place of business located at 5722 Oak Ridge Hwy., Knoxville, Tenn.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale and sale of improved and unimproved, developed and undeveloped real estate to the public.

PAR. 3. In order to promote the sale of improved and unimproved, developed and undeveloped real estate, respondent has caused advertisements, as "advertisement" is defined in Section 226.2(b) of Regulation Z, to be placed in newspapers of interstate circulation. These advertisements aid, promote or assist directly or indirectly extensions of consumer credit, as "consumer credit" is defined in Section 226.2 of Regulation Z, through the offer to persons of