

Complaint

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is the price at which respondents have usually and customarily sold the merchandise in the recent regular course of business.

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 report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

CARLSON PHARMACEUTICALS, INC., ET AL.

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

Docket 8432. Complaint, June 16, 1961—Decision, Nov. 16, 1961

Order issued in default requiring Detroit distributors to cease representing falsely in advertising that their drug preparation "ARTH-RITE" was an effective treatment and cure for all kinds of arthritis and rheumatism and contained sleep-inducing ingredients.

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 Carlson Pharmaceuticals, Inc., a corporation, and Frank Handler, Jr., Eugene Graye and Frank Handler, Sr., individually and as officers of said corporation, 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 Carlson Pharmaceuticals, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 4121 Puritan Avenue, in the City of Detroit, State of Michigan.

Respondent Frank Handler, Jr., Eugene Graye and Frank Handler, Sr. are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution of a preparation

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containing ingredients which come within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

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

Designation: ARTH-RITE

Formula:

Salicylamide.....	324 mg.
Vitamin A (Fish Liver Oil).....	100 USP Units
Vitamin D (Irradiated Ergosterol).....	500 USP Units
Thiamine Mononitrate (Vitamin B ₁).....	2 mg.
Ascorbic Acid (Vitamin C).....	30 mg.
Iron (from desiccated ferrous sulfate).....	19 mg.
Powdered Extract of Alfalfa.....	130 mg.

Directions: Take 1 or 2 Capsules before breakfast and at bedtime. Not more than 6 Capsules in one day.

IMPORTANT

For more severe or persistent conditions, consult your doctor.

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PAR. 3. Respondents cause the said preparation, when sold, to be transported from their place of business in the State of Michigan to purchasers thereof located in various other states of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in magazines and other advertising media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to 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.

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PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

ARTH-RITE

ARTH-RITE

USE ARTH-RITE

Get Blessed Relief From
ARTHRITIS
and RHEUMATISM

Get PROMPT Relief

Stop Suffering Start Sleeping

Now Only \$5.85 For A Full
Months Supply of 60 Capsules

Money Back Unconditional

Contains No Opiates, Aspirins or Habit Forming Drugs

Carlson Pharmaceuticals, Inc.

4121 Puritan Dept. P10 Detroit 21, Mich.

(Picturization of an ARTH-RITE bottle to the right of the printed material and the word "ALFALFA" prominently featured on the bottle label with the legend "VIT. A, B, C, D & Extract of Alfalfa" printed above the top of the bottle.)

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondents have represented, and are now representing, directly and by implication:

1. That ARTH-RITE is an adequate, effective and reliable treatment for all kinds of arthritis and rheumatism;
2. That ARTH-RITE will arrest the progress of, correct the underlying causes of, and cure all kinds of arthritis and rheumatism;
3. That ARTH-RITE is an adequate, effective and reliable treatment for the symptoms and manifestations of all kinds of arthritis and rheumatism, and will afford immediate, complete and permanent relief of the symptoms and manifestations thereof;
4. That the vitamins, minerals and extract of alfalfa in said product are of therapeutic value in the treatment of all kinds of arthritis and rheumatism, and for the symptoms and manifestations thereof;
5. That said product contains sleep-inducing ingredients.

PAR. 7. The said advertisements were and are misleading in material respects and constituted and now constitute, "false advertise-

ments" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. ARTH-RITE is not an adequate, effective or reliable treatment for any kind of arthritis or rheumatism;

2. ARTH-RITE will not arrest the progress of, correct the underlying causes of, or cure any kind of arthritis or rheumatism;

3. ARTH-RITE is not an adequate, effective or reliable treatment for the symptoms and manifestations of any kind of arthritis or rheumatism, and will not afford immediate, complete or permanent relief from any of the symptoms or manifestations thereof or have any therapeutic effect upon any of the symptoms or manifestations of any such conditions in excess of affording temporary relief of the minor aches or pains thereof;

4. The vitamins, minerals and extract of alfalfa in said preparation are of no therapeutic value in the treatment of any kind of arthritis or rheumatism or for any of the symptoms or manifestations thereof;

5. ARTH-RITE does not contain any sleep-inducing ingredients.

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

Mr. Michael J. Vitale for the Commission.

No appearance for the respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 16, 1961, charging Respondents with violation of the Federal Trade Commission Act by the dissemination in commerce, as "commerce" is defined in said Act, of false advertisements concerning their drug preparation, designated "Arth-Rite."

Thereafter, on June 30, 1961, Respondents were duly served with a copy of the complaint herein, and failed to submit any answer or make any reply thereto. Accordingly, on August 9, 1961, notice was issued of a hearing to be held in the Federal Trade Commission Building, Washington, D.C., and was duly served upon Respondents on August 14, 1961.

Thereafter a hearing was held in accordance with the aforesaid notice, whereat Respondents failed to appear, either in person or by counsel; whereupon counsel supporting the complaint moved that the Respondents be held in default, and submitted to the Hearing Examiner a proposed order to cease and desist. The motion was duly granted on the record.

The Hearing Examiner, exercising the authority conferred upon him by § 4.5(c) of the Commission's Rules Of Practice For Adjudicative Proceedings, now finds the facts to be as alleged in the complaint herein, and issues his initial decision, containing such findings, appropriate conclusions drawn therefrom, order to cease and desist, as follows:

FINDINGS AS TO THE FACTS

1. Respondent Carlson Pharmaceuticals, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 4121 Puritan Avenue, in the City of Detroit, State of Michigan.

Respondents Frank Handler, Jr., Eugene Graye and Frank Handler, Sr. are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

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

Designation: ARTH-RITE

Formula:

Salicylamide.....	324 mg.
Vitamin A (Fish Liver Oil).....	1000 USP Units
Vitamin D (Irradiated Ergosterol).....	500 USP Units
Thiamine Mononitrate (Vitamin B ₁).....	2 mg.
Ascorbic Acid (Vitamin C).....	30 mg.
Iron (from desiccated ferrous sulfate).....	19 mg.
Powdered Extract of Alfalfa.....	130 mg.

Directions: Take 1 or 2 Capsules before breakfast and at bedtime. Not more than 6 Capsules in one day.

IMPORTANT

For more severe or persistent conditions, consult your doctor.

CONTENTS 60 CAPSULES

3. Respondents cause the said preparation, when sold, to be transported from their place of business in the State of Michigan to purchasers thereof located in various other states of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce, as "com-

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merce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

4. In the course and conduct of their said business, Respondents have disseminated and caused the dissemination of certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in magazines and other advertising media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to 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.

5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth the following:

ARTH-RITEARTH-RITE

Get Blessed Relief From
 ARTHRITIS
 and RHEUMATISM
 Get PROMPT Relief
 Stop Suffering Start Sleeping
 Now Only \$5.85 For A Full
 Months Supply of 60 Capsules
 Money Back Unconditional
 Contains No Opiates, Aspirins or Habit Forming Drugs
 Carlson Pharmaceuticals, Inc.
 4121 Puritan Dept. P10 Detroit 21, Mich.

(Picturization of an ARTH-RITE bottle to the right of the printed material and the word "ALFALFA" prominently featured on the bottle label with the legend "VIT. A, B, C, D & Extract of Alfalfa" printed above the top of the bottle.)

6. Through the use of said advertisements, and others similar thereto not specifically set out herein, Respondents have represented, and are now representing, directly and by implication:

1. That ARTH-RITE is an adequate, effective and reliable treatment for all kinds of arthritis and rheumatism;
2. That ARTH-RITE will arrest the progress of, correct the underlying causes of, and cure all kinds of arthritis and rheumatism;
3. That ARTH-RITE is an adequate, effective and reliable treatment for the symptoms and manifestations of all kinds of arthritis

and rheumatism, and will afford immediate, complete and permanent relief of the symptoms and manifestations thereof;

4. That the vitamins, minerals and extract of alfalfa in said product are of therapeutic value in the treatment of all kinds of arthritis and rheumatism, and for the symptoms and manifestations thereof;

5. That said product contains sleep-inducing ingredients.

7. The said advertisements 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:

1. ARTH-RITE is not an adequate, effective or reliable treatment for any kind of arthritis or rheumatism;

2. ARTH-RITE will not arrest the progress of, correct the underlying causes of, or cure any kind of arthritis or rheumatism;

3. ARTH-RITE is not an adequate, effective or reliable treatment for the symptoms and manifestations of any kind of arthritis or rheumatism, and will not afford immediate, complete or permanent relief from any of the symptoms or manifestations thereof or have any therapeutic effect upon any of the symptoms or manifestations of any such conditions in excess of affording temporary relief of the minor aches or pains thereof;

4. The vitamins, minerals and extract of alfalfa in said preparation are of no therapeutic value in the treatment of any kind of arthritis or rheumatism or for any of the symptoms or manifestations thereof;

5. ARTH-RITE does not contain any sleep-inducing ingredients.

CONCLUSIONS

1. The dissemination by the Respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

2. The Commission has jurisdiction over the Respondents herein, and over their acts and practices as alleged in the complaint and hereinabove found.

3. This proceeding is in the public interest.

Accordingly,

It is ordered, That Respondents Carlson Pharmaceuticals, Inc., a corporation, and its officers, and Frank Handler, Jr., Eugene Graye and Frank Handler, Sr., individually and as officers of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation

designated ARTH-RITE, or any other 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, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or indirectly:

(a) That said preparation is an adequate, effective or reliable treatment for any kind of arthritis or rheumatism;

(b) That said preparation will arrest the progress of, correct the underlying causes of, or cure any kind of arthritis or rheumatism;

(c) That said preparation is an adequate, effective or reliable treatment for the symptoms and manifestations of any kind of arthritis or rheumatism, or will afford immediate, complete or permanent relief of the symptoms or manifestations of such conditions in excess of affording temporary relief of the minor aches or pains thereof;

(d) That the vitamins, minerals or extract of alfalfa contained in said preparation will relieve pain, or have any other therapeutic value for the relief of any kind of arthritis or rheumatism, or for the symptoms or manifestations thereof;

(e) That said preparation contains any sleep-inducing ingredients;

2. Disseminating or causing the dissemination by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which contains any of the representations prohibited in paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of November, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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.