Syllabus

IN THE MATTER OF

C. G. WHITLOCK CHEMICAL COMPANY

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5823. Complaint, Nov. 1, 1950—Decision, Nov. 20, 1952

Solutions generally known as "anti-freeze" for the protection of gasoline engines have been on the market and sold to the purchasing public throughout the United States for many years and have proved dependable in protecting the engines from the effect of cold without themselves causing damage, so that when such a product is thus designated a substantial portion of said public believes that it may be used without harm.

Where a corporation engaged in the manufacture and interstate sale and distribution of its "Frigid-O-BG" product to protect the cooling system of gasoline engines from freezing—

Represented in advertising and through labels attached to the container that its product was an anti-freeze preparation which prevented freezing without harm to the engine or cooling system, that it contained an effective rust inhibitor and would prevent rust or corrosion of all parts of the engine it contacted, and particularly the cooling system; that it would maintain a water level in the radiator to the extent that the engine would not overheat; and that it was a permanent type anti-freeze;

The facts being that it would cause serious corrosion of the cylinder block, water pump, radiator, and especially aluminum parts; through such corrosion would cause partial or complete stoppage of the water passages in the radiator with consequent overheating; would expand and create foam with resulting leakage and loss of the material and impairment of circulation; would not maintain a water level and so would result in overheating; and was not a permanent anti-freeze;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with effect of inducing it to purchase substantial quantities of said product thereby:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

As respects the fact that it appeared that respondent in July 1950 filed a petition in the District Court of Illinois for reorganization under the Bankruptcy Act and that an amended petition was thereafter filed and approved, and the assets, with certain exceptions, sold to a purchaser who agreed to sell those pledged and remit the proceeds to the court: it further appeared that the purchaser had continued to use the corporate name and was continuing the business in which the corporation was engaged before such reorganization.

Before *Mr. Henry P. Alden* and *Mr. Webster Ballinger*, hearing examiners.

Mr. Jesse D. Kash for the Commission.

Griffin, Winning, Lindner & Newkirk, of Springfield, Ill., for respondent.

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 C. G. Whitlock Chemical Company, a corporation, hereinafter referred to as respondent, has violated the provisions of the 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. C. G. Whitlock Chemical Company is a corporation organized under and by virtue of the laws of the State of Illinois, with its office and principal place of business located in Springfield, Illinois.

PAR. 2. The respondent is now and for more than one year last past has been engaged in the manufacture, sale and distribution of a solution called "Frigid-O," intended to protect gasoline engines from damage that might be caused by the freezing of the cooling systems of such engines during cold weather.

In the course and conduct of such business respondent causes its said product when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States and maintains and at all times mentioned herein has maintained a course of trade in said product in commerce among and between the various States of the United States. Its volume of business in such commerce is substantial.

PAR. 3. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said anti-freeze product, respondent has made certain representations concerning the nature of its said product and the results to be obtained from its use, by means of statements made in advertising matter and on the labels attached to the containers of said product. Typical of such statements and representations circulated as aforesaid are the following:

Representations in Advertising Matter

Be Wise * * * Winterize with Frigid-O-BG.

SAFE STURDY EFFICIENT ECONOMICAL.

MEETS THE REQUIREMENTS FOR STATES LICENSING AND APPROVAL.

Whitlock's FRIGID-O–BG Formula. Blended Glycol. One U. S. Gallon. PERMANENT ANTI-FREEZE. Non-Evaporating Variety. C. G. WHITLOCK CHEMICAL CO., Springfield, Illinois.

Representations Made on the Labels

FRIGID-O–BG cooling capacity in solution is equal to water. FRIGID-O–BG will not expand and be lost through overflow pipes in normal operation. FRIGID-O–BG is permanent type. Once installed, you usually maintain water level in radiator for complete protection. FRIGID-O–BG contains Blended Glycol, Rust Inhibitor and artificial color. From the results of our experiences, tests, practical application and reports of Independent Laboratories, FRIGID-O–BG is offered as a permanent type anti-freeze to be used only in the cooling systems of water cooled engines. Following the usual practice of the Chemical Industry, FRIGID-O–BG is sold without warranty or other liability of any kind. No Chloride Salt such as calcium chloride, sodium chloride or magnesium chloride is used as an ingredient in the manufacture of FRIGID-O–BG. BE WISE AND WINTERIZE with FRIGID-O–BG.

WHITLOCK'S FRIGID-O Brand BG FORMULA. BLENDED GLYCOL-NON-ACETATE. ONE U. S. GALLON. PERMANENT TYPE ANTIFREEZE. NON-EVAPORATING VARIETY. C. G. WHITLOCK CHEMICAL CO., SPRINGFIELD, ILL.

PAR. 4. Through the use of the statements and representations above set forth and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that its product "Frigid-O" prevents freezing in the cooling systems of gasoline engines without harm to the engine or the cooling system thereof; that it contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact and particularly the cooling system; that it will not expand, overflow or be lost in normal operation; that it will maintain a water level in the radiator to the extent that the engine will not overheat; and that it is a permanent type anti-freeze.

PAR. 5. The foregoing representations are false, deceptive and misleading. Respondent's product is not harmless to gasoline engines or to the cooling systems thereof. It will not prevent rust or corrosion in any part of the engine or cooling system. In truth and in fact, respondent's product has highly injurious effects on the cooling systems of gasoline engines in that it will cause serious corrosion of the cylinder block, water pump, radiator, and especially of any aluminum parts. The corrosion resulting from the use of such solution will cause partial or complete stoppage of the water passages in the radiator with consequent overheating. Said product does expand and creates foam resulting in leakage and loss of the material to a point where circulation in the engine and radiator is impaired. It will not maintain a water level in the radiator so that the engine will not overheat and consequently it is not a permanent type anti-freeze.

PAR. 6. For many years solutions have been on the market and sold to the purchasing public throughout the United States for the protection of gasoline engines from damage that might be caused by the freezing of the contents of the cooling systems of such engines. These solutions are generally known as "anti-freeze" and have proven dependable in protecting the engines from the effect of cold without themselves causing damage. As a consequence, when such a product is so designated, a substantial portion of the purchasing public believes that it may be used without harm to the engine or cooling system thereof. Respondent's product will cause damage to the engine and cooling system and the designation of its product as an "anti-freeze" is, consequently, misleading.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading representations has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and induces and has induced members of the purchasing public to purchase substantial quantities of respondent's product as a result of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices 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.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated November 20, 1952, the initial decision in the instant matter of hearing examiner Webster Ballinger, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY WEBSTER BALLINGER, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 1, 1950, issued and subsequently served its complaint in this proceeding upon respondent, C. G. Whitlock Chemical Company, a corporation, charging it with the use of unfair and deceptive acts or practices in commerce in violation of the provisions of said Act. Respondent answered, and thereafter hearings were held at which testimony and other evidence in support of the allegations of the complaint were introduced before Henry P. Alden, Esq., a hearing examiner theretofore duly designated

by the Commission, counsel for respondent being present. Upon the retirement from the service of said hearing examiner, the above-named hearing examiner was duly designated and appointed in the place and stead of the said Henry P. Alden. A hearing was thereafter held at which evidence was introduced by counsel for the complaint for and on behalf of the respondent before the above-named hearing examiner, the respondent failing to appear. After due notice the hearings were closed and the testimony and other evidence duly filed and recorded in the office of the Commission.

Thereafter, the proceeding regularly came on for final consideration by the above-named hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusion drawn therefrom submitted by counsel for the complaint (none having been filed by counsel for respondent), oral argument not having been requested; and said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. C. G. Whitlock Chemical Company is a corporation organized under and by virtue of the laws of the State of Illinois with its office and principal place of business located in Springfield, Illinois.

PAR. 2. The respondent, prior to December 31, 1948, was engaged in the manufacture, sale and distribution of a product called "Frigid-O" intended to protect gasoline engines from damage that might be caused by the freezing of the cooling systems of gasoline engines during cold weather. Subsequent to December 31, 1948, respondent has been engaged in the manufacture, sale, and distribution of a product called "FRIGID-O–BG" under a different formula.

In the course and conduct of such business respondent caused its said product "Frigid-O–BG" when sold to be transported from its place of business in the State of Illinois to purchasers thereof located in various part of the United States and maintains, and at all times mentioned herein has maintained, a course of trade in said product in commerce among and between the various States of the United States. Its volume of business in such commerce is substantial.

PAR. 3. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said anti-freeze product respondent has made certain representations concerning the nature of its said product "Frigid-O-BG" and the results to be obtained from its use by means of statements made in advertisting matter and on the labels attached to the containers of said product. Typical of such

statements and representations circulated as aforesaid are the following:

Representations in Advertising Matter

Be Wise * * * Winterize with Frigid-O-BG.
SAFE STURDY EFFICIENT ECONOMICAL.
MEETS THE REQUIREMENTS FOR STATES LICENSING AND APPROVAL.
Whitlock's FRIGID-O-BG Formula. Blended Glycol. One U. S. Gallon PERMANENT ANTI-FREEZE, Non-Evaporating Variety. C. G. WHITLOCK CHEMICAL CO., Springfield, Illinois.

Representations Made on the Labels

FRIGID-O–BG cooling capacity in solution is equal to water. FRIGID-O–BG will not expand and be lost through overflow pipes in normal operation. FRIGID-O–BG is permanent type. Once installed, you usually maintain water level in radiator for complete protection. FRIGID-O–BG contains Blended Glycol, Rust Inhibitor and artificial color. From the results of our experiences, tests, practical application and reports of Independent Laboratories, FRIGID-O–BG is offered as a permanent type anti-freeze to be used only in the cooling systems of water cooled engines. Following the usual practice of the Chemical Industry, FRIGID-O–BG is sold without warranty or other liability of any kind. No Chloride Salt such as calcium chloride, sodium chloride or magnesium chloride is used as an ingredient in the manufacture of FRIGID-O–BG. BE WISE AND WINTERIZE with FRIGID-O–BG.

WHITLOCK'S FRIGID-O Brand BG FORMULA. BLENDED GLYCOL NON-ACETATE. ONE U. S. GALLON. PERMANENT TYPE ANTIFREEZE. NON-EVAPORATING VARIETY. C. G. WHITLOCK CHEMICAL CO., SPRINGFIELD, ILL.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that its product "FRIGID-O–BG" prevents freezing in the cooling systems of gasoline engines without harm to the engine or to the cooling system thereof; that it contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact, and particularly the cooling system; that it will maintain a water level in the radiator to the extent that the engine will not overheat; and that it is a permanent type anti-freeze.

PAR. 5. The foregoing representations are false, deceptive and misleading. Respondent's product is not harmless to gasoline engines or to the cooling systems thereof. It will not prevent rust or corrosion in any part of the engine or cooling system. Respondent's product has highly injurious effects on the cooling systems of gasoline engines in that it will cause serious corrosion of the cylinder block, water pump, radiator, and especially of any aluminum parts. The corrosion resulting from the use of such solution will cause partial or complete

stoppage of the water passages in the radiator with consequent overheating. Said product does expand and creates foam resulting in leakage and loss of the material to a point where circulation in the engine and radiator is impaired. It will not maintain a water level in the radiator so that the engine will not overheat, and is not a permanent type anti-freeze.

PAR. 6. For many years solutions have been on the market and sold to the purchasing public throughout the United States for the protection of gasoline engines from damage that might be caused by the freezing of the contents of the cooling systems of such engines. These solutions are generally known as "anti-freeze" and have proved dependable in protecting the engines from the effect of cold without themselves causing damage. As a consequence, when such a product is so designated, a substantial portion of the purchasing public believes that it may be used without harm to the engine or cooling system thereof.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading representations has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true, and induces, and has induced, members of the purchasing public to purchase substantial quantities of respondent's product as a result of such erroneous and mistaken belief.

PAR. 8. It appears from unauthenticated papers included in the record that on July 17, 1950, respondent filed in the District Court for the Southern District of Illinois a petition for reorganization under Chapter 10 of the Bankruptcy Act; that an amended petition was thereafter filed, approved and all the assets of the corporation, with the exception of certain assets therefore pledged, were sold to a purchaser, who agreed to sell the pledged assets and remit the proceeds thereof to the court; that the purchaser has continued to use the corporate name and is continuing the business in which the corporation was engaged before the reorganization.

CONCLUSION

The aforesaid acts and practices as herein found 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.

ORDER

It is ordered, That C. G. Whitlock Chemical Company, a corporation, its successors or assigns, officers, agents, representatives and

employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of an anti-freeze solution designated "FRIGID-O–BG" do forthwith cease and desist from:

1. Representing that its product "FRIGID-O–BG," or any other product of substantially similar composition, is an anti-freeze preparation for use in cooling systems of internal combustion engines, without affirmatively stating in a clear and conspicuous manner in immediate conjunction with such representation, that said preparation will rust and corrode the cooling system of such an engine and clog the passages in such cooling system and otherwise damage such engine.

2. Representing that its product "FRIGID-O–BG" contains an effective rust inhibitor and will prevent rust or corrosion of all parts of the engine which it may contact, and particularly the cooling system.

3. Representing that its product "FRIGID-O–BG" will not expand, overflow or be lost in normal operation.

4. Representing that its product "FRIGID-O–BG" will maintain a water level in the radiator to the extent that the engine will not overheat, or that it is a permanent type anti-freeze.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said declaratory decision and order of November 20, 1952].

Syllabus

IN THE MATTER OF

HARRY H. AND ETHEL P. HEYMAN TRADING AS SUNWAY VITAMIN COMPANY

COMPLAINT, MODIFIED FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26 1914

Docket 5224. Complaint Dec. 20, 1946[1]*—Decision, Dec. 1, 1952*

Where a surviving partner engaged through a corporate instrumentality in the interstate sale and distribution of a medicinal preparation containing various components of the Vitamin B complex and designated as "Sunway Vitamin Capsules"; in advertising through letters, circulars, pamphlets, booklets, and other advertising literature, and radio continuities—

(*a*) Falsely represented that said preparation would relieve and eliminate low resistance to disease, coughs and colds; when in fact such low resistance is not caused by a deficiency of any of the components of its said product;

(*b*) Falsely represented that it would relieve and eliminate nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells, and general poor health, due to any vitamin deficiency; when it was of no value in doing so except in that minority of such conditions caused by a deficiency of Vitamin B_1, Vitamin B_2, or niacinamide; and it had not been scientifically determined that a deficiency of Vitamin B_6 or calcium pantothenate, the only other active ingredient, could result in any of the aforesaid disorders;

(*c*) Falsely represented that the use of such preparation as directed was effective in relieving conditions arising from substantial deficiencies in one or more components of the Vitamin B complex; when in fact it was thus effective only in cases arising from a substantial deficiency of vitamin B_1, as to which it provided what is currently regarded as a therapeutic dose; while it contained approximately the daily minimum requirements of Vitamin B_2 and niacinamide, it did not provide a recognized therapeutic dosage thereof; and while it would be effective in relieving ailments caused solely by deficiencies of Vitamin B_1, and, when taken regularly over a long period of time, would tend to relieve such conditions resulting from mild deficiencies of Vitamin B_2 and niacinamide, it would be of no value in cases of substantial deficiencies of said last two;

(*d*) Represented that said capsules contained all of the vitamins that are beneficial in promoting or maintaining good health in individuals generally, and that the most carefully selected foods, cooked in the tastiest ways, fail to supply the vitamins necessary for health, and that individuals generally require a fresh supply of vitamins daily through the administration of respondent's vitamin capsules or like products;

When in fact it did not contain Vitamins A, C and D; and it is entirely possible to secure the vitamins necessary for health through the ingestion of foods properly selected and appropriately cooked, and individuals generally do not

[1] Amended.

require a fresh supply of vitamins daily through the administration of medicinal preparations;

(e) Represented that Vitamin B_6 (Pyriodoxin) is essential to nutrition and promotes restful sleep, that pantothenic acid is appropriately referred to as the "Acid of life", and Vitamin B_2 as the "beauty vitamin"; notwithstanding the fact that such representations were not justified by scientific evidence;

(f) Represented that 45,000,000 Americans suffer perpetually from vitamin deficiencies, and that her said vitamin capsules were effective in minimizing the physical condition resulting from over-indulgence in alcoholic beverages; when there is no scientific evidence upon which to base said assertions; and

(g) Falsely represented in her advertising that an initial supply of said capsules might be obtained by payment to the postman of $1 plus a few cents postage; when in fact it was her general practice to send her capsules through the mail, requiring cash on delivery, and the payment of the C. O. D. charges, insurance charges and postage before the capsules could be obtained;

With tendency and capacity to mislead a substantial portion of the purchasing public into the mistaken belief that said representations were true; and with effect of inducing it to purchase large quantities of said preparation:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. John L. York and *Mr. Jesse D. Kash* for the Commission.

Hickey & Hall and *Mr. Henry Junge*, of Chicago, Ill., for respondents.

AMENDED 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 Harry H. Heyman and Ethel P. Heyman, a copartnership, trading as Sunway Vitamin Co., 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 amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Harry H. Heyman and Ethel P. Heyman, are copartners trading and doing business under the name and style of Sunway Vitamin Co. and having their office and principal place of business at 154 East Erie Street, in the city of Chicago, Ill.

PAR. 2. Respondents are now and for more than 1 year last past have been engaged in the sale and distribution to members of the public in general of a medicinal preparation containing various com-

ponents of the Vitamin B complex which respondents designate and identify by the trade name or brand, "Sunway Vitamin Capsules."

Respondents cause and have caused said Sunway Vitamin Capsules, when so sold, to be transported from their principal place of business in Chicago, Ill., to the purchasers and users thereof in the various States of the United States other than the State of Illinois and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade and commerce in said Sunway Vitamin Capsules between and among the States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and the respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by means of letters, circulars, pamphlets, booklets, and other advertising literature and by radio continuities, are the following:

According to highest medical and health authorities any or all of the following conditions may result from a lack of necessary Vitamins: lack of vigor—physical and mental dullness—lack of ambition—tire easily—poor digestion—restless sleep—aches and pains—nervousness—low resistance to disease, colds, and coughs—unhealthy skin and hair—irritable disposition—failing appetite—and many more.

Wouldn't you like to feel full of pep and energy, gloriously alive, glowing with health, free from nervous upsets? Wouldn't you like to enjoy normal sleep and appetite, stamina to carry through all day long, sunny disposition, and a cheerful outlook on life? Why of course you would! Who wouldn't? VITAMINS may be the answer, the means to better health and energy for you. Use the enclosed order blank, and order your SUNWAY VITAMINS today.

These Sunway Capsules contain the all-important Vitamin B_1, for good nerves, good appetite and digestion—and a vitamin absolutely essential to vigorous vitality! And they contain B_2—often called the Beauty vitamin; they contain Pyriodoxin—the B vitamin that promotes restful sleep; Pantothenic acid, often called the "Acid of life"; Nicotinic Acid; and—the important liver concentrate, which enriches the blood. All of these vitamins—as well as others beneficial

to health—are present in Sunway Vitamin Capsules! And only in Sunway Vitamin Capsules can you obtain this high-power formula in the strength of vitamins it contains!

Vitamin B_1 (Thiamin) * * * minimizes after effects of alcohol * * *. Cooking destroys many of the VITAMINS in foods. Therefore, the most carefully selected diet, cooked in the tastiest ways, will usually fail to supply the full quota of needed VITAMINS each day.

VITAMINS are not stored within the body (except small quantities of A). The body simply discards any excess supply. A fresh supply is required DAILY. * * * So when your present supply of SUNWAY VITAMINS is gone, a new supply may become heaven-sent HEALTH INSURANCE at a cost of but a few cents per day.

That tired-out feeling of yours may indicate that you are one of the 45,000,000 Americans said to be living in a perpetual state of "half health" simply because of Vitamin deficiency! Yes, 45,000,000 seemingly well-fed Americans suffering from Vitamin deficiency!

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import not specifically set out herein, respondents represent, directly and by implication, as follows:

(1) Sunway Vitamin Capsules will relieve and eliminate generally nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, low resistance to diseases, colds and coughs, unhealthy skin and hair, dizzy spells, and general poor health in individuals.

(2) The administration of said vitamin capsules as prescribed by respondents is effective in relieving conditions arising from substantial deficiency of one or more components of the vitamin B complex in the human body.

(3) Said vitamin capsules contain all of the vitamins that are beneficial in promoting or maintaining good health in individuals generally.

(4) Individuals generally require a fresh supply of vitamins daily through the administration of respondents' vitamin capsules or like vitamin capsules as the most carefully selected diet, cooked in the tastiest way fails to supply the necessary vitamins.

(5) Vitamin B_6 (Pyriodoxin) is essential to nutrition and promotes restful sleep.

(6) Pantothenic acid is appropriately referred to as the "Acid of Life."

(7) Forty-five million Americans suffer perpetually from vitamin deficiencies.

(8) Vitamin B_2 is appropriately referred to as the "beauty vitamin."

(9) Respondents' vitamin capsules are effective in minimizing the physical conditions resulting from overindulgence in alcoholic beverages.

PAR. 5. In truth and in fact, the foregoing representations and implications made by respondents are false, deceptive, and misleading in the following respects:

(1) Said vitamin capsules will not generally relieve or correct nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, low resistance to diseases, colds and coughs, unhealthy skin and hair, dizzy spells, and general poor health in individuals. These indications of physical disorders are frequently symptoms of diseases and conditions of the body that are not associated with a deficiency of any component of the vitamin B complex, and in such cases, no amount of such vitamins would be effective in relieving or correcting said symptoms, diseases or conditions.

(2) Where physical conditions arise from substantial deficiency of one or more of the components of the vitamin B complex, dosage of said vitamin capsules as prescribed by respondents will not be effective in relieving or substantially improving said conditions, as much stronger dosage of said vitamins is then required.

(3) Said vitamin capsules do not contain vitamins A, C, or D and hence do not contain all of the vitamins that are beneficial in promoting or maintaining good health in individuals.

(4) Individuals generally do not require a fresh supply of vitamins daily through the administration of medicinal preparations and it is entirely possible to secure the vitamins necessary for health through the ingestion of properly selected foods that are cooked appropriately.

(5) It has not been established upon the basis of scientific evidence that Vitamin B_6 is essential to nutrition or promotes restful sleep or that Pantothenic acid can be referred to appropriately as the "Acid of life" or that vitamin B_2 can be appropriately referred to as the "beauty vitamin."

(6) There is no scientific evidence upon which to base the assertion that 45,000,000 Americans are suffering perpetually from vitamin deficiencies or that the use of respondents' product or of any like product will minimize the conditions resulting from overindulgence in alcoholic beverages.

The said advertisements are also false and misleading in that they fail to disclose facts material in the light of the representations therein contained, that is, that the causes of the conditions referred to in said advertisements are so numerous that the mere existence thereof are such uncertain indications of vitamin deficiencies that there is no reasonable likelihood that persons will be benefited by the use of respondents' product.

PAR. 6. Respondents likewise represent in said advertising material that an initial supply of said vitamin capsules can be obtained by payment to the purchaser's postman of $1 plus a few cents postage, whereas in truth and in fact such initial supply of said vitamin capsules cannot be obtained by such payment since it is the general practice of respondents to send said capsules to the purchaser by the United States mails, requiring cash on delivery and the c. o. d. charges, insurance charges and postage required, amount to more than a few cents.

PAR. 7. Said representations and implications made by respondents in said advertising material have the capacity and tendency to and do mislead and deceive purchasers and prospective purchasers of said Sunway Vitamin Capsules, and a substantial portion of the general public by creating the erroneous belief that said representations and implications are true and that all facts material in the light of the representations made by respondents have been disclosed in said advertising. By the use of said false advertisements and the representations and implications made therein, respondents cause and have caused a substantial portion of the purchasing public to buy large quantities of respondents' vitamin capsules.

PAR. 8. The aforesaid acts and practices of respondents, 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.

REPORT, MODIFIED FINDINGS AS TO THE FACTS AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 25, 1944, issued and subsequently served its complaint in this proceeding upon respondents Harry H. Heyman and Ethel P. Heyman, co-partners trading as Sunway Vitamin Company, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that Act. After the filing by respondents of their answer to the complaint, and on December 20, 1946, the Commission issued and subsequently served its amended complaint upon said respondents. After the filing of respondents' answer to said amended complaint, the Commission, by order entered herein granted respondents' motion for permission to withdraw said answer to said amended complaint and to substitute therefor an answer admitting all the material allegations of fact set forth in said amended complaint and waiving all intervening procedure and further hearings as to said facts, which substitute answer was duly filed in the office of the Commission.

Thereafter, the proceeding regularly came on for final hearing before the Commission on the said amended complaint and substitute answer, and the Commission, having duly considered the matter, made and issued on March 25, 1948, its findings as to the facts, conclusion and order to cease and desist.

On June 15, 1951, this matter was reopened by the Commission for the reception of evidence as to certain facts for the purpose of assisting the Commission in determining the necessity of modifying the findings as to the facts, conclusion and order to cease and desist. A stipulation of counsel as to said facts being submitted in lieu of such evidence, the Commission accepted said stipulation and thereupon issued and served upon Ethel P. Heyman, the sole surviving respondent, a tentative findings as to the facts, conclusion and order to cease and desist, together with an order granting her leave to show cause why the original findings as to the facts, conclusion and order to cease and desist herein should not be modified to conform to said tentative draft.

Thereafter, this matter came on for reconsideration by the Commission upon the entire record herein, including said stipulation and tentative findings as to the facts, conclusion and order to cease and desist (respondent having filed no objection thereto within the time permitted by the order to show cause); and the Commission, having reconsidered the matter and being of the opinion that the findings as to the facts and conclusion should be modified, makes this its modified findings as to the facts and conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Ethel P. Heyman, an individual, is the president and principal stockholder of Sunway Vitamin Company, an Illinois corporation with its principal office at 314 W. Institute Place, Chicago, Illinois, which corporation is a successor to the Sunway Vitamin Company, a partnership. Prior to October 10, 1946, respondent Ethel P. Heyman and respondent Harry H. Heyman, now deceased, were copartners trading as Sunway Vitamin Company. The term "respondent" as used hereinafter will refer to Ethel P. Heyman.

PAR. 2. Respondent Ethel P. Heyman, acting through Sunway Vitamin Company, a partnership, prior to October 10, 1946, and acting through the Sunway Vitamin Company, a corporation, since that date, has been and is now engaged in the sale and distribution of a medicinal preparation containing various components of the Vitamin B complex, designated and identified by the trade name or brand

"Sunway Vitamin Capsules." Respondent causes said preparation, when sold, to be transported from the State of Illinois to purchasers thereof in various other states of the United States and in the District of Columbia, and respondent maintains, and at all times mentioned herein has maintained, a course of trade and commerce in said preparation among and between the states of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of said business, respondent has disseminated and has caused the dissemination of advertisements concerning said preparation by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent has also disseminated and has caused the dissemination of advertisements concerning said preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by means of letters, circulars, pamphlets, booklets, and other advertising literature, and by radio continuities, are the following:

According to highest medical and health authorities *any* or all of the following conditions may result from a lack of necessary Vitamins:—*lack of vigor—physical and mental dullness—lack of ambition—tire easily—poor digestion—restless sleep—aches and pains—nervousness—low resistance to disease, colds and coughs—unhealthy skin and hair—irritable disposition—failing appetite—and many more.*

Wouldn't you like to feel full of pep and energy, gloriously alive, glowing with health, free from nervous upsets? Wouldn't you like to enjoy normal sleep and appetite, stamina to carry through all day long, sunny disposition and cheerful outlook on life? Why of course you would! Who wouldn't? VITAMINS may be the answer, the means to better health and energy for you. Use the enclosed order blank, and order your SUNWAY VITAMINS today.

These Sunway Capsules contain the all important Vitamin B_1 for good nerves, good appetite and digestion—and a vitamin absolutely essential to vigorous vitality! And they contain B_2—often called the Beauty vitamin; they contain Pyriodoxin—the B vitamin that promotes restful sleep; Pantothenic acid, often called the "Acid of life"; Nicotinic Acid; *and*—the important liver concentrate, which enriches the blood. *All* of these vitamins—as well as others beneficial to health, are present in Sunway Vitamin Capsules; And *only* in Sunway Vitamin Capsules can you obtain this high power formula in the strength of vitamins it contains!

Vitamin B_1 (Thiamin) * * * minimizes after effects of alcohol * * *.

Cooking destroys many of the VITAMINS in foods. Therefore the most carefully selected diet, cooked in the tastiest ways, will usually fail to supply the full quota of needed VITAMINS each day.

VITAMINS are not stored within the body (except small quantities of A). The body simply discards any excess supply. A fresh supply is required DAILY. * * * so when your present supply of SUNWAY VITAMINS is gone, a new supply may become heaven-sent *HEALTH INSURANCE* at a cost of but a few cents per day.

That tired out feeling of yours may indicate that you are one of the 45,000,000 Americans said to be living in a perpetual state of "half health" simply because of Vitamin deficiency! Yes, 45,000,000 seemingly well fed Americans suffering from Vitamin deficiency!

PAR. 4. Through the use of the foregoing statements and representations and others of the same import, respondent has represented, directly and by implication, as follows:

(1) That Sunway Vitamin Capsules will relieve and eliminate low resistance to disease, coughs and colds.

(2) That said preparation will relieve and eliminate nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells, and general poor health, due to any vitamin deficiency.

(3) That the use of said preparation, as directed, is effective in relieving conditions arising from substantial deficiencies of one or more components of the Vitamin B complex.

(4) That said preparation contains all of the vitamins that are beneficial in promoting or maintaining good health in individuals generally.

(5) That the most carefully selected foods, cooked in the tastiest ways, fail to supply the vitamins necessary for health, and that individuals generally require a fresh supply of vitamins daily through the administration of respondent's vitamin capsules or like vitamin capsules.

(6) That Vitamin B_6 (Pyriodoxin) is essential to nutrition and promotes restful sleep.

(7) That Pantothenic acid is appropriately referred to as the "Acid of life."

(8) That 45,000,000 Americans suffer perpetually from vitamin deficiencies.

(9) That Vitamin B_2 is appropriately referred to as the "beauty vitamin."

(10) That said vitamin capsules are effective in minimizing the physical condition resulting from over-indulgence in alcoholic beverages.

PAR. 5. The formula for respondent's preparation, Sunway Vitamin Capsules, is as follows:

Ingredients	*Quantities*
Vitamin B_1 (Thiamin Hydrochloride)	2.5 mg. or 850 U. S. P. Units
Vitamin B_2 (Riboflavin)	1.0 mg.
Vitamin B_6 (Pyriodoxine Hydrochloride)	0.25 mg.
Niacinamide	5.0 mg.
Calcium Pantothenate	0.5 mg.

The directions for use are to take two tablets daily.

PAR. 6. The foregoing statements and representations are false, deceptive and misleading in the following respects:

(1) Low resistance to disease, coughs and colds are not caused by a deficiency of any of the components of respondent's said preparation and said preparation is of no value in relieving or eliminating said symptoms, conditions or diseases.

(2) Said preparation is of no value in relieving or eliminating nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells and general poor health except in that minority of cases where such symptoms, conditions or disorders are caused by a deficiency of Vitamin B_1, Vitamin B_2, or niacinamide. It has not been scientifically determined that a deficiency of Vitamin B_6 or calcium pantothenate could result in any of the above-listed symptoms, conditions or disorders. Said preparation does not contain any other active ingredient.

(3) Said preparation is not effective in relieving or eliminating conditions arising from a substantial deficiency of any vitamin other than Vitamin B_1. Said preparation, taken as directed, provides what is currently regarded as a therapeutic dose of Vitamin B_1, and approximately the minimum daily nutritional requirements of Vitamin B_2 and niacinamide but does not provide a recognized therapeutic dosage of these substances. When used as directed, said preparation will be effective in relieving conditions, symptoms and disorders arising solely by reason of deficiency of Vitamin B_1. If taken regularly over a long period of time, said preparation will also tend to relieve conditions, symptoms and disorders resulting from mild deficiencies of Vitamin B_2 and niacinamide. In cases of substantial deficiency of Vitamin B_2 and niacinamide, however, the use of said preparation as directed would be of no value.

(4) Said preparation does not contain Vitamins A, C and D and, thus, does not contain all of the vitamins that are beneficial in promoting or maintaining good health in individuals.

(5) It is entirely possible to secure the vitamins necessary for health through the ingestion of properly selected foods that are cooked appropriately, and individuals generally do not require a fresh supply

of vitamins daily through the administration of medicinal preparations.

(6) It has not been established upon the basis of scientific evidence that Vitamin B_6 (Pyriodoxin) is essential to nutrition or promotes restful sleep, or that Pantothenic acid can be referred to appropriately as the "Acid of life," or that Vitamin B_2 can be appropriately referred to as the "beauty vitamin."

(7) There is no scientific evidence upon which to base the assertion that 45,000,000 Americans are suffering perpetually from vitamin deficiencies, or that the use of respondent's preparation or of any like product will minimize the conditions resulting from overindulgence in alcoholic beverages.

PAR. 7. Respondent also represented in her advertising material that an initial supply of said vitamin capsules may be obtained by payment to the purchaser's postman of $1.00 plus a few cents postage, whereas, in truth and in fact, such initial supply of said vitamin capsules cannot be obtained by such payment. It is the general practice of respondent to send her capsules to the purchaser through the United States mails, requiring cash on delivery, and the c. o. d. charges, insurance charges and postage must all be paid before the capsules are obtained.

PAR. 8. The use by respondent of the foregoing false, misleading and deceptive statements has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase large quantities of respondent's preparation.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, 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.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission and the answer of respondents, in which answer respondents admit all of the material allegations of fact set forth in said amended complaint and waive all in-

tervening procedure and further hearings as to said facts, and the Commission, after having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act, having, on March 25, 1948, issued and subsequently served upon the sole surviving respondent, Ethel P. Heyman, said findings as to the facts, conclusion, and its order to cease and desist; and

This proceeding having been reopened and additional evidence having been received and the Commission, after reconsideration of this matter on the basis of the present record, having made its modified findings as to the facts and its conclusion that respondent, Ethel P. Heyman, has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Ethel P. Heyman, her representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Sunway Vitamin Capsules, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do 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 represents, directly or by implication:

(a) That the use of said preparation is of any value in relieving or eliminating low resistance to disease, coughs or colds.

(b) That the use of said preparation is of any value in relieving or eliminating nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells and general poor health, due to any cause other than a deficiency of Vitamin B_1, Vitamin B_2 or niacinamide.

(c) That the use of said preparation as prescribed will be of value in relieving nervousness, lack of energy, restless sleep, indigestion, aches and pains, loss of appetite, unhealthy skin and hair, dizzy spells and general poor health, caused by a deficiency of Vitamin B_2 or niacinamide, other than that it will tend to relieve said conditions, symptoms and disorders when due to a mild deficiency if taken regularly over a long period of time.

(d) That the use of said preparation as prescribed is effective in relieving or substantially improving any condition, symptom or disorder arising from a substantial deficiency of any vitamin other than Vitamin B_1.

(e) That said preparation contains all of the vitamins that are beneficial in promoting or maintaining good health in individuals.

(f) That individuals generally require a fresh supply of vitamins daily in addition to those obtained from properly selected foods appropriately cooked.

(g) That Vitamin B_6 (Pyriodoxin) is essential to nutrition or promotes restful sleep.

(h) That Pantothenic acid is appropriately referred to as the "Acid of life."

(i) That 45,000,000 Americans suffer perpetually from vitamin deficiencies.

(j) That Vitamin B_2 is appropriately referred to as the "beauty vitamin."

(k) That said preparation is effective in minimizing the physical conditions resulting from overindulgence in alcoholic beverages.

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 of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That respondent, Ethel P. Heyman, her representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, do forthwith cease and desist from representing, directly or indirectly, that a supply of said preparation may be obtained by the payment of any sum of money, plus a few cents postage, unless at the same time it is clearly and conspicuously disclosed that the c. o. d. and insurance charges also must be paid.

It is further ordered, That the respondent shall, within sixty (60) days after service upon her of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which she has complied with this order.

IN THE MATTER OF

DOLCIN CORPORATION ET AL.

COMPLAINT, DECISION, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5692. Complaint, Aug. 18, 1949—Decision, Dec. 2, 1952

The terms "arthritis" and "rheumatism" are general terms, sometimes used interchangeably, which may refer to any of many diseases or pathological conditions including rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, which are characterized by such symptoms or manifestations as pain, stiffness, and inflammatory and destructive changes in the joints and tissues of the body.

Such pathological conditions are of known as well as unknown origin, examples of the former being infectious arthritis, such as arthritis of syphilis, arthritis of gonorrhea, and arthritis associated with pneumonia and tubercular infections, as well as gout, which is connected with disturbances of metabolism; while examples of the latter include rheumatoid arthritis, osteomyelitis and rheumatic fever.

The various pathological conditions generally referred to as arthritis and rheumatism progress and develop differently. Likewise, they require different treatment, which will vary not only between different types of such ailments, but between different individuals suffering from the same ailment, and between different stages in the progress thereof. An adequate, effective, or reliable treatment for any kind of "arthritis" or "rheumatism" must, therefore, be predicated upon individual diagnosis, in order to determine whether the patient has arthritis or rheumatism, the particular kind of such ailment present, and whether it arose from a known or an unknown cause.

An adequate, effective, and reliable treatment for any of the various types of ailments included in the general terms "arthritis" and "rheumatism" may involve application of various therapeutic measures, including diet, rest or change of occupation, various types of physiotherapy such as orthopedic or thermal procedures, and medication; and delay of proper diagnosis, with consequent failure to administer appropriate treatment, may result in irreversible pathological changes, causing a crippled, useless joint or extremity, especially in those forms of arthritis and rheumatism known to be caused by specific infections.

There is no drug or combination of drugs, regardless of how administered, which will constitute an adequate, effective, or reliable treatment for the various forms of arthritis or rheumatism, or which can restore to normal the pathological changes which result from arthritic or rheumatic ailments.

Aspirin is one of the safest analgesics known and is widely prescribed by physicians in large dosages for temporary relief of pain and fever in arthritic and rheumatic conditions, and while serious results from such excessive use are

rare, less serious but undesirable effects such as headache, nausea, and vomiting will occur in persons unable to tolerate it.

Where a corporation and its three officers, engaged in the interstate sale and distribution of their "Dolcin" tablets, sale of which in 1948 exceeded $1,000,000; in advertising through broadcasts and in professional and trade journals of national circulation, and in various circulars and pamphlets distributed throughout the United States, directly or by implication—

(*a*) Falsely represented that said product constituted an adequate, effective and reliable treatment for rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis and all other forms of rheumatism and arthritis and the symptoms and manifestations thereof, and would arrest the progress, correct the underlying causes, and cure and prevent the recurrence of such ailments and conditions; and

(*b*) Falsely represented that said preparation constituted an adequate, effective and reliable treatment for so-called "growing pains" in children, and that its use would prevent rheumatic fever, which may be preceded by such pains;

The facts being that the ingredient calcium succinate, to be therapeutically operative, must be administered intravenously and content thereof was entirely too small to have any effect; the only active ingredient, acetylsalicylic acid, or aspirin, was insufficient to relieve the severe aches, pains, and discomforts attendant upon arthritic and rheumatic conditions, though as an analgesic and antipyretic it might afford temporary relief to the minor aches and pains; and, except for such temporary relief, Dolcin could not be depended upon to have any effect whatever upon the symptoms accompanying rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, etc.; and it would not in other respects accomplish results claimed therefor;

(*c*) Falsely represented that it was non-toxic; that it could be used over prolonged periods of time without harmful effects; that aspirin is sometimes harmful; and that persons adversely affected by aspirin can take "Dolcin" with safety;

The facts being that "Dolcin", by virtue of its aspirin content, might be toxic to some extent and could not be taken over prolonged periods without danger of harmful effects nor be taken safely by persons adversely affected by aspirin; and

(*d*) Falsely represented that said preparation was inexpensive in that it was "economical" to purchase and of "low cost";

The facts being that while the price of 100 tablets of a well-known brand of aspirin, its only therapeutically operative ingredient, was 59¢, and that of many other brands lower, its retail price for 100 tablets was $2, and it therefore was not economical, inexpensive, or of low cost;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true and thereby into the purchase of substantial quantities of said preparation, and with tendency and capacity so to do:

Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce.

As respects the allegation of the complaint that the administration of "Dolcin" over prolonged periods of time to persons suffering from rheumatic fever might result in serious hemorrhage and even death: the record contained no substantial evidence to support the same.

Before *Mr. Abner E. Lipscomb* and *Mr. William L. Pack*, hearing examiners.

Mr. Joseph Callaway for the Commission.

Mr. Michael F. Markel, of Washington, D. C., for respondents.

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 Dolcin Corporation and Victor van der Linde, George Shimmerlik and Albert T. Wantz, individually and as officers of Dolcin 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 Dolcin Corporation is a corporation organized under the laws of the State of New York, and having its office and principal place of business at 683 Fifth Avenue, city and State of New York.

Respondents Victor van der Linde, George Shimmerlik and Albert T. Wantz are now, and at all times mentioned herein have been, directors of respondent Dolcin Corporation, and respectively the President, Treasurer and Secretary thereof; all said individual respondents have offices and principal places of business at 683 Fifth Avenue, New York, New York. The said individual respondents are now, and at all times mentioned herein have been in control of the management, policies and operation of Dolcin Corporation, particularly in respect to the acts, practices and methods herein alleged.

PAR. 2. Respondents are now, and have been for more than two years last past, engaged in the business of selling and distributing a certain drug product, as "drug" is defined in the Federal Trade Commission Act.

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

Designation: Dolcin.

Formula: Each tablet contains 2.8 grains of calcium succinate and 3.7 grains of acetylsalicylic acid, plus excipients.

Directions: Ordinarily from 8 to 12 tablets daily.

Respondents cause the said product, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned

herein have maintained, a course of trade in the said product in commerce between and among the various States of the United States and in the District of Columbia. Respondents' volume of business in such commerce is substantial, sales of Dolcin in 1948 being in excess of one million dollars.

PAR. 3. In the course and conduct of their business respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning Dolcin by the United States mails, and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce directly or indirectly its purchase.

These advertisements include, but are not limited to the following:

Radio continuities which were placed subsequent to October 7, 1948, for respondent by Victor van der Linde Company with, and broadcast by, approximately 120 radio stations throughout the country, including, but not limited to, the following stations:

The Don Lee Network, with its headquarters at Los Angeles, California, comprised of 45 stations on the west coast of the United States.
WOR—New York, N. Y.
WFIL—Philadelphia, Pa.
WPEN—Philadelphia, Pa.
WGN—Chicago, Ill.
WTAC—Worcester, Mass.
WOL—Washington, D. C.
WIND—Gary, Ind.

Radio continuities broadcast from the following stations:

KMA on or about May 22, 23 and 30, 1948.
WTCN, between September 1 and Sept. 10, 1948.
WNAY, on or about September 4, 5 and 6, 1948.
WJR, on or about December 19, 1948.

Advertisements in "Osteopathic Profession," issue of April, 1949, and an issue somewhat prior thereto, "American Druggist," issue of January 1, 1949; Utica (N. Y.) "Observer Dispatch," issue of November 7, 1948;

Pamphlet entitled "Dolcin Therapy in Arthritis";

Circular letter entitled "Dolcin Therapy";

Circular entitled "Here is what you should do about your Arthritis and Rheumatism";

Circular entitled "Dolcin Therapy for Arthritis and Rheumatic Disorders," and accompanying circular headed "Important."

Respondents have also disseminated and caused the dissemination of the advertisements referred to above for the purpose of inducing, and the said advertisements were likely to induce, directly or indirectly, the purchase of Dolcin in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Through the use of the said advertisements respondents have made, directly and by implication, the representations shown in the following sub-paragraphs, identified as (A) to (H) inclusive. The said advertisements, by reason of the said representations are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act by reason of the true facts which are set forth in sub-paragraphs (1) to (9) inclusive.

(A) That Dolcin is an adequate, effective and reliable treatment for all kinds of arthritis and rheumatism, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago and bursitis.

(1) Dolcin, however taken, is not an adequate, effective or reliable treatment for any kind of arthritis or rheumatism, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, or bursitis.

(B) That Dolcin will arrest the progress of, will correct the underlying causes of, and will cure rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, and the various kinds of rheumatism and arthrities and prevent their recurrence.

(2) Dolcin, however taken, will not arrest the progress of, will not correct the underlying causes of and will not cure rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any kind of arthritis or rheumatism, nor prevent their recurrence.

(C) That Dolcin is an adequate, effective and reliable treatment for so-called "growing pains" in children and that its use will avert rheumatic fever, of which such pains may be indicative.

(3) Dolcin, however taken, is not an adequate, effective or reliable treatment for so-called "growing pains" in children, nor will its use avert rheumatic fever.

(D) That Dolcin is an adequate, effective and reliable treatment for the symptoms and manifestations of all kinds of arthritis, or rheumatism, rheumatic fever myositis, fibrositis, neuritis, sciatica, lumbago and bursitis, and will afford complete and immediate relief from the aches, pains, and discomforts thereof.

(4) Dolcin is not an adequate, effective or reliable treatment for the symptoms or manifestations of any kind of arthritis or rheu-

matism, rheumatic fever, myositis, fibrositis, neuritis, sciatica, lumbago or bursitis; the aches, pains and discomforts incident to those ailments may be of such nature that they will be in no way alleviated by the use of Dolcin, however taken, and in other cases the relief afforded will be limited to such degree of temporary and partial analgesic and antipyretic effects as its aspirin content may afford in the individual case.

(5) The effect of Dolcin when used in any of the ailments mentioned herein is limited to temporary and partial relief of minor aches and pains, and fever.

(E) That Dolcin can be used over prolonged periods of time without harmful effects on the body.

(6) The prolonged administration of Dolcin may produce harmful effects on the body.

(F) That Dolcin can be taken with safety and immunity by persons who are adversely affected by aspirin.

(7) Aspirin is the common name for the acetylsalicylic acid in Dolcin, and Dolcin cannot be taken with safety and impunity by persons who are adversely affected by aspirin.

(G) That aspirin is toxic and Dolcin is not.

(8) Dolcin is qualitatively just as toxic as aspirin.

(H) That Dolcin is inexpensive.

(9) Dolcin is not inexpensive in comparison to simple aspirin which is the only therapeutically active component of Dolcin.

PAR. 5. The said advertisements are "false advertisements" for the further reason that they fail to reveal facts material in the light of the representations made therein with respect to the administration of Dolcin in cases of rheumatic fever, or material with respect to the consequences which may result from the use of Dolcin under the conditions prescribed in said advertisements relating to rheumatic fever. In truth and in fact, the prolonged administration of Dolcin to persons having rheumatic fever may result in serious hemorrhage and in death.

PAR. 6. The use by respondents of the said false advertisements with respect to Dolcin has had the capacity and tendency to mislead and deceive, and has misled and deceived, a substantial portion of the purchasing public into the erroneous and mistaken belief that the representations and statements contained therein were true and into the purchase of substantial quantities of Dolcin by reason of said erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and con-

stitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDERS AND DECISION OF THE COMMISSION

Order denying appeal from initial decision of hearing examiner and decision of the Commission and order to file report of compliance, Docket 5692, December 2, 1952, follows:

This matter came on to be heard by the Commission upon respondents' appeal from the initial decision of the hearing examiner, briefs in support of and in opposition to said appeal and oral argument of counsel. In support of their appeal respondents have set out in their appeal brief extensive exceptions to certain of the findings as to the facts, conclusion and provisions of the order and to certain procedural rulings of the hearing examiner. These exceptions have been fully considered and denied by the Commission in a separate order issued simultaneously herewith.

This matter relates to the truth or falsity of certain claims made by respondents in advertisements of the preparation Dolcin. There is no contest as to the actual advertisements or as to the ingredients of the preparation. The contest is as to the meaning of the advertisements and the effects of using the preparation as directed.

The record shows that respondents claimed in their advertising that, in addition to providing relief from the symptoms of arthritic and rheumatic conditions, Dolcin would attack the underlying causes of the conditions themselves. An example is the following excerpt from one of respondents' advertising pamphlets:

7. *Is* DOLCIN *just another palliative* * * * *a product for relieving pain for a few hours?* The answer is very definitely that DOLCIN is *not* just a palliative masking pain and discomfort for a few hours. DOLCIN is designed to RELIEVE PAIN PROMPTLY but, also, the DOLCIN treatment is directed to the disturbances in metabolism which are a very important part of the background of the Rheumatic State, and is designed to give prolonged relief from symptoms.

The greater weight of the evidence is that other than aspirin none of the ingredients in Dolcin have any value in connection with arthritic and rheumatic conditions and that the only value of aspirin taken in this connection is that it provides temporary relief from the less severe pains and fever accompanying these conditions. Respondents admit their preparation will not prevent the underlying causes, cure or arrest the progress of arthritic or rheumatic conditions. However, they do contend that it will relieve stiffness and swelling accompanying such conditions in certain cases in addition to providing pain relief. The greater weight of the evidence is contrary to respond-

ents' contention and fully supports the findings of the hearing examiner in his initial decision.

The record also shows that respondents claimed in their advertising that Dolcin is non-toxic, may be taken safely in large quantities over prolonged periods even by persons adversely affected by aspirin. The greater weight of the evidence shows that the aspirin in Dolcin has exactly the same effect as if taken alone and that certain persons are adversely affected by aspirin and should not take it in large quantities or over a prolonged period. Aspirin is one of the safest analgesics known and is widely prescribed by physicians in large dosages for temporary relief of pain and fever in arthritic and rheumatic conditions. Serious results from such excessive use are rare. However, less serious but undesirable effects such as headache, nausea, vomiting will occur in persons unable to tolerate aspirin. Respondents' representations to the contrary are false and deceptive as found by the hearing examiner in his initial decision.

For these reasons as well as those set out in its ruling on respondents' exceptions, the Commission is of the opinion that all of the findings as to the facts contained in the initial decision are supportable by reliable, substantial, and probative evidence of record; that the conclusion contained therein is correct; and that the order to cease and desist therein is proper upon this record and is required to provide proper relief from respondents' illegal practices; and

The Commission, therefore, being of the opinion that respondents' appeal from the hearing examiner's initial decision is of no merit and that said initial decision is appropriate in all respects to dispose of this proceeding:

It is ordered, That the appeal of respondents from the initial decision of the hearing examiner be, and it hereby is, denied.

It is further ordered, That the initial decision of the hearing examiner shall on the 2nd day of December, 1952 become the decision of the Commission.

It is further ordered, That the 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 contained in said initial decision, a copy of which is attached hereto.

Commissioner Carretta not participating for the reason that oral argument on the merits was heard prior to his appointment to the Commission.

Said initial decision, thus adopted by the Commission as its decision, follows:

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 18, 1949, issued and subsequently served its complaint in this proceeding upon respondents Dolcin Corporation, a corporation, and Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondents' answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before the above-named hearing examiner theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested; and said hearing examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Dolcin Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 683 Fifth Avenue, New York, New York.

Respondents Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individuals, are now and at all times mentioned herein have been directors of said corporate respondent, and, respectively, the president, treasurer, and secretary thereof, and with their offices located at the principal place of business thereof; and are now, and at all times mentioned herein have been, in control of the management, policies, and operation of the said corporate respondent, including the acts, practices and methods herein found.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the offering for sale, sale and distribution in commerce, among and between the various States of the United States and in the District of Columbia, of a certain medicinal preparation designated "Dolcin," which is a "drug" within the meaning of the

Federal Trade Commission Act, and for which the formula and directions for use are as follows:

Formula:

Each tablet contains:
Calcium succinate, 2.8 grains.
Acetylsalicylic acid, 3.7 grains.
Plus excipients.

Directions for Use:

GENERAL DIRECTIONS

Read these directions CAREFULLY so that you may learn how you can get GREATEST BENEFIT from DOLCIN.

In cases of long-standing, where joint-stiffness and pain are acute before starting the DOLCIN Treatment, it is recommended that twelve DOLCIN Tablets be taken daily (3 tablets, 4 times, as explained above) for at least one week, and until the acute symptoms are relieved. Follow this with eight tablets daily for two or three months * * * and then four tablets a day for two months. *It is most important to continue taking DOLCIN for a few months after relief has been obtained,* for it is an established fact that Rheumatic activity usually persists in the body for considerable period after the acute symptoms have subsided.

Where stiffness of joints is not extreme and muscular pains are not severe * * * or when the case is not one of long standing * * * take eight DOLCIN Tablets daily for the first month (two tablets with a glass of water at each meal and two tablets before retiring for the night). After one month, reduce doses to four tablets daily (one tablet, four times a day) for three months. Then take two tablets daily (one morning, one night) for three months even though all symptoms have disappeared long before.

It makes no difference whether the DOLCIN at mealtime is taken before, during or after eating * * * BUT TAKE YOUR DOLCIN REGULARLY. * * *

Respondents cause the said product, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in the said product in commerce between and among the various States of the United States and in the District of Columbia. Respondents' volume of business in such commerce is substantial, sales of the drug preparation "Dolcin" in 1948 being in excess of one million dollars.

PAR. 3. In the course and conduct of their business, respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination, by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of certain advertisements of the drug preparation "Dolcin," for the purpose of inducing, and which were likely to induce, directly or in-

directly, its purchase; and have disseminated and caused the dissemination of such advertisements for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said drug preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among such advertisements were radio broadcasts disseminated subsequent to October 7, 1948, by various broadcasting stations, and advertisements published in various professional and trade journals having national circulation and in various pamphlets and circulars distributed throughout the United States. Typical of the statements and representations contained in such advertisements are the following:

"HERE IS WHAT YOU SHOULD DO ABOUT
YOUR ARTHRITIS AND RHEUMATISM—

1. *Get a bottle of* DOLCIN* tablets and start your DOLCIN treatment at once.

2. *What is DOLCIN?* It is a product which is the result of a new, scientific approach to the treatment of rheumatism and arthritis; it is a development of fundamental biochemical research.

DOLCIN# tablets contain ingredients which medical authorities accept as being correct in the treatment of symptoms of rheumatism and arthritis. DOLCIN is made under strictest laboratory control and is constantly tested for purity of ingredients and for pharmaceutic uniformity.

3. *What does DOLCIN do?* The DOLCIN treatment combines PROMPT RELIEF of pain PHYSIOLOGICAL ACTION freedom from ill-effects and LOW COST. Thus DOLCIN fills a long-sought objective in the therapy of the Rheumatic State. Rheumatism in its various forms . . . arthritis, myositis, fibrositis and certain forms of bursitis, sciatica and neuritis * * * is, by far, the most prevalent and disabling of all chronic ailments. Rheumatism is not merely a disorder of joints and muscles, but is generally accompanied by disturbances in internal function (metabolism). It is, therefore, essential that treatment be directed not only toward relief of pain, but also to the disturbances in metabolism which constitute a very important part of the background of the Rheumatic State.

DOLCIN therapy not only provides PROMPT RELIEF from pain due to symptoms of rheumatism and arthritis, but DOLCIN contains catalysts which, extensive scientific research has recently proved, play a vital role in the metabolic processes which are disturbed in the Rheumatic and Arthritic State.

4. *I never heard of DOLCIN. How do I know it's good?* Up to a short time ago, DOLCIN was supplied only to hospitals, clinics and to doctors engaged in research and in private practice. Now, however, it is being sold direct to sufferers from rheumatism in all its forms. DOLCIN is becoming more widely-known every day as former victims of arthritic and rheumatic pains pass the good news along.

DOLCIN has been tested and proved to be efficacious and reliable; it is being used with success in great hospitals, clinics and prescribed by an increasing number of doctors.

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*Reg. U. S. Pat. Off.
#Pat. App. for.

5. *All right, but must I get a doctor to prescribe DOLCIN before I use it?* No. You do *not* need a doctor's prescription for you to take the DOLCIN treatment.

DOLCIN is NON-TOXIC * * * it will *not* hurt the heart or any other organ. A study made in a university famous all over the world confirms extensive earlier clinical proof that DOLCIN is NON-TOXIC.

DOLCIN is designed for PROMPT ACTION. The LACK OF HARMFUL EFFECTS makes DOLCIN ideal for prolonged administration such as is frequently necessary in chronic and severe cases of rheumatism and arthritis. This freedom from hazard and its effectiveness are IMPORTANT ADVANTAGES of DOLCIN over some medications which are considerably more expensive and which may have harmful effects on the body on prolonged administration.

6. *Is DOLCIN suitable for use by people who are adversely affected by acetylsalicylic acid (aspirin)?* DOLCIN'S ingredients, combined in proper proportions, enhance the good effects of each while, at the same time, they minimize aspirin's sometimes-harmful effects.

Remember, DOLCIN is NON-TOXIC * * * it will *not* harm the heart or any other organ.

7. *Is DOLCIN just another palliative * * * a product for relieving pain for a few hours?* The answer is very definitely that DOLCIN is *not* just a palliative masking pain and discomfort for a few hours. DOLCIN is designed to RELIEVE PAIN PROMPTLY but, also, the DOLCIN treatment is directed to the disturbances in metabolism which are a very important part of the background of the Rheumatic State, and is designed to give prolonged relief from symptoms.

8. *How long will it take to relieve pain and for symptoms of arthritis and rheumatism to disappear?* No two cases respond exactly alike. Generally speaking, the longer the person has suffered from the disease the longer it will take to get results. We know of many cases, where the pain was severe but where the symptoms had only been of few months' standing, in which all pain disappeared in a few hours, other cases take longer.

9. *For how long should I take DOLCIN?* As carefully explained in the directions packed with each bottle, it is most important to continue taking a few DOLCIN tablets every day for a few months after the pain and other symptoms have disappeared; this is to help prevent any recurrence, by giving the body time to get rid of disturbances in internal function which accompany the disease.

10. *How much DOLCIN shall I take?* With every bottle there is a sheet of information and Directions. Study this thoroughly. Remember, because DOLCIN is non-toxic, it is better to take more tablets than necessary rather than fewer * * * and much better to continue the treatment for some time after *all* symptoms have disappeared. You don't want your pains and stiffness back again, do you?

11. *Is DOLCIN of help for children's so-called "growing-pains"?* Yes. Growing-pains in children are often of rheumatic origin and may precede childhood's scourge, RHEUMATIC FEVER! Any child suffering from growing-pains should be given the DOLCIN treatment at once, under a doctor's supervision.

12. *Should other treatments be used while I am taking the DOLCIN treatment?* Unless prescribed by a physician, no other medication should be, or need be, taken. Leave it to DOLCIN and Nature. Take DOLCIN regularly and give it time to work. Of course, it is natural that a case of arthritis or rheumatism which has taken years to develop cannot be relieved overnight!

13. *My doctor does not know about DOLCIN. How can he learn about it?* If you will send us his name and address, we will gladly send him full scientific data on DOLCIN.

14. *Where can I get DOLCIN?* Ask your druggist. If he has not got it in stock, order DOLCIN direct from us * * * sending your druggist's name and address, please.

15. *What does DOLCIN cost?* The most economical size is the DOLCIN–500 * * * 500 tablets last the average case more than *THREE MONTHS!* * * * Price $9.00.

DOLCIN–100 * * * 100 tablets for only $2.00.

When you send remittance with your order, we prepay postage and insurance on the shipment.

16. DOLCIN is a tested, honest product * * * non-toxic * * * inexpensive * * * used in hospitals * * * prescribed by doctors. Many, many people are no longer suffering the pain and stiffness of arthritis or rheumatism * * * through taking DOLCIN * * * efficacious, reliable DOLCIN which is the *best friend of arthritics and rheumatics.*

Sometimes just a word—spoken at the right time—can alter the whole course of another person's life. Right now, here is such a word for *you*—if you suffer from arthritis or rheumatism—and that word is DOLCIN! DOLCIN is a tested new bio-chemical discovery—which many, many people throughout the country report brings swift, effective relief from the agony of arthritic and rheumatic symptoms. People who have suffered from these afflictions *for years*, report they have resumed normal occupations after taking DOLCIN. There's a scientific explanation for this. DOLCIN is more than just a pain killer—in many cases, DOLCIN actually results in prolonged remission of stiffness and discomfort. * * *.

* * * many victims of these diseases have been able to resume normal living by taking DOLCIN. It's used in many hospitals * * * prescribed by many doctors * * * and is designed to bring you sufferers of arthritis, rheumatism, neuritis and sciatica NOT temporary relief * * * but prolonged relief. * * *.

As acetylsalicylic acid in DOLCIN is non-toxic, DOLCIN should be used instead of aspirin.

DOLCIN is an efficacious, non-toxic and economical preparation for oral administration in relieving symptoms of arthritic and rheumatic disorders. DOLCIN * * * resulting from a new physiological approach in the therapy of arthritic and rheumatic disorders * * * combines the catalytic effect of calcium succinate and acetylsalicylic acid in non-toxic form which may be prescribed for osteoarthritis, infectious arthritis and rheumatoid arthritis as well as for rheumatic fever and various forms of neuritis and sciatica. DOLCIN may be employed as an adjuvant to other therapeutic measures.

* * * Remember the name DOLCIN—D-O-L-C-I-N—for relief of symptoms of arthritis, rheumatism, lumbago and neuritis.

PAR. 4. Through the above-quoted advertisements, and others similar thereto, respondents have represented, directly or by implication, as follows:

1. That the drug preparation "Dolcin" constitutes an adequate, effective and reliable treatment for, will arrest the progress, correct the underlying causes, cure and prevent the recurrence of rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis and all

other forms of rheumatism and arthritis and the symptoms and manifestations thereof;

2. That the drug preparation "Dolcin" is inexpensive, in that it is "economical" to purchase and of "low cost";

3. That the drug preparation "Dolcin" constitutes an adequate, effective and reliable treatment for so-called "growing-pains" in children, and that its use will prevent rheumatic fever, which may be preceded by such pains;

4. That the drug preparation "Dolcin" is non-toxic; that it can be used over prolonged periods of time without harmful effects on the body; that aspirin does sometimes produce harmful effects; and that persons adversely affected by aspirin can take "Dolcin" with safety.

PAR. 5. The terms "arthritis" and "rheumatism" are general terms, sometimes used interchangeably, which may refer to any of many diseases or pathological conditions including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, all of which are characterized by one or more of such symptoms or manifestations as pain, stiffness, and inflammatory and destructive changes in the joints and tissues of the body. These pathological conditions are of known as well as unknown origin. Examples of those of unknown origin are rheumatoid arthritis, osteomyelitis and rheumatic fever. Examples of such conditions of known causes are infectious arthritis, such as arthritis of syphilis, arthritis of gonorrhea, and arthritis associated with pneumonia and tubercular infections. In addition there are forms of arthritis, such as gout, which are connected with disturbances of metabolism.

Rheumatic fever is an inflammatory disease of unknown cause, of which the most common manifestations are fever, pain, and swelling and inflammation in the joints, often accompanied my rapid heartbeat, profuse sweating, increase in white corpuscles and other changes in the blood. Rheumatic fever tends to be complicated, and is the chief cause of death from heart disease in children between the ages of 5 and 19. Although "growing-pains" in children may be symptomatic of the early stages of rheumatic fever, they also may be due to many other and less serious causes, such as playing too hard and running too much, and do not constitute a disease.

Fibrositis is an irritation or discomfort, a syndrome of pain and stiffness which arises in the fibrous tissues of the body.

The term "myositis" is used generally by doctors and laymen to refer to the condition of muscular rheumatism or fibrositis. It is of varying severity, sometimes mild and localized, sometimes severe and widespread.

The term "neuritis" is a general term referring to an inflammation of the nerves, and denotes many different diseases resulting from various causes, such as infections, pressure on nerves from displaced organs or structures of the body, invasion of the nerve by neoplasm or tumor, intoxication with metals or toxins, and metabolic disturbances such as the form of neuritis occuring in diabetes.

Sciatica is a common form of neuritis felt along the course of the sciatic nerve. It is not a disease, but may occur as a symptom of many different diseases resulting from various causes, such as pressure on the sciatic nerve, a tumor in the spine, infection or inflammation of the sheath of the sciatic nerve, metabolic disturbances caused by toxins resulting from infection, fibrositis or arthritis involving the joints.

Lumbago is a form of fibrositis manifesting itself as a painful condition in the lower part of the back, of varying severity, sometimes so mild as hardly to interfere with a man's business, in other instances so violent as to render him unable to move in bed. Lumbago is associated with stiffness and muscle spasm provoked by attempts to move.

Bursitis is a form of fibrositis having specific reference to inflammation of a bursa, the fibrous sac or membrane surrounding a joint, and may result from invasion of the bursa by various germs, such as streptococcus, mycobacterium, gonococcus, and the tubercular bacillus, and from rheumatic or fibrositic inflammation.

Infectious arthritis is a form of arthritis resulting from invasion of a joint by any one of various germs, such as staphlococcus and streptococcus, which are carried to the joint through the bloodstream from a focus of infection in the body, caused by an external wound or by various infectious diseases.

Osteoarthritis refers to a disease characterized by degenerative changes in the joints and other tissues and organs of the body. The clinical phenomena associated with osteoarthritis are pain, painful stiffness associated with movement of the joint, enlargement of some joints, narrowing of joint spaces, increase in size of joint surfaces, growth of spurs and increase in the extent of margins of the joint.

Rheumatoid arthritis is a chronic, progressive, destructive disease affecting joints and organs of the body, characterized by pain, swelling, stiffness and limitation of motion in joints and deterioration of the patient's general health. This disease is accompanied by pathological changes in the joints, such as thickening of the lining membrane; production of excessive fluid in the bursa in some instances, and absorption of fluid in others; atrophy of muscles, and sometimes destruction of portions of the bone ends, resulting in deformation of the joint. The cause of rheumatoid arthritis is unknown.

PAR. 6. The various pathological conditions generally referred to as "arthritis" and "rheumatism" progress and develop differently. Likewise, they require different treatment, which will vary not only between different types of such ailments, but between different individuals suffering from the same ailment, and between different stages in the progress thereof. An adequate, effective, or reliable treatment for any kind of "arthritis" or "rheumatism" must, therefore, be predicated upon individual diagnosis, in order to determine whether the patient has arthritis or rheumatism, the particular kind of such ailment present, and whether it arose from a known or an unknown cause. Such a diagnosis may require any or all of the following determinations:

1. History of the patient, including information as to age, sex, marital status, occupation, chronology of the present ailment; family history, such as age and cause of death of parents and relatives; any illnesses from which the patient may have suffered previously, particularly rheumatic fever, scarlet fever and streptococcus infections;

2. Detailed physical examination of every part of the patient's anatomy; and

3. Laboratory examination, such as blood count, serological test for syphilis, urinalysis, and certain other tests as they may seem useful in the individual case, such as X-ray and analysis of fluids in individual joints.

PAR. 7. An adequate, effective, or reliable treatment for any of the various types of ailments included in the general terms "arthritis" and "rheumatism" may involve application of various therapeutic measures, including diet; rest or change of occupation; various types of physiotherapy, such as orthopedic or thermal procedures; and medication. Delay of proper diagnosis, with consequent failure to administer appropriate treatment, may result in the evolution of irreversible pathological changes, causing a crippled, useless joint or extremity, especially in those forms of arthritis and rheumatism known to be caused by specific infections. There is no drug, or combination of drugs, regardless of how administered, which will constitute an adequate, effective, or reliable treatment for the various forms of arthritis or rheumatism, nor is there any drug or combination of drugs which can restore to normal the pathological changes which result from arthritic or rheumatic ailments.

PAR. 8. The drug preparation "Dolcin" contains 2.8 grains of calcium succinate and 3.7 grains of acetylsalicylic acid, plus excipients of no therapeutic significance.

Calcium succinate, when taken orally, is converted by the liver into sugar, and no significant amount of succinate reaches the bloodstream.

In order to be therapeutically operative in the body, succinates must be administered intravenously. When present in sufficient concentration to be operative, the effect of succinates on tissue metabolism is harmful. The quantity of calcium succinate contained in the drug preparation "Dolcin" is entirely too small to achieve or maintain a sufficient concentration in the body to have any effect whatever on the metabolism of the tissues.

Since calcium succinate, administered orally, is therapeutically inoperative, the only active ingredient contained in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, the use and effect of which, as an analgesic and antipyretic, have been known for many years.

The drug preparation "Dolcin" contains acetylsalicylic acid in an amount insufficient to relieve the severe aches, pains and discomforts attendant upon arthritic and rheumatic conditions. The quantity of acetylsalicylic acid therein contained may, however, function as an analgesic and antipyretic to a sufficient extent to afford temporary relief to the minor aches and pains accompanying arthritis and rheumatism.

PAR. 9. The drug preparation "Dolcin," however taken, will not constitute an adequate, effective, or reliable treatment for any arthritic or rheumatic condition, including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, nor will said preparation arrest the progress, correct the underlying causes, or effect a cure of any of such conditions. The drug preparation "Dolcin," however taken, will not ameliorate the aches, pains and discomforts of any arthritic or rheumatic condition to any extent beyond the temporary relief thereof afforded by its salicylate content as an analgesic and antipyretic. The drug preparation "Dolcin," however taken, will have no significant effect upon severe aches, pains and discomforts accompanying any arthritic or rheumatic condition, and will afford temporary relief of only minor aches, pains and discomforts. With the exception of such temporary relief, the drug preparation "Dolcin" cannot be depended upon to have any effect whatever upon the symptoms accompanying any arthritic or rheumatic condition, including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago and bursitis.

The drug preparation "Dolcin," however taken, will not correct disturbances in metabolism nor insure adequate functioning of the metabolic processes of the body.

PAR. 10. The drug preparation "Dolcin," however taken, does not constitute an adequate, effective, or reliable treatment for so-called "growing-pains" in children, nor will its use prevent rheumatic fever.

PAR. 11. Since the only therapeutically operative ingredient in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, and since, under certain circumstances, or when taken over prolonged periods of time, aspirin may produce harmful effects upon the body, the drug preparation "Dolcin" may be toxic to the same extent, and cannot be taken over prolonged periods of time without the danger of such harmful effects, nor can such preparation be taken safely by persons adversely affected by aspirin.

PAR. 12. Since the only therapeutically operative ingredient in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, and since the retail selling price, without prescription, of 100 tablets of the drug preparation "Dolcin" is $2.00, whereas that of 100 tablets of a well-known brand of aspirin is 59¢, while many other brands of aspirin sell for less, the drug preparation "Dolcin" is not economical, inexpensive, or of low cost.

PAR. 13. The record contains no substantial evidence to support the allegation that the administration of the drug preparation "Dolcin" over prolonged periods of time to persons suffering from rheumatic fever may result in serious hemorrhage and in death.

PAR. 14. Respondents' representations concerning the drug preparation "Dolcin," as hereinafter found, are false and misleading in material respects; have had the capacity and tendency to mislead and deceive, and have misled and deceived a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations were true, and into the purchase of substantial quantities of said drug preparation as a result thereof; and constitute false advertisements within the intent and meaning of the Federal Trade Commission Act.

CONCLUSION

The acts and practices of respondents, as herein found, are all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce within the meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondents Dolcin Corporation, a corporation, and Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individually and as officers of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of the drug preparation "Dolcin," or any product of substantially similar composition or possessing sub-

stantially similar properties, whether sold under the same name or under 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 by implication:

(a) that the taking of said preparation will constitute an adequate, effective or reliable treatment for rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(b) that said preparation will arrest the progress or correct the underlying causes of, or will cure, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(c) that said preparation will afford any relief of severe aches, pains, and discomforts of rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition, or have any therapeutic effect upon any of the symptoms or manifestations of any such condition in excess of affording temporary relief of minor aches, pains, or fever;

(d) that the taking of said preparation is an adequate, effective, or reliable treatment for so-called "growing-pains" in children, or that its use will prevent rheumatic fever;

(e) that said preparation may safely be taken over prolonged periods of time;

(f) that said preparation may safely be taken by persons adversely affected by aspirin; and

(g) that said preparation is economical, inexpensive, or of low cost, unless and until the retail selling price, without prescription, of such preparation shall, in truth and in fact, be less than the retail selling price, without prescription, of the only active ingredient contained in said preparation, which is acetylsalicylic acid, commonly known as aspirin;

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 said preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

ORDER TO FILE REPORT OF COMPLIANCE

It is further ordered, That the 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 contained in said initial decision * * * [as required by aforesaid order and decision of the Commission].

IN THE MATTER OF

SIDNEY J. MUELLER TRADING AS MUELLER HAIR EXPERTS

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5977. Complaint, Apr. 11, 1952—Decision, Dec. 2, 1952

Where an individual engaged in the interstate sale and distribution of preparations for the hair and scalp, and in operating in various cities including Dallas, San Antonio, Oklahoma City, Tulsa, Cincinnati, Atlanta, Jacksonville, and San Francisco, branch offices known as hair and scalp clinics which dealt in his preparations and used them in office treatments; and also in establishing temporary clinics from time to time in other cities;

In carrying on the sale of his preparations through (1) extensive advertising in which he invited persons to come to his places of business for diagnosis, at which time a series of treatments was recommended, and certain of his preparations, if treatments were agreed to, were sold to the persons concerned, and used therein; (2) selling home treatment kits with instructions, to persons thus induced to visit his offices; and (3) sending traveling representatives to various cities, following extensive advertisement of their visits, in which the public was invited to call upon them for diagnosis, whereupon either treatment at one of his branches or the purchase of the home treatment kit was recommended; in his advertising, principally in newspapers and periodicals—

(*a*) Represented falsely, directly and by implication, that through the use of his said preparations, and treatments by his operators in his places of business, and by purchasers thereof in their homes, that all types of baldness would be prevented and overcome, that hair would be made to grow thicker where thin, and that "fuzz" would be replaced with normal hair;

(*b*) Represented falsely that the hair growing functions of the scalp would be rejuvenated, that his preparations would kill bacteria beneath the scalp, and that subscalp blood circulation would be stimulated, and the scalp energized to grow hair;

(*c*) Represented falsely that dandruff, itching, dryness and oiliness of the hair would be permanently eliminated, that all different kinds of hair and scalp disorders would be cured and the hair kept healthy, and that an individual would be able to maintain a thick growth of hair; and

(*d*) Represented falsely that his preparations employed none of the "common property" medications used by others but were based upon warborn medical discoveries and research conducted by his own nationally known chemists;

The facts being that the ingredients in his said preparations had been used without success for many years, the preparations were purchased by him from another concern, and he employed no chemists;

(e) Represented falsely, through referring to them as "Trichologists" and describing them as hair scientists and otherwise, that certain of his employees had had competent training in dermatology and other branches of medicine having to do with the diagnosis of scalp disorders affecting the hair;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with capacity and tendency to induce said public to visit his offices for the purpose of obtaining treatment, and to purchase his said preparations and order them by mail:

Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Abner E. Lipscomb*, hearing examiner.
Mr. Joseph Callaway for the Commission.
Mr. Seymour Lieberman, of Houston, Tex., for respondent.

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 Sidney J. Mueller, an individual trading as Mueller Hair Experts, 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 Sidney J. Mueller is an individual trading as Mueller Hair Experts with his office and principal place of business located at 603 Avondale Street, in the city of Houston, State of Texas.

The respondent also maintains and operates branch offices known as hair and scalp clinics in various cities, including Dallas and San Antonio, Texas, Oklahoma City and Tulsa, Oklahoma, Memphis and Nashville, Tennessee, Cincinnati, Ohio, Atlanta, Georgia, Jacksonville, Florida and San Francisco, California, which deal in the preparations sold by respondent and in the use of said preparations in office treatments. Respondent also establishes temporary clinics from time to time in various other cities.

PAR. 2. In the course and conduct of his business, the respondent for several years last past has been engaged in the sale and distribution of various cosmetic and medicinal preparations for external use in the treatment of conditions of the hair and scalp, including sales of such preparations through use of them in connection with treatments administered in his various offices. Said preparations, sold and dis-

tributed as aforesaid by respondent, are purchased by him from the manufacturer thereof located in the State of Missouri. Respondent causes said preparations to be transported from his place of business in the State of Texas and from the place of business of the manufacturer of said preparations in the State of Missouri to respondent's various branch offices, owned and operated as hereinabove set forth, and located in other States of the United States, and also to individual purchasers of said preparations 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 cosmetic and medicinal preparations in commerce between and among the various States of the United States.

PAR. 3. Respondent has adopted several methods in connection with the sale of his various preparations. First, respondent, through extensive advertising, invites persons to come to his places of business for diagnosis and treatment; whereupon certain series of treatments are recommended. If said treatments are agreed to, certain of respondent's cosmetic and medicinal preparations are sold to such persons and used in the process of such treatments. Second, respondent sells home treatment kits with instructions to persons induced to visit respondent's said offices by virtue of said advertisements. These kits consist of certain of respondent's cosmetic and medicinal preparations for the treatment of the hair and scalp. Third, respondent sends traveling representatives to various cities, whose visits are extensively advertised in the cities to be visited which advertisements invite the public to call upon said representatives for diagnosis and advice. These representatives recommend either treatment at one of respondent's branches or the purchase of the home treatment kits previously described. Still another method employed by respondent is advertising the home treatment kits for sale by direct mail order without the benefit of examination and so-called diagnosis.

PAR. 4. In the course and conduct of his aforesaid business, the respondent has disseminated, and has caused the dissemination of, advertisements concerning his preparations by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act for the purpose of inducing and which are likely to induce directly or indirectly, the sale of said medicinal and cosmetic preparations; and respondent has also disseminated, and has caused the dissemination of, advertisements concerning his said preparations, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading and deceptive statements and representations contained in said advertisements, principally in newspapers and other periodicals, disseminated and caused to be disseminated as hereinabove set forth, are the following:

True, some few also inherit a type of scalp structure which may serve as a contributing factor in hair loss. That accounts for the fact that baldness may seem to run in families.

But such hereditary scalp weakness can be overcome if you keep your scalp healthy with Mueller treatment.

The victim of alopecia prematura, the young man trying to get ahead is especially unfortunate. Receding hair lines * * * bald spot on top * * * hair so thin the scalp shows through * * * these hurt a man's chances as well as his pride. Worse they definitely point to early total baldness.

But alopecia prematura can be arrested by Mueller treatment. Furthermore, Mueller exclusive formula will regrow much or all of the hair already lost.

Your average busy executive just doesn't take time to care for his hair—and usually doesn't know how.

But your hair loss can be stopped quickly by Mueller treatment. And in many cases your hair can be regrown completely by Mueller treatment and Mueller-directed personal care.

"You construction men must be doubly careful if you want to avoid baldness," Trichologist S. J. Mueller tells bricklayer W. R. (Ray) Johnson.

* * *

But your hair loss can be stopped by Mueller treatment. Often hair already lost can be restored. And your hair can be kept strong and healthy by Mueller directed care.

Among machinists, baldness is practically an occupational disease.

* * *

But such hair loss can be stopped quickly by Mueller treatment. Often hair so lost can be regrown, and you will always keep the hair you now have if you follow Mueller directions for care.

New home treatment methods for growing thicker hair—and preventing baldness.

Don't be "baldish." Your hair back quickly. $4.95 You receive 3 generous bottles of our famous hair preparations exactly like the ones we use in our scalp clinics in all leading southern cities.

Mere "fuzz" may be replaced with hair of full body and color.

Hair killing bacteria which penetrate the follicle and choke off growth beneath the other scalp layer are destroyed. This phase of the treatment involves chemo-electrical therapy and professional massage.

Next, blood flow to the hair tubes is stimulated so nature can take over. * * * Mueller experts employ sub-scalp stimulants that energize the scalp to natural hair growing activity.

Your scalp will be freed of all dandruff.

Disorders that usually foretell baldness are excessive dandruff, thinning hair, itching scalp and dry or oily hair.

* * *

Successful treatment must start with thorough professional examination of your scalp.

But all the 18 kinds of external scalp disorders yield readily to Mueller treatment. * * *

When treatment is over and your hair is healthy again, the Mueller trichologist gives you exact and personal instructions for the care of your hair—to keep it healthy for life.

Nowadays, baldness is largely a matter of choice. You can enjoy a healthy head of hair all your life * * * or keep losing hair until you are bald.

None of the "common property medication" used by others is ever employed in our clinic. We have surer, faster-acting formulae based on war-born medical discoveries and research conducted by our own nationally known chemists.

For proof, consult the Mueller trichologist while he's here. He's a hair scientist who will tell you in just 15 minutes what is wrong with your scalp and how the trouble can be corrected.

PAR. 5. Respondent's preparations are composed of the following ingredients in various combinations:

Ammoniated Mercury.
Beeswax Refined.
Beta Napthol.
Boric Acid.
Carmine Dye Solution N. F.
Castor Oil.
Ceresin Wax
Cottonseed Oil.
D & C Red No. 3 Dye Solution 3.3%.
Dark Petrolatum.
Di-isobutyl Phenoxy Ethoxy ethyl dimethyl benzyl Ammonium chloride monohydrate (Hyamine 1622)
Distilled Water.
F. D. & C Amaranth Red No. Dye Solution 3%.
F. D. & C Blue No. 1 Dye Solution 3.1%.
F. D. & C Chocolate Brown Shade 3.1%.
F. D. & C Emerald Green Dye Solution 2.3%.
F. D. & C Lemon Yellow Dye Solution 3.1%.
F. D. C. (Napthol Yellow S) Dye Solution 3.1%.
Glycerin C. P.
Glycerole 40% Liquid Soap Natural.
Isopropyl Alcohol 99%; 70%.
Isopropyl Alcohol Bay Rum.
Lanolin Anhydrous.
Liquid Phenol.
Magnesium Aluminum Salicate.
Menthol Crystals.
Methyl Parahydroxybenzoate.
Mineral Oil.

Oil Bay Terpeneless.
Oil of Tar Rectified.
Perfume Oil Synthetic Fern.
Petrolatum.
Polyoxyalkylene Sorbitan Monosterate.
Precipitated Sulphur.
Oxquinoline Sulphate.
Reddish Violet Dye Solution certified.
Resorcin.
Salicylic Acid.
Sorbitan Sesquioleate.
Solfonated Castor Oil.
Tincture Capsicum N. F.
White Precipitate.

PAR. 6. Through the use of the aforesaid statements and representations and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that through the use of said preparations, methods and treatments by his operators in his various places of business and by purchasers of his preparations in their homes all types of baldness, including hereditary baldness, premature baldness, occupational baldness and receding hairline will be prevented and overcome; that hair will be made to grow thicker in spots where it is thin; that "fuzz" will be replaced with normal hair; that the hair growing functions of the scalp will be rejuvenated; that his said preparations will kill bacteria located beneath the scalp; that sub-scalp blood circulation will be stimulated and the scalp energized to grow hair; that dandruff, itching, dryness and oiliness of the hair and scalp will be permanently eliminated; that all different kinds of hair and scalp disorders will be cured and the hair kept healthy; that an individual will be able to maintain a thick growth of hair; that respondent's preparation employ none of the "common property" medications used by others, but are based on war-born medical discoveries and research conducted by respondent's own nationally known chemists. By referring to certain of his employees as "Trichologists" and by other means in said advertising, such as describing them as hair scientists, respondent has represented, directly and by implication, that said employees have had competent training in dermatology and other branches of medicine having to do with the diagnosis of scalp disorders affecting the hair.

PAR. 7. The said advertisements are misleading in material respects and constitute false advertisements, as that term is defined in the Federal Trade Commission Act. In truth and in fact, regardless

of the exact formulae or combination of the preparations used and regardless of the method of treatment in respondent's offices or the method of application in home treatments, respondent's preparations will have no effect in preventing or overcoming any type of baldness. Regardless of the exact formulae or combination of the preparations used or the method of treatment in respondent's offices or the method of application in home treatments, respondent's preparations will not prevent or overcome receding hair line; will not cause hair to grow thicker in spots where it is thin; will not cause fuzz to be replaced with normal hair; will not rejuvenate the hair-growing functions of the scalp; will not penetrate below the surface of the scalp and kill bacteria there; will not stimulate and energize the scalp to grow hair; will not permanently eliminate dandruff, itching, dryness or oiliness of the scalp; will not cure all scalp disorders; will not keep the hair healthy or enable an individual to maintain a thick growth of hair. The ingredients in respondent's preparations have been used without success for many years in an effort to correct falling hair, to grow hair and to prevent baldness. Such preparations are not medical discoveries made during the last war or in recent years, or the result of any research conducted by chemists employed by respondent. In fact, as stated above, respondent purchases the preparations as used from another concern that manufactures them, and does not himself employ any chemists.

Neither the respondent nor his employees have undergone competent training in dermatology or any other branch of medicine pertaining to diagnosis or treatment of scalp disorders affecting the hair.

PAR. 8. The use by the respondent of the foregoing false, deceptive and misleading statements and representations, disseminated as aforesaid, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchsing public into the erroneous and mistaken belief that such statements and representations are true and induce a substantial portion of the purchasing public to visit respondent's various offices for the purpose of obtaining treatments and to purchase respondent's preparations hereinabove referred to, and to order said preparations by mail because of such erroneous and mistaken belief, engendered as above set forth.

PAR. 9. 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 within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT [1]

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 11, 1952, issued and subsequently served its complaint on the respondent named in the caption hereof, charging him with the use of unfair and deceptive acts and practices in violation of the provisions of said Act.

The respondent, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditions upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of answer to said complaint heretofore filed and which, upon the acceptance by the Commission of this settlement, is to be withdrawn from the record, hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.

2. Consents that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondent, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrains from admitting or denying that he has engaged in any of the acts or practices stated therein to be in violation of law.

3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondent consents may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Sidney J. Mueller is an individual trading as Mueller Hair Experts with his office and principal place of busi-

[1] The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on December 2, 1952 and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

ness located at 603 Avondale Street in the city of Houston, State of Texas.

The respondent also maintains and operates branch offices known as hair and scalp clinics in various cities, including Dallas and San Antonio, Texas, Oklahoma City and Tulsa, Oklahoma, Cincinnati, Ohio, Atlanta, Georgia, Jacksonville, Florida, and San Francisco, California, which deal in the preparations sold by respondent and in the use of said preparations in office treatments. Respondent also establishes temporary clinics from time to time in various other cities.

PAR. 2. In the course and conduct of his business, the respondent for several years last past has been engaged in the sale and distribution of various cosmetic and other preparations for external use in the treatment of conditions of the hair and scalp, including sales of such preparations through use of them in connection with treatments administered in his various offices. Said preparations, sold and distributed as aforesaid by respondent, are purchased by him from the manufacturer thereof located in the State of Missouri. Respondent causes said preparations to be transported from his place of business in the State of Texas and from the place of business of the manufacturer of said preparations in the State of Missouri to respondent's various branch offices, owned and operated as hereinabove set forth, and located in other States of the United States, and also to individual purchasers of said preparations 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 cosmetic and other preparations in commerce between and among the various States of the United States.

PAR. 3. Respondent has adopted several methods in connection with the sale of his various preparations. First, respondent, through extensive advertising, invites persons to come to his place of business for diagnosis and treatment; whereupon certain series of treatments are recommended. If said treatments are agreed to, certain of respondent's cosmetic and other preparations are sold to such persons and used in the process of such treatments. Second, respondent sells home treatment kits with instructions to persons induced to visit respondent's said offices by virture of said advertisements. These kits consist of certain of respondent's cosmetic and other preparations for the treatment of the hair and scalp. Third, respondent sends traveling representatives to various cities, whose visits are extensively advertised in the cities to be visited which advertisements invite the public to call upon said representatives for diagnosis and advice. These representative recommend either treatment at one of respond-

ent's branches or the purchase of the home treatment kits previously described.

PAR. 4. In the course and conduct of his aforesaid business, the respondent has disseminated, and has caused the dissemination of, advertisements concerning his preparations by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act for the purpose of inducing and which were likely to induce, directly or indirectly, the sale of his said cosmetic and other preparations; and respondent has also disseminated, and has caused the dissemination of, advertisements concerning his said preparations, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of his preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in said advertisements, principally in newspapers and other periodicals, disseminated and caused to be disseminated as hereinabove set forth, are the following:

True, some few also inherit a type of scalp structure which may serve as a contributing factor in hair loss. That accounts for the fact that baldness may seem to run in families.

But such hereditary scalp weakness can be overcome if you keep your scalp healthy with Mueller treatment.

The victim of alopecia prematura, the young man trying to get ahead is especially unfortunate. Receding hair line * * * bald spot on top * * * hair so thin the scalp shows through * * * these hurt a man's chances as well as his pride. Worse they definitely point to early total baldness.

But alopecia prematura can be arrested by Mueller treatment. Furthermore, Mueller exclusive formula will regrow much or all of the hair already lost.

Your average busy executive just doesn't take time to care for his hair—and usually doesn't know how.

But your hair loss can be stopped quickly by Mueller treatment. And in many cases your hair can be regrown completely by Mueller treatment and Mueller-directed personal care.

"You construction men must be doubly careful if you want to avoid baldness," Trichologist S. J. Mueller, tells bricklayer W. R. (Ray) Johnson.

* * *

But your hair loss can be stopped by Mueller treatment. Often hair already lost can be restored. And your hair can be kept strong and healthy by Mueller directed care.

Among machinists, baldness is practically an occupational disease.

* * *

But such hair loss can be stopped quickly by Mueller treatment. Often hair so lost can be regrown, and you will always keep the hair you now have if you follow Mueller directions for care.

New home treatment methods for growing thicker hair—and preventing baldness.

Mere "fuzz" may be replaced with hair of full body and color.

Hair killing bacteria which penetrate the follicle and choke off growth beneath the other scalp layer are destroyed. This phase of the treatment involves chemo-electrical therapy and professional massage.

Next, blood flow to the hair tubes is stimulated so nature can take over. * * * Mueller experts employ sub-scalp stimulants that energize the scalp to natural hair growing activity.

Your scalp will be freed of all dandruff.

Disorders that usually foretell baldness are excessive dandruff, thinning hair, itching scalp and dry or oily hair.

* * *

Successful treatment must start with thorough professional examination of your scalp.

But all the 18 kinds of external scalp disorders yield readily to Mueller treatment. * * *

When treatment is over and your hair is healthy again, the Mueller trichologist gives you exact and personal instructions for the care of your hair—to keep it healthy for life.

Nowadays, baldness is largely a matter of choice. You can enjoy a healthy head of hair all your life * * * or keep losing hair until you are bald.

None of the "common property medication" used by others is ever employed in our clinic. We have surer, faster-acting formulae based on war-born medical discoveries and research conducted by our own nationally known chemists.

For proof, consult the Mueller trichologist while he's here. He's a hair scientist who will tell you in just 15 minutes what is wrong with your scalp and how the trouble can be corrected.

PAR. 5. Respondent's preparations are composed of the following ingredients in various combinations:

Ammoniated Mercury.
Beeswax Refined.
Beta Napthol.
Boric Acid.
Carmine Dye Solution N. F.
Castor Oil.
Ceresin Wax.
Cottonseed Oil.
D & C Red No. 3 Dye Solution 3.3%.
Dark Petrolatum.
Di-isobutyl Phenoxy Ethoxy ethyl dimethyl benzyl Ammonium chloride monohydrate (Hyamine 1622).
Distilled Water.
F. D. & C Amaranth Red No. Dye Solution 3%.
F. D. & C. Blue No. 1 Dye Solution 3.1%.
F. D. & C Chocolate Brown Shade 3.1%.
F. D. & C Emerald Green Dye Solution 2.3%.
F. D. & C Lemon Yellow Dye Solution 3.1%.

F. D. C. (Napthol Yellow S) Dye Solution 3.1%.
Glycerin C. P.
Glycerole 40% Liquid Soap Natural.
Isopropyl Alcohol 99%; 70%.
Isopropyl Alcohol Bay Rum.
Lanolin Anhydrous.
Liquid Phenol.
Magnesium Aluminum Salicate.
Menthol Crystals.
Methyl Parahydroxybenzoate.
Mineral Oil.
Oil Bay Terpeneless.
Oil of Tar Rectified.
Perfume Oil Synthetic Fern.
Petrolatum.
Polyoxyalkylene Sorbitan Monosterate.
Precipitated Sulphur.
Oxyquinoline Sulphate.
Reddish Violet Dye Solution certified.
Resorcin.
Salicylic Acid.
Sorbitan Sesquioleate.
Sulfonated Castor Oil.
Tincture Capsicum N. F.
White Precipitate.

PAR. 6. Through the use of the aforesaid statements and representations and others similar thereto not specifically set out herein, respondent has represented, directly and by implication, that through the use of said preparations, methods and treatments by his operators in his various places of business and by purchasers of his preparations in their homes all types of baldness, including hereditary baldness, premature baldness, occupational baldness and receding hair line will be prevented and overcome; that hair will be made to grow thicker in spots where it is thin; that "fuzz" will be replaced with normal hair; and the the hair growing functions of the scalp will be rejuvenated; that his said preparations will kill bacteria located beneath the scalp; that sub-scalp blood circulation will be stimulated and the scalp energized to grow hair; that dandruff, itching, dryness and oiliness of the hair and scalp will be permanently eliminated; that all different kinds of hair and scalp disorders will be cured and the hair kept healthy; that an individual will be able to maintain a thick growth of hair; that respondent's preparations employ none of the "common property" medications

used by others, but are based on warborn medical discoveries and research conducted by respondent's own nationally known chemists. By referring to certain of his employees as "Trichologists" and by other means in said advertising, such as describing them as hair scientists, respondent has represented, directly and by implication, that said employees have had competent training in dermatology and other branches of medicine having to do with the diagnosis of scalp disorders affecting the hair.

PAR. 7. The said advertisements are misleading in material respects and constitute false advertisements, as that term is defined in the Federal Trade Commission Act. In truth and in fact, regardless of the exact formulae or combination of the preparations used and regardless of the method of treatment in respondent's offices or the method of application in home treatments, respondent's preparations will have no effect in preventing or overcoming any type of baldness. Regardless of the exact formulae or combination of the preparations used or the method of treatment in respondent's offices or the method of application in home treatments, respondent's preparations will not prevent or overcome receding hair line; will not cause hair to grow thicker in spots where it is thin; will not cause fuzz to be replaced with normal hair; will not rejuvenate the hair-growing functions of the scalp; will not penetrate below the surface of the scalp and kill bacteria there; will not stimulate and energize the scalp to grow hair; will not permanently eliminate dandruff, itching, dryness or oiliness of the scalp; will not cure all scalp disorders; will not keep the hair healthy or enable an individual to maintain a thick growth of hair. The ingredients in respondent's preparations have been used without success for many years in an effort to correct falling hair, to grow hair and to prevent baldness. Such preparations are not medical discoveries made during the last war or in recent years, or the result of any research conducted by chemists employed by respondent. In fact, as stated above, respondent purchases the preparations as used from another concern that manufactures them, and does not himself employ any chemists.

Neither the respondent nor his employees have undergone competent training in dermatology or any other branch of medicine pertaining to diagnosis or treatment of scalp disorders affecting the hair.

PAR. 8. The use by the respondent of the foregoing false, deceptive and misleading statements and representations, disseminated as aforesaid, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and induce a substantial portion of the purchasing

public to visit respondent's various offices for the purpose of obtaining treatments and to purchase respondent's preparations hereinabove referred to, and to order said preparations by mail because of such erroneous and mistaken belief, engendered as above set forth.

CONCLUSION

The aforesaid acts and practices of respondent, as hereinabove found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondent Sidney J. Mueller, an individual trading as Mueller Hair Experts or under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of treatments of the hair and scalp in which the various cosmetic and other preparations, as set out in the findings herein, are used; or in connection with the sale, offering for sale or distribution of the various cosmetic and other preparations as set out in the findings herein, for use in the treatment of conditions of the hair and scalp, or of any other preparations of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from:

I. 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 by implication:

(a) That the use of said preparations by purchasers in their homes, or that treatments of the hair or scalp by respondent or his operators in which the various cosmetic and other preparations set forth in the findings are used, or in which any other preparations of substantially similar composition or possessing substantially similar properties are used, will:

(1) Have any effect in preventing or overcoming baldness.

(2) Cause hair to grow thicker in spots where it is thin,

(3) Cause "fuzz" to be replaced by normal hair,

(4) Cause the hair growing functions of the scalp to be rejuvenated,

(5) Kill bacteria beneath the scalp,

(6) Cause the scalp to be energized to grow new hair,

(7) Cause the permanent elimination of dandruff, itching, dryness or oiliness of the scalp,

(8) Cure all scalp disorders, keep the hair healthy or enable an individual to maintain a thick head of hair;

(b) That respondent's preparations are dissimilar to preparations used by competitors;

(c) That respondent's preparations are the result of discoveries made during the last war, or discoveries of recent years.

II. Disseminating or causing to be disseminated by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in subparagraphs (a) through (c) of Paragraph I hereof or which represents, directly or by implication, that respondent or any of his employees who have not had competent training in dermatology or other branches of medicine having to do with the diagnosis and treatment of scalp disorders affecting the hair are trichologists, or hair scientists, or that respondent has, or has had, experts in chemistry in his employ.

It is further ordered, That respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

SIDNEY J. MUELLER,
By (S) Seymour Lieberman,
SEYMOUR LIEBERMAN,
Counsel for Respondent.

Date: ----------.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and entered of record on this the 2d day of December 1952.

Syllabus

IN THE MATTER OF

NATIONAL HEALTH AIDS, INC. ET AL.

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 5997. Complaint, May 29, 1952—Decision, Dec. 2, 1952

Where a corporation and its president, engaged in the interstate sale and distribution of a "food" preparation designated "NHA Complex" which contained certain vitamins and minerals; and their advertising agency; in their advertising, sometimes directly but principally by implication, through radio and television broadcasts and otherwise—

(*a*) Falsely represented that said "NHA Complex" used as directed would make one well and keep one well, when in fact many diseases and their symptoms unrelated to vitamin and mineral deficiencies cannot be prevented or corrected by the administration thereof in any dosage; and said preparation supplied only the minimum adult daily requirements of certain vitamins and minerals and would not constitute an effective treatment for disorders caused by deficiency of such substances, except in milder forms where its continued use over a long period might be beneficial;

(*b*) Falsely represented that said product was a competent and effective treatment for and would cure numerous ailments and conditions including arthritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight and goiter;

(*c*) Represented that it was a competent and effective treatment for and would cure neuritis, underweight, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, and inability to sleep;

The facts being that said disorders may result from causes which have no connection with deficiencies of vitamins and minerals; and said product would be of no value in the treatment thereof except when they were due solely to mild deficiencies of said substances and the product was taken continuously over a long period of time;

(*d*) Falsely represented that all persons in the United States consumed a diet deficient in vitamins and minerals; that persons who consumed a well-balanced diet could not obtain therefrom the minimum daily requirements of vitamins and minerals; and that all persons, in order to assure their bodies of a supply of such minimum daily requirements, must use a dietary supplement; and

(*e*) Falsely represented that said "NHA Complex" used as directed supplied sufficient quantities of Vitamin B_{12} to be of value in the treatment of diseases and disorders;

With capacity and tendency to mislead a substantial portion of the purchasing public into the mistaken belief that said representations were true and thereby into the purchase of substantial quantities of said preparation:

Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Frank Hier*, hearing examiner.

Mr. William L. Pencke and *Mr. Harold L. Kennedy* for the Commission.

Freer, Church & Green, of Washington, D. C., for respondents.

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 National Health Aids, Inc., a Corporation, and Charles D. Kasher, individually and as President of said corporation, and Television Advertising Associates, Inc., a 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 National Health Aids, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland. Respondent Charles D. Kasher is president of said corporation and, as such, formulates, directs and controls the policies and activities of said corporate respondent. Television Advertising Associates, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland. The principal office and place of business of all respondents is located at 913 Cathedral Street, Baltimore, Maryland.

PAR. 2. Respondents National Health Aids, Inc., and Charles D. Kasher, are now, and for sometime last past have been, engaged in the sale and distribution of a drug preparation as "drug" is defined in the Federal Trade Commission Act. Respondent Television Advertising Associates, Inc., has been the advertising agent or representative for respondents National Health Aids, Inc., and Charles D. Kasher, and has prepared and caused the dissemination of or participated in the preparation and dissemination of the advertising matter to which reference is made herein.

The designation used by respondents for the said preparation, the essential information in regard to the composition of the recom-

mended daily dosage and directions for use which appear on the label are as follows:

Designation: "NHA Complex".
Composition: EACH ¼ oz. CONTAINS:

Minimum assay	*Minimum adult daily requirement*	*Percentage of daily requirement*
Vitamin A (Vitamin A Palmitate)		
4000 U. S. P. Units	4000 U. S. P. Units	100%
Vitamin B–1 (Thiamine Hydrochloride)		
1 Milligram	1 Milligram	100%
Vitamin B–2 (Riboflavin)		
2 Milligrams	2 Milligrams	100%
Vitamin C (Ascorbic Acid)		
30 Milligrams	30 Milligrams	100%
Vitamin D (Irradiated Ergosterol)		
400 U. S. P. Units	400 U. S. P. Units	100%
Niacinamide		
10 Milligrams	10 Milligrams	100%

Plus the following Vitamins for which the need in human nutrition has not been established: d-Panthenol 215 Mcgs., Vitamin E (Wheat Germ Oil fortified with Alpha Tocopherol Acetate) 0.5 Mgs., Vitamin B_{12} (Oral Grade) 1 Mcg., Inositol 7.5 Mgs., Choline 15 Mgs., plus trace amounts of other Vitamins.

Essential Amino Acids		
100 Milligrams		
Iron (Ferrous Sulfate)		
10 Milligrams	10 Milligrams	100%
Iodine (Potassium Iodide)		
0.1 Milligram	0.1 Milligram	100%

In addition, 100 Mgs. of Calcium and 100 Mgs. of Phosphorous (from DiCalcium Phosphate).

Plus trace amounts of the following Minerals for which the need in human nutrition has not been established: Potassium (from Potassium Iodide) 0.033 Mgs., Copper (from Copper Sulfate) 0.35 Mgs., Sodium (from Sodium Chloride) 5.5 Mgs., Zinc (from Zinc Sulfate) 0.35 Mgs., Cobalt (from Cobalt Sulfate) 0.35 Mgs., Manganese (from Manganese Sulfate) 0.35 Mgs., Magnesium (from Magnesium Carbonate) 0.35 Mgs., Sulfur 1 Mg., Fluorine (from Sodium Fluoride) 0.5 Mgs., Boron (from Sodium Metaborate) 0.2 Mgs., Molybdenum (from Sodium Molybdate) 0.2 Mgs.

Directions:

Adults take ¼ oz. daily (which is approximately 2 level teaspoonsful or 4 half teaspoonsful daily) followed by water. Or take as directed by your physician.

PAR. 3. Respondents cause the said preparation when sold to be transported from their place of business in the State of Maryland to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce, between and among the various States of the United States and in the District of Columbia. Their volume of trade in said commerce has been and is substantial.

PAR. 4. In the course and conduct of their business respondents have disseminated and caused the dissemination of certain advertisements concerning said preparation by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to radio and television broadcasts entitled "Who Ya Laffin' At", "Let's Live a Little", "Stop Fooling Yourself" and "Animal, Vegetable, Mineral", said broadcasts being of sufficient power to carry them across state lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said preparation; and respondents have also disseminated and caused the dissemination of advertisements concerning said preparation by various means including, but not limited to the aforesaid radio and television broadcasts, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Through the use of said advertisements, respondents have made, directly and by implication, the following representations:

1. That NHA Complex, used as directed, will make one well and keep one well.

2. That NHA Complex, used as directed, is a competent and effective treatment for and will cure arthritis, neuritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight, underweight, goiter, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, and inability to sleep.

3. That all persons in the United States consume a diet which is deficient in vitamins and minerals; that persons who consume a well balanced diet cannot obtain therefrom the minimum daily requirements of vitamins and minerals; and that all persons in order to assure their bodies of a supply of the minimum daily requirements of vitamins and minerals must use a dietary supplement.

4. That NHA Complex, used as directed, supplies sufficient quantities of vitamin B_{12} to be of value in the treatment of diseases and disorders.

PAR. 6. The aforesaid representations are false and misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. NHA Complex, used as directed, cannot be depended upon to make one well or keep one well. There are many diseases and symptoms of diseases which are in no way related to a deficiency of vitamins and minerals, and which cannot be prevented or corrected by the administration of vitamins and minerals in any dosage. Furthermore, NHA Complex, used as directed, supplies only the minimum adult daily requirements of Vitamins A, B_1, B_2, C and D, and Niacin, and of iron and iodine, and, therefore, the preparation will not constitute a competent or effective treatment for diseases, disorders or symptoms caused by deficiencies of these substances except in the milder forms of such deficiencies where the continued use of NHA Complex over a long period of time may be beneficial. In severe cases of Vitamin A, B_1, B_2, C and D and Niacin and of Iron and Iodine deficiencies, the amounts of these substances supplied by NHA Complex are insufficient to produce any significant beneficial effect.

2. NHA Complex however taken is of no value in the treatment of arthritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight and goiter.

NHA Complex, taken as directed, is of no value in the treatment of diseases, disorders and symptoms such as neuritis, underweight, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, and inability to sleep except when such diseases, disorders and symptoms are due solely to mild vitamin and mineral deficiences and then only when said preparation is taken continuously over a long period of time. These diseases, disorders and symptoms may result from any one of a number of causes that have no connection with deficiencies of vitamins and minerals.

3. All persons in the United States do not consume a diet which is deficient in vitamins and minerals. Many persons consume a well balanced diet. Persons who consume a well balanced diet can obtain therefrom the minimum daily requirements of vitamins and minerals, and such persons do not need to use a dietary supplement in order to assure their bodies a supply of the minimum daily requirements of vitamins and minerals.

4. NHA Complex, used as directed, will not supply a sufficient quantity of Vitamin B_{12} to be of value in the treatment of any disease, disorder or symptoms thereof.

PAR. 7. The use by respondents, National Health Aids, Inc., and Charles D. Kasher, of the said false advertisements with respect to their preparation has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations contained in the advertisements are true; and into the purchase of substantial quantities of said preparation by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, 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.

CONSENT SETTLEMENT [1]

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on May 29, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce, in violation of the provisions of said Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purpose of this proceeding, any review thereof, and the enforcement of the order consented to and conditioned upon the Commission's acceptance of the consent settlement, hereinafter set forth, and in lieu of the answer to said complaint heretofore filed and which, upon acceptance by the Commission of this settlement, is to be withdrawn from the record, hereby:

1. Admit: that the name of respondent National Health Aids, Inc., has been changed by amendment to its corporate charter to National Health Aids of Baltimore, Inc., and that the address of said respondent is 112 South Street, Baltimore, Maryland; respondent Charles D. Kasher maintains an office at 1710 Broadway, New York, New York; respondent Television Advertising Associates, Inc., prior to the issu-

[1] The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on December 2, 1952 and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

ance of the complaint herein dissolved its charter granted under the laws of the State of Maryland and the business, formerly conducted by said respondent, is presently conducted by T. A. A., Inc., a corporation organized, existing and doing business under the laws of the State of New York with its principal place of business at 1710 Broadway, New York, New York and another place of business at 4 W. Eager Street, Baltimore, Maryland; and all other jurisdictional allegations set forth in the complaint.

2. Agree that the order consented to applies in the same manner and to the same extent to T. A. A., Inc., as if T. A. A., Inc., had been named in the complaint.

3. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion and order to cease and desist. It is understood that the respondents in consenting to the Commission's entry of said findings as to the facts, conclusion and order to cease and desist specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

4. Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in Paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent National Health Aids of Baltimore, Inc. (formerly and named in the complaint as National Health Aids, Inc.) is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Maryland with its principal office and place of business located at 112 South Street, Baltimore, Maryland. Respondent Charles D. Kasher is president of said corporation and, as such, formulates, directs, and controls the policies and activities of said corporate respondent. Respondent Kasher maintains an office at 1710 Broadway, New York, New York. Respondent T. A. A., Inc., successor in interest to Television Advertising Associates, Inc., is a corporation, organized, existing, and doing business under the laws of the State of New York. Respondent T. A. A., Inc., is licensed to do business in the State of Maryland and maintains a place of business at 4 West Eager Street, Baltimore, Maryland.

PAR. 2. Respondents National Health Aids of Baltimore, Inc., and Charles D. Kasher, are now, and for sometime last past have been, engaged in the sale and distribution of a "drug" or "food" preparation as such terms are defined in the Federal Trade Commission Act. Respondent T. A. A., Inc., has been the advertising agent or representative for respondents National Health Aids of Baltimore, Inc., and Charles D. Kasher, and has prepared and caused the dissemination of or participated in the preparation and dissemination of the advertising matter to which reference is made herein.

The designation used by respondents for the said preparation is "NHA Complex." The essential information in regard to the composition of the recommended daily dosage and directions for use appearing on the label, which have been changed in certain respects since issuance of complaint, are as follows:

Composition: Each 3 Tablets Contain

	Minimum assay	*Percentage of daily requirement*
Vitamin A (Vitamin A Acetate)	4000 U. S. P. Units	100%
Vitamin B_1 (Thiamin Hydrochloride)	1 Milligram	100%
Vitamin B_2 (Riboflavin)	2 Milligrams	100%
Vitamin C (Ascorbic Acid)	30 Milligrams	100%
Vitamin D (Irradiated Ergosterol)	400 U. S. P. Units	100%
Niacinamide	10 Milligrams*	-----
Plus Essential Amino Acids	100 Milligrams	-----
Iron (Ferrous Sulfate)	10 Milligrams	100%
Iodine (Potassium Iodide)	0.1 Milligram	100%

*Daily requirements have not been established.

And the following vitamins for which the need in human nutrition has not been established: d-Panthenol 215 Mcgs., Vitamin E (Wheat Germ Oil fortified with Alpha Tocopherol Acetate) 0.5 Mgs., Vitamin B_{12} (Oral Grade) 1 Mcg. plus trace amounts of other Vitamins.

In addition, 130 Mgs. of Calcium and 100 Mgs. of Phosphorus (from DiCalcium Phosphate).

Plus trace amounts of the following Minerals for which the need in human nutrition has not been established: Potassium (from Potassium Iodide) 0.033 Mgs., Copper (from Copper Sulfate) 0.35 Mgs., Sodium (from Sodium Chloride (5.5 Mgs., Zinc (from Zinc Sulfate) 0.35 Mgs., Cobalt (from Cobalt Sulfate) 0.35 Mgs., Manganese (from Manganese Sulfate) 0.35 Mgs., Magnesium (from Magnesium Carbonate) 0.35 Mgs., Sulfur 1 Mg., Molybdenum (from Sodium Molydbate) 0.2 Mgs., Dried Yeast, Oat Hull Flour and standard excipients.

Directions:

Adults take 3 tablets daily, preferably after meals. Children take 1 tablet daily. Or take as directed by your physician.

PAR. 3. Respondents cause the said preparation when sold to be transported from their place of business in the State of Maryland to

purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce, between and among the various States of the United States and in the District of Columbia. Their volume of trade in said commerce has been and is substantial.

PAR. 4. In the course and conduct of their business respondents have disseminated and caused the dissemination of certain advertisements concerning said preparation by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to radio and television broadcasts entitled "Who Ya Laffin' At," "Let's Live a Little," "Stop Fooling Yourself" and "Animal, Vegetable, Mineral," said broadcasts being of sufficient power to carry them across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said preparation; and respondents have also disseminated and caused the dissemination of advertisements concerning said preparation by various means including, but not limited to the aforesaid radio and television broadcasts, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Through the use of said advertisements respondents have made, sometimes directly and principally by implication, the following representations:

1. That NHA Complex, used as directed, will make one well and keep one well.

2. That NHA Complex, used as directed, is a competent and effective treatment for and will cure arthritis, neuritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight, underweight, goiter, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, and inability to sleep.

3. That all persons in the United States consume a diet which is deficient in vitamins and minerals; that persons who consume a well balanced diet cannot obtain therefrom the minimum daily requirements of vitamins and minerals; and that all persons in order to assure their bodies of a supply of the minimum daily requirements of vitamins and minerals must use a dietary supplement.

4. That NHA Complex, used as directed, supplies sufficient quantities of vitamin B_{12} to be of value in the treatment of diseases and disorders.

PAR. 6. The aforesaid representations are false and misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. NHA Complex, used as directed, cannot be depended upon to make one well or keep one well. There are many diseases and symptoms of diseases which are in no way related to a deficiency of vitamins and minerals, and which cannot be prevented or corrected by the administration of vitamins and minerals in any dosage. Furthermore, NHA Complex, used as directed, supplies only the minimum adult daily requirements of Vitamins A, B_1, B_2, C and D, and Niacin and of iron and iodine, and, therefore, the preparation will not constitute a competent or effective treatment for diseases, disorders or symptoms caused by deficiencies of these substances except in the milder forms of such deficiencies where the continued use of NHA Complex over a long period of time may be beneficial. In severe cases of Vitamin A, B_1, B_2, C and D and Niacin and of Iron and iodine deficiencies, the amounts of these substances supplied by NHA Complex are insufficient to produce any significant beneficial effect.

2. NHA Complex however taken is of no value in the treatment of arthritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight and goiter.

NHA Complex, taken as directed, is of no value in the treatment of diseases, disorders and symptoms such as neuritis, underweight, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, and inability to sleep except when such diseases, disorders and symptoms are due solely to mild vitamin and mineral deficiencies and then only when said preparation is taken continuously over a long period of time. These diseases, disorders and symptoms may result from any one of a number of causes that have no connection with deficiencies of vitamins and minerals.

3. All persons in the United States do not consume a diet which is deficient in vitamins and minerals. Many persons consume a well balanced diet. Persons who consume a well balanced diet can obtain therefrom the minimum daily requirements of vitamins and minerals, and such persons do not need to use a dietary supplement in order to

assure their bodies a supply of the minimum daily requirements of vitamins and minerals.

4. NHA Complex, used as directed, will not supply a sufficient quantity of Vitamin B_{12} to be of value in the treatment of any disease, disorder or symptoms thereof.

PAR. 7. The use by respondents, National Health Aids of Baltimore, Inc., and Charles D. Kasher, of the said false advertisements with respect to their preparation has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations contained in the advertisements are true; and into the purchase of substantial quantities of said preparation by reason of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, 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.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, National Health Aids of Baltimore, Inc., a corporation, its officers, Charles D. Kasher, individually and as President of said National Health Aids of Baltimore, Inc., and T. A. A., Inc., a corporation, its officers and said respondents' respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of NHA Complex or any product 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 any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or indirectly:

(a) That the use of NHA Complex, as directed, will make one well or keep one well;

(b) That NHA Complex is of any value in the treatment of arthritis, neuralgia, sciatica, lumbago, gout, bursitis, coronary thrombosis, rheumatism, high blood pressure, diabetes, bad bones, bad teeth, malfunctioning glands, infected tonsils, infected appendix, gallstones, eye trouble, overweight, or goiter;

(c) That NHA Complex, used as directed, is of any value in the treatment of neuritis, underweight, improper digestion and assimilation of food, constipation, indigestion, nervousness, lack of energy, lack of vitality, lack of ambition, grouchiness, or inability to sleep, except when such conditions are due solely to mild forms of vitamin and mineral deficiencies and then only when said preparation is taken continuously over a long period of time;

(d) That all persons in the United States consume a diet which is deficient in vitamins and minerals or that there are not many persons in the United States who consume a well balanced diet;

(e) That persons who consume a well balanced diet cannot obtain therefrom the minimum daily requirements of vitamins and minerals;

(f) That it is necessary for persons who consume a well balanced diet to use a dietary supplement in order to assure their bodies a supply of minimum daily requirements of vitamins and minerals;

(g) That NHA Complex contains Vitamin B_{12} in sufficient quantity, so that when used as directed, it will be of any value in the treatment of any disease, disorder, or symptom thereof.

(2) Disseminating or causing the dissemination of 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 said preparation which advertisement contains any of the representations prohibited in paragraph (1) hereof.

It is further ordered, That 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 this order.

NATIONAL HEALTH AIDS OF BALTIMORE, INC.

By (S) CHARLES D. KASHER,
President.

(S) Charles D. Kasher,
CHARLES D. KASHER.

T. A. A., INC.,

By (S) MELVIN RUBIN,
President.

Date: Nov. 8, 1952.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 2d day of December 1952.

Syllabus

IN THE MATTER OF

THE THORKON COMPANY

COMPLAINT, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 6004. Complaint, June 20, 1952—Decision, Dec. 2, 1952

Where a corporation engaged in the interstate sale and distribution of a drug preparation in tablet form designated "Thorkon" containing vitamins and minerals; in advertising in newspapers of general circulation, some of which included "alleged testimonials"—

(*a*) Falsely represented that said product could be depended upon to prevent, relieve, and correct physical impairments and other conditions resulting from advanced age, and would stop or overcome graying of hair;

(*b*) Represented that it would enable one to relax, have steady nerves, a happy disposition, healthy appetite, good digestion, vigor, energy, and happiness, to sleep well and feel stronger and better generally; when in fact it would not accomplish such results except in those infrequent cases where mental or physical impairment was caused by deficiencies of Vitamin B_1, B_2, niacinamide, and iron;

(*c*) Falsely represented that it would free one from muscular aches and pains, and constituted a competent and effective treatment for blotchy skin or other skin irritation, run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or nervousness in the limbs, stomach distress, backache, listlessness, neuritis, tired and sluggish blood, nerves, muscles, stomach, liver, intestines and glands, and would convert a nagging, quarrelsome irritable woman into a good wife and mother;

(*d*) Represented that it would avoid dizziness, bloating, sour stomach and gas on the stomach; would rid one of burning in the stomach after eating, and pains in the shoulders, arms and back accompanying stomach disorders; when in fact it was of value only in those quite rare instances where the symptoms were caused by deficiencies in Vitamins B_1, B_2, niacinamide, and iron; and

(*e*) Falsely represented that it was supercharged with vitamins and minerals including Vitamin B_{12}, and in the dosages recommended contained Vitamin B_6 in therapeutic quantities;

With capacity and tendency to mislead a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby into the purchase of the aforesaid preparation:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

As respects much of respondent's advertising, which, after first designating numerous symptoms and conditions, contained such language as "BUT if your body is STARVED FOR LIFE-VITAL VITAMINS AND MINERALS

so abundant in THORKON, then lose no time in taking THORKON"; "* * * when these troubles are due to lack of THORKON'S life-vital vitamins B_1, B_2, B_6, B_{12}, Niacinamide and Iron"; and "* * * when these troubles are caused by lack of vitamins and minerals with which THORKON is supercharged":

Such advertising was misleading in a material respect, and false and deceptive in that respondent, in thus advertising its preparation as a cure or remedy for the designated symptoms and conditions when due to vitamin and mineral deficiencies, represented not only that the specific symptom and condition might be due to deficiencies for which the preparation might be beneficial, but also, misleadingly, that there was a reasonable probability that such symptoms and conditions were in fact due to such causes and that the preparation would cure or relieve them.

Instances in which symptoms or conditions are caused by vitamin and mineral deficiencies are rare and each of them result more frequently from a number of causes which have no relation to such deficiencies and include cancer, tuberculosis, arthritis, heart disease, arteriosclerosis, and other diseases for which respondent's preparation would have no therapeutic value whatever and in the case of which delay in diagnosis might result in unnecessarily prolonged suffering and even death.

While some drugs and medicinal preparations, such as analgesics, are used to relieve certain symptoms regardless of cause, said Thorkon is not a symptomatic treatment, although in those rare instances when certain symptoms are due to a deficiency of Vitamins B_1, B_2, Niacinamide, or iron, the preparation, taken as directed, might in time relieve such symptoms by correcting the deficiencies which caused them, though it would in no case relieve any symptoms or condition caused by deficiency of Vitamin B_6 or Vitamin B_{12}.

Before *Mr. John Lewis*, hearing examiner.
Mr. R. P. Bellinger for the Commission.

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 The Thorkon Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act and it appearing to the Commission that a preceeding 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, The Thorkon Company, is a corporation chartered, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 699 Spring Street, N. W., in the city of Atlanta, Georgia.

PAR. 2. Respondent is now, and for more than a year last past has been, engaged in the business of selling and distributing a drug preparation, as "drug" is defined in the Federal Trade Commission Act. The said preparation is compounded and sold in tablet form consisting of pink, red and gray tablets.

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

Designation: Thorkon
Formula:

Pink Tablet

Vitamin B_{12}	5 micrograms

Red Tablet

Vitamin B_1 (Thiamin-hydrochloride)	2.5 mgs.
Vitamin B_6 (Pyridoxine Hydrochloride)	.5 mgs.
Calcium Pantothenate Dextro	1.25 mgs.
Vitamin B_2 (Riboflavin)	2.5 mgs.
Niacinamide	25.0 mgs.

Gray Tablet

Iron (iron sulfate)	28.25 mgs.
Calcium	93.5 mgs.
and Phosphorous (Dicalcium Phosphate)	69.74 mgs.
Iodine (potassium iodide)	0.075 mgs.
Copper (copper sulfate)	2.5 mgs.

Directions for Use

The directions for use are:

Men, women and children (over 6 years old) should take two red tablets just before or after breakfast and 2 gray tablets just before or after the evening meal. Take one pink tablet at bedtime.

PAR. 3. Respondent causes the said preparation when sold to be transported from its place of business in the State of Georgia to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce between and among the various States of the United States. Respondent's volume of business in commerce in said preparation is and has been substantial.

PAR. 4. In the course and conduct of its aforesaid business, the respondent, subsequent to its incorporation in 1950, has disseminated and is now desseminating and has caused and is now causing the dissemination of advertisements concerning its 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 newspapers of

general circulation, some of which advertisements contain quotations from alleged testimonials, for the purpose of inducing, and which are and were likely to induce, directly or indirectly, the purchase of said preparation; and respondent has also disseminated and is now causing the dissemination of advertisements concerning said preparation by means, including, but not limited to, the advertisements aforesaid for the purpose of inducing and which are and 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 and representations disseminated and caused to be disseminated as hereinabove set out are the following:

RELAXED-STEADY NERVES*
HAPPY DISPOSITION*
HEALTHY APPETITE*
SLEEP WELL*
FEEL STRONGER*
GOOD DIGESTION—NO HEARTBURN*
FRESH COLOR IN COMPLEXION*
LOOK YOUR BEST*
INCREASED VIGOR*
NEW ENERGY*
HAPPY LIFE*
FREE FROM MUSCULAR ACHES AND PAINS*
FEEL LIKE A MILLION*!

Refuse to be a slave to a tired run-down body!

If you can't rest—feel nervous—exhausted physically—suffer from shortness of breath—feeling of weakness or heaviness in the limbs—if you find it hard to relax—never neglect these warning signals—your body needs help from you. Your troubles may come from many causes and different treatments may be needed. BUT if your body is STARVED FOR LIFE-VITAL VITAMINS AND MINERALS so abundant in THORKON, then lose no time in taking THORKON. Don't just relieve your symptoms—GET RID OF THEM NOW and stop the cause of your misery, your worry and your pain.

THORKON actually brings new energy, vigor, and that feeling of buoyant health as it relieves these deficiencies.

THORKON works wonders for stomach distress, muscular aches, pains and backache, for listless folks who feel nervous, weak, run-down, when these troubles are due to a lack of THORKON'S life-vital vitamins B_1, B_2, B_6, B_{12}, Niacinamide and iron.

* * * getting blessed relief from tired nerves, after eating distress, backache and other muscular aches and pains like neuritis, for that listless, run-down, tired, weak and worn out feeling when caused by lack of Vitamins and Minerals with which THORKON is super-charged. Yes, if your blood, nerves, muscles and

*Get Thorkon today if your system is starved for life-vital vitamins B_1, B_2, B_6, B_{12}, Niacinamide and Iron so skillful combined in Thorkon.

glands are starved for these life-vital elements in the new THORKON, lose no time—let THORKON start feeding them today!

* * * THORKON contains nothing but the pure vitamins listed plus helpful quantities of calcium, phosphorous and iron together with 9 other life essential trace minerals. Blood, nerves, muscles, stomach, liver, intestines and glands starved for THORKON'S life-essential elements cannot help but be tired and sluggish.

THORKON brings new energy, new vigor, new feeling of happy health as it relieves these vitamin and mineral deficiencies. So now, today, don't be satisfied with mere pain killers or remedies that temporarily cover up your symptoms. Instead get at the cause with NEW THORKON * * * today!

I had no appetite and my skin was blotchy and hair graying fast. I thought approaching middle age was making me lose my edge. But my whole body responded to the magic of THORKON with its wonderful vitamins and minerals which my system needed. * * *

Super Charged
with amazing new
vitamin discovery
B_{12}

Each day seemed to get a little longer, I had little or no appetite, my hair was lifeless and graying fast. Naturally, I felt that staying at a desk all day plus the fact that I am approaching middle age caused me to lose my edge. That's not true any longer; I have found how wonderfully my body responded to the magic of THORKON. My appetite is sharp and I eat anything. My hair seems to have regained some of its old life and color. Actually my skin has cleared. Life seems wonderful again * * *.

Our home life was miserable. I quarreled with the children and nagged at my husband. We were on the verge of breaking up. Then I started taking THORKON. I am a good wife and mother again because I feel wonderful all the time, THORKON'S vitamins and minerals were just what my system needed * * *.

I was nervous and irritable. I jumped at the kids. I whined at my husband. He was coming home late and now I don't blame him for I was nagging night and morning. Now we are a happy family again since I've been taking THORKON. We went on a wonderful picnic Sunday afternoon. God bless the THORKON people for saving our home. I'm a good wife and mother again now because I feel so good and full of pep * * *.

I was weak, tired, run-down and worried, had dizzy spells and couldn't work. Whatever I ate caused gas, bloating and sour stomach. Since I started taking THORKON I feel like a million.

I was happy and healthy until three years ago when all my energy failed. I feared it was due to my age and I thought life held no more joy for me. I tried all kinds of medicine and none helped. A friend told me about THORKON and I tried it. Thanks to THORKON'S vitamins and minerals which my system needed, I am a new man today!

Until three years ago I enjoyed the best of health and had plenty of pep and energy. But then I began to feel all out of sorts, tired and discouraged most of the time. Thought I was just getting older and wouldn't be able to enjoy life so much any more. Began trying all kinds of pills, powders and liquids but none helped. One day my friend told me about THORKON and I tried it.

I want to tell you that THORKON has made a new man out of me. I have lots of pep and vigor and new found happiness, and I feel that I owe it all to THORKON. If everyone who feels as I did would take THORKON they would soon find that life can be wonderful.

Tired, I thought I'd collapse! I'm a housewife with the thousand and one things to do every day. I was just plain run down. At night little things bothered me. Seemed to be a case of jitters, I couldn't sleep and felt seedy. One of the ladies told me at our Home Demonstration Club about THORKON. After only three boxes of THORKON I began to get up in the morning feeling like a million, my housework was no longer a chore. I began to lead the singing in the family circle after the dishes were done at night * * *.

About 8 months ago my stomach started burning like fire after every meal. Gas and bloating almost cut off my breath. During these attacks I suffered terrible pain on my shoulder, arms and back. I rarely got a good night's sleep. Finally my brother told me about THORKON—and after a while I decided to try it. I want to tell you that now I can eat anything and don't have any more of those pains. My whole outlook has been changed and I owe it all to wonderful THORKON—I wish everyone who has suffered like I did could know about THORKON.

PAR. 6. Through the use of statements and representations contained in the advertisements hereinabove set forth and others of similar import and meaning, but not specifically set out herein, respondent has represented directly and by implication, that one taking Thorkon as directed can expect to be relaxed, to have steady nerves, a happier disposition, a healthy appetite, good digestion, no heartburn, improved color in complexion, improved appearance, improved health, added vigor, energy, and happiness; that he will sleep well, feel stronger and better generally and be freed from muscular aches and pains; that said preparation, taken as directed, constitutes a competent and effective treatment for blotchy skin, a tired run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or heaviness in the limbs, stomach distress, backache, listlessness, fatigue, neuritis, tired and sluggish blood, nerves, muscles, stomach, liver, intestines and glands; that Thorkon can be depended upon to prevent, relieve or correct the physical impairments or other conditions resulting from advancing age, to stop or overcome graying of hair and to convert a nagging, quarrelsome, irritable woman into a good wife and mother; that taking respondent's said preparation will avoid dizziness, bloating, or sour stomach and the formation of gas on the stomach; that Thorkon will rid one of burning in the stomach after eating and pains in the shoulders, arms and back accompanying stomach disorders; that Thorkon is supercharged with vitamins and minerals including Vitamin B12, and in the dosages recommended contains Vitamin B6 in therapeutic quantities.

PAR. 7. The aforesaid statements and representations are misleading in material respects and constitute "false advertisements" as that term

is defined in the Federal Trade Commission Act. In truth and in fact, Thorkon, taken according to directions or otherwise, will not prevent, relieve or correct the physical impairments or other conditions resulting from advancing age, and will have no effect upon the color of the hair.

Thorkon, taken according to directions or otherwise, will not enable one to relax, will have no effect upon the nerves, disposition, color or complexion, appetite, digestion, vigor, energy, happiness, general health or appearance, will not enable one to sleep well or cause him to feel stronger or better generally, except in those infrequent cases where impairment of these mental or physical conditions is caused by Vitamin B1, B2, niacinamide or iron deficiencies.

Thorkon, taken according to directions or otherwise, has no value in relieving the condition known as heartburn, nor in treating or preventing muscular aches and pains; it has no value in treating a blotchy skin or other skin irritations or a tired, run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or heaviness in the limbs, stomach distress, backache, listlessness, fatigue, neuritis, tired and sluggish blood, nerves, muscles, stomach, liver, intestines, or glands, it will not reform or convert a nagging, quarrelsome, irritable women into a good wife and mother, and has no value in treating or avoiding dizziness, bloating, sour stomach, gas on the stomach, burning in the stomach after eating, or otherwise, or pains, wherever located, accompanied by or resulting from stomach disorders, unless such symptoms or conditions are caused by Vitamin B_1, B_2, niacinamide or iron deficiencies, which instances are quite rare.

Thorkon is not supercharged with vitamins and minerals, nor with Vitamin B_{12}. The doses of vitamins and minerals provided by the preparation, taken as directed, are relatively small, and in the case of Vitamins B_6 and B_{12}, are inadequate for therapeutic purposes.

PAR. 8. Much of respondent's advertising, after first designating numerous symptoms and conditions, contains such language as the following: "BUT if your body is STARVED FOR LIFE-VITAL VITAMINS AND MINERALS so abundant in THORKON, then lose no time in taking THORKON": "* * * when these troubles are due to lack of THORKON'S life-vital vitamins B_1, B_2, B_6, B_{12}, niacinamide and iron"; and "* * * when caused by lack of vitamins and minerals with which THORKON is supercharged."

Such advertising is misleading in a material respect, and therefore false and deceptive, by reason of the suggestions contained therein. In advertising its preparation as a cure or remedy for the designated symptoms and conditions when due to vitamin and mineral deficiencies, respondent represents not only that the symptoms and conditions

specifically mentioned may be due to vitamin and mineral deficiencies for which the preparation may be beneficial, but also that there is a reasonable probability that such symptoms and conditions are in fact due to such causes and that the preparation will cure or relieve them. In truth and in fact, the instances in which any of such symptoms or conditions are caused by vitamin and iron deficiencies are rare. Each of said symptoms and conditions results much more frequently from a number of causes having no relation to vitamin or mineral deficiencies, including cancer, tuberculosis, syphilis, arthritis, rheumatism, heart disease, kidney disease, arteriosclerosis, diseases of the female organs, liver disease, gall bladder disease, peptic ulcer, prostate disease, and numerous other serious ailments, and when said symptoms or conditions are so caused, respondent's preparation will have no therapeutic value whatever in the treatment thereof. Moreover, any delay in the diagnosis and proper treatment of any of said diseases may result in unnecessarily prolonged suffering and even death. Thus, there is no reasonable probability that the symptoms and conditions mentioned in respondent's advertising are caused by vitamin and mineral deficiencies for which the respondent's preparation may be beneficial, and respondent's representations to the contrary, although made by suggestion instead of categorically, are false.

Some drugs and medicinal preparations such as analgesics are used for the purpose of relieving certain symptoms regardless of cause, but unlike such drugs and medicinal preparations, Thorkon is not a symptomatic treatment, although in those rare instances when certain symptoms are due to a deficiency of Vitamins B_1, B_2, niacinamide or iron, the said preparation, taken as directed, may in time relieve such symptoms by correcting the deficiencies which caused them. In no case will it relieve any symptom or condition caused by deficiencies of Vitamins B_6 or B_{12}.

PAR. 9. The use by respondent of the foregoing false and misleading statements and representations contained in said advertisements has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and into the purchase of said preparation because of such erroneous and mistaken belief.

PAR. 10. The acts and practices of the 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.

DECISION OF THE COMMISSION

Pursuant to "Decision of the Commission and Order to File Report of Compliance," dated December 2, 1952,[1] the initial decision in the instant matter of hearing examiner John Lewis, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 20, 1952, issued and subsequently served its complaint in this proceeding upon respondent, The Thorkon Company, a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. The said respondent defaulted in filing its answer to the complaint herein but thereafter entered its appearance at a hearing held before the above-named hearing examiner, theretofore duly designated by the Commission. At said hearing the respondent stated that it did not desire to contest the proceeding or to show cause why an order to cease and desist should not be entered against it. Thereupon the attorney in support of the complaint moved that the hearing be closed and that an order to cease and desist, in the form set forth in the "Notice" portion of the complaint, be entered against respondent based on its waiver of a hearing on the merits, and its failure to answer and show cause why said order should not be entered against it. Said motion was granted and the hearing was thereupon closed. Thereafter, the proceeding regularly came on for final consideration by the said hearing examiner upon the complaint, the waiver of hearing and failure to answer and show cause by respondent, and the aforesaid motion of the attorney in support of the complaint; and said hearing examiner having duly considered the record herein, finds that this proceeding is in the interest of the public and, pursuant to Rules V and VIII of the Rules of Practice of the Commission, makes the following findings as to the facts, conclusion drawn therefrom, and order:

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[1] Said Decision of the Commission, follows:

This matter coming on to be heard by the Commission upon its review of the hearing examiner's initial decision herein; and

The Commission having duly considered the entire record and being of the opinion that said initial decision is adequate and appropriate to dispose of the proceeding:

It is ordered, That the initial decision of the hearing examiner, a copy of which is attached hereto, shall, on the 2nd day of December, 1952, become the decision of the Commission.

It is further ordered, That the respondent, The Thorkon Company, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Commissioner Mason not participating.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, The Thorkon Company, is a corporation chartered, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 699 Spring Street, N. W., in the city of Atlanta, Georgia.

PAR. 2. Respondent is now, and for more than a year last past has been, engaged in the business of selling and distributing a drug preparation, as "drug" is defined in the Federal Trade Commission Act. The said preparation is compounded and sold in tablet form consisting of pink, red and gray tablets.

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

Designation: Thorkon.

Formula:

Pink Tablet

Vitamin B_{12}	5 micrograms

Red Tablet

Vitamin B_1 (Thiamin-hydrochloride)	2.5 mgs.
Vitamin B_6 (Pyridoxine Hydrochloride)	.5 mgs.
Calcium Pantothenate Dextro	1.25 mgs.
Vitamin B_2 (Riboflavin)	2.5 mgs.
Niacinamide	25.0 mgs.

Gray Tablet

Iron (iron sulfate)	28.25 mgs.
Calcium and Phosphorous (Dicalcium Phosphate)	93.5 mgs. 69.74 mgs.
Iodine (potassium iodide)	0.075 mgs.
Copper (copper sulfate)	2.5 mgs.

Directions for Use

The directions for use are:

Men, women and children (over 6 years old) should take two red tablets just before or after breakfast and 2 gray tablets just before or after the evening meal. Take one pink tablet at bedtime.

PAR. 3. Respondent causes the said preparation when sold to be transported from its place of business in the State of Georgia to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce between and among the various States of the United States. Respondent's volume of business in commerce in said preparation is and has been substantial.

PAR. 4. In the course and conduct of its aforesaid business, the respondent, subsequent to its incorporation in 1950, has disseminated

and is now disseminating and has caused and is now causing the dissemination of advertisements concerning its 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 newspapers of general circulation, some of which advertisements contain quotations from alleged testimonials, for the purpose of inducing, and which are and were likely to induce, directly or indirectly, the purchase of said preparation; and respondent has also disseminated and is now causing the dissemination of advertisements concerning said preparation by various means, including, but not limited to, the advertisements aforesaid for the purpose of inducing and which are and 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 and representations disseminated and caused to be disseminated as hereinabove set out are the following:

RELAXED-STEADY NERVES*
HAPPY DISPOSITION*
HEALTHY APPETITE*
SLEEP WELL*
FEEL STRONGER*
GOOD DIGESTION—NO HEARTBURN*
FRESH COLOR IN COMPLEXION*
LOOK YOUR BEST*
INCREASED VIGOR*
NEW ENERGY*
HAPPY LIFE*
FREE FROM MUSCULAR ACHES AND PAINS*
FEEL LIKE A MILLION*.

Refuse to be a slave to a tired run-down body!

If you can't rest—feel nervous—exhausted physically—suffer from shortness of breath—feeling of weakness or heaviness in the limbs—if you find it hard to relax—never neglect these warning signals—your body needs help from you. Your troubles may come from many causes and different treatments may be needed. BUT if your body is STARVED FOR LIFE-VITAL VITAMINS AND MINERALS so abundant in THORKON, then lose no time in taking THORKON. Don't just relieve your symptoms—GET RID OF THEM NOW and stop the cause of your misery, your worry and your pain.

THORKON actually brings new energy, vigor, and that feeling of buoyant health as it relieves these deficiencies.

THORKON works wonders for stomach distress, muscular aches, pains and backache, for listless folks who feel nervous, weak, run-down, when these troubles are due to a lack of THORKON'S life-vital vitamins B_1, B_2, B_6, B_{12}, Niacinamide and Iron.

*Get Thorkon today if your system is starved for life-vital vitamins B_1, B_2, B_6, B_{12}, Niacinamide and Iron so skillfully combined in Thorkon.

* * * getting blessed relief from tired nerves, after eating distress, backache and other muscular aches and pains like neuritis, for that listless, run-down, tired, weak and worn out feeling when caused by lack of Vitamins and Minerals with which THORKON is supercharged. Yes, if your blood, nerves, muscles and glands are starved for these life-vital elements in the new THORKON, lose no time—let THORKON start feeding them today!

* * * THORKON contains nothing but the pure vitamins listed plus helpful quantities of calcium, phosphorus and iron together with 9 other life essential trace minerals. Blood, nerves, muscles, stomach, liver, intestines and glands starved for THORKON'S life-essential elements cannot help but be tired and sluggish.

THORKON brings new energy, new vigor, new feeling of happy health as it relieves these vitamin and mineral deficiencies. So now, today, don't be satisfied with mere pain killers or remedies that temporarily cover up your symptoms. Instead get at the cause with NEW THORKON * * * today!

I had no appetite and my skin was blotchy and hair graying fast. I thought approaching middle age was making me lose my edge. But my whole body responded to the magic of THORKON with its wonderful vitamins and minerals which my system needed * * *.

Super Charged
with amazing new
vitamin discovery
B_{12}

Each day seemed to get a little longer. I had little or no appetite, my hair was lifeless and graying fast. Naturally, I felt that staying at a desk all day plus the fact that I am approaching middle age caused me to lose my edge. That's not true any longer; I have found how wonderfully my body responded to the magic of THORKON. My appetite is sharp and I eat anything. My hair seems to have regained some of its old life and color. Actually my skin has cleared. Life seems wonderful again * * *.

Our home life was miserable. I quarreled with the children and nagged at my husband. We were on the verge of breaking up. Then I started taking THORKON. I am a good wife and mother again because I feel wonderful all the time, THORKON's vitamins and minerals were just what my system needed * * *.

I was nervous and irritable. I jumped at the kids. I whined at my husband. He was coming home late and now I don't blame him for I was nagging night and morning. Now we are a happy family again since I've been taking THORKON. We went on a wonderful picnic Sunday afternoon. God bless the THORKON people for saving our home. I'm a good wife and mother again now because I feel so good and full of pep * * *.

I was weak, tired, run-down and worried, had dizzy spells and couldn't work. Whatever I ate caused gas, bloating and sour stomach. Since I started taking THORKON I feel like a million.

I was happy and healthy until three years ago when all my energy failed. I feared it was due to my age and I thought life held no more joy for me. I tried all kinds of medicines and none helped. A friend told me about THORKON and I tried it. Thanks to THORKON's vitamins and minerals which my system needed, I am a new man today!

Until three years ago I enjoyed the best of health and had plenty of pep and energy. But then I began to feel all out of sorts, tired and discouraged most of the time. Thought I was just getting older and wouldn't be able to enjoy

life so much any more. Began trying all kinds of pills, powders and liquids but none helped. One day my friend told me about THORKON and I tried it.

I want to tell you that THORKON has made a new man out of me. I have lots of pep and vigor and new found happiness, and I feel that I owe it all to THORKON. If everyone who feels as I did would take THORKON they would soon find that life can be wonderful.

Tired, I thought I'd collapse! I'm a housewife with the thousand and one things to do every day. I was just plain run down. At night little things bothered me. Seemed to be a case of jitters, I couldn't sleep and felt seedy. One of the ladies told me at our Home Demonstration Club about THORKON. After only three boxes of THORKON I began to get up in the morning feeling like a million, my housework was no longer a chore. I began to lead the singing in the family circle after the dishes were done at night * * *.

About 8 months ago my stomach started burning like fire after every meal. Gas and bloating almost cut off my breath. During these attacks I suffered terrible pain in my shoulder, arms and back. I rarely got a good night's sleep. Finally my brother told me about THORKON—and after a while I decided to try it. I want to tell you that now I can eat anything and don't have any more of those pains. My whole outlook has been changed and I owe it all to wonderful THORKON—I wish everyone who has suffered like I did could know about THORKON.

PAR. 6. Through the use of the statements and representations contained in the advertisements hereinabove set forth and others of similar import and meaning, but not specifically set out herein, respondent has represented directly and by implication, that one taking Thorkon as directed can expect to be relaxed, to have steady nerves, a happy disposition, a healthy appetite, good digestion, no heartburn, improved color in complexion, improved appearance, improved health, added vigor, energy, and happiness; that he will sleep well, feel stronger and better generally and be freed from muscular aches and pains; that said preparation, taken as directed, constitutes a competent and effective treatment for blotchy skin, a tired run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or heaviness in the limbs, stomach distress, backache, listlessness, fatigue, neuritis, tired and sluggish blood, nerves, muscles, stomach, liver, intestines and glands; that Thorkon can be depended upon to prevent, relieve or correct the physical impairments or other conditions resulting from advancing age, to stop or overcome graying of hair and to convert a nagging, quarrelsome, irritable woman into a good wife and mother; that taking respondent's said preparation will avoid dizziness, bloating, or sour stomach and the formation of gas on the stomach; that Thorkon will rid one of burning in the stomach after eating and pains in the shoulders, arms and back accompanying stomach disorders; that Thorkon is supercharged with vitamins and minerals including B_{12}, and in the dosages recommended contains Vitamin B_6 in therapeutic quantities.

PAR. 7. The aforesaid statements and representations are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, Thorkon, taken according to directions or otherwise, will not prevent, relieve or correct the physical impairments or other conditions resulting from advancing age, and will have no effect upon the color of the hair.

Thorkon, taken according to directions or otherwise, will not enable one to relax, will have no effect upon the nerves, disposition, color of complexion, appetite, digestion, vigor, energy, happiness, general health or appearance, will not enable one to sleep well or cause him to feel stronger or better generally, except in those infrequent cases where impairment of these mental or physical conditions is caused by Vitamin B_1, B_2, niacinamide or iron deficiencies.

Thorkon, taken according to directions or otherwise, has no value in relieving the condition known as heartburn, nor in treating or preventing muscular aches and pains; it has no value in treating a blotchy skin or other skin irritations or a tired, run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or heaviness in the limbs, stomach distress, backache, listlessness, fatigue, neuritis, tired and sluggish blood, nerves, muscles, stomach, liver, intestines, or glands, it will not reform or convert a nagging, quarrelsome, irritable woman into a good wife and mother, and has no value in treating or avoiding dizziness, bloating, sour stomach, gas on the stomach, burning in the stomach after eating, or otherwise, or pains, wherever located, accompanied by or resulting from stomach disorders, unless such symptoms or conditions are caused by Vitamin B_1, B_2, niacinamide, or iron deficiencies, which instances are quite rare.

Thorkon is not supercharged with vitamins and minerals, nor with Vitamin B_{12}. The doses of vitamins and minerals provided by the preparation, taken as directed, are relatively small, and in the case of Vitamins B_6 and B_{12}, are inadequate for therapeutic purposes.

PAR. 8. Much of respondent's advertising, after first designating numerous symptoms and conditions, contains such language as the following: "BUT if your body is STARVED FOR LIFE-VITAL VITAMINS AND MINERALS so abundant in THORKON, then lose no time in taking THORKON": "* * * when these troubles are due to lack of THORKON'S life-vital vitamins B_1, B_2, B_6, B_{12}, niacinamide and iron"; and "* * * when caused by lack of vitamins and minerals with which THORKON is supercharged."

Such advertising is misleading in a material respect, and therefore false and deceptive, by reason of the suggestions contained therein. In advertising its preparation as a cure or remedy for the designated

symptoms and conditions when due to vitamin and mineral deficiencies, respondent represents not only that the symptoms and conditions specifically mentioned may be due to vitamin and mineral deficiencies for which the preparation may be beneficial, but also that there is a reasonable probability that such symptoms and conditions are in fact due to such causes and that the preparation will cure or relieve them. In truth and in fact, the instances in which any of such symptoms or conditions are caused by vitamin and iron deficiencies are rare. Each of said symtoms and conditions results much more frequently from a number of causes having no relation to vitamin or mineral deficiencies, including cancer, tuberculosis, syphilis, arthritis, rheumatism, heart disease, kidney disease, arteriosclerosis, diseases of the female organs, liver disease, gall bladder disease, peptic ulcer, prostate disease, and numerous other serious ailments, and when said symptoms or conditions are so caused, respondent's preparation will have no therapeutic value whatever in the treatment thereof. Moreover, any delay in the diagnosis and proper treatment of any of said diseases may result in unnecessarily prolonged suffering and even death. Thus, there is no reasonable probability that the symtoms and conditions mentioned in respondent's advertising are caused by vitamin and mineral deficiencies for which the respondent's preparation may be beneficial, and respondent's representations to the contrary, although made by suggestion instead of categorically, are false.

Some drugs and medicinal preparations such as analgesics are used for the purpose of relieving certain symptoms regardless of cause, but unlike such drugs and medicinal preparations, Thorkon is not a symptomatic treatment, although in those rare instances when certain symptoms are due to a deficiency of Vitamins B_1, B_2, niacinamide or iron, the said preparation, taken as directed, may in time relieve such symptoms by correcting the deficiencies which caused them. In no case will it relieve any symptom or condition caused by deficiencies of Vitamins B_6 or B_{12}.

PAR. 9. The use by respondent of the foregoing false and misleading statements and representations contained in said advertisements has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and into the purchase of said preparation because of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of the respondent, as hereinabove found, 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.

ORDER

It is ordered, That the respondent, The Thorkon Company, a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation known as Thorkon, 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:

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 represents, directly or by implication:

(a) That Thorkon has any therapeutic value for the impairments of physical stamina or other conditions resulting from age.

(b) That Thorkon, however taken, will enable one to relax or sleep well or cause him to feel stronger or better generally, or will have any effect upon the nerves, disposition, color or complexion, appetite, digestion, vigor, energy, happiness, general health or appearance, unless such representation be expressly limited to symptoms or conditions due to Vitamin B_1, B_2, niacinamide or iron deficiencies, and unless the advertisement clearly and conspicuously reveals that such symptoms or conditions are caused much less frequently by deficiencies of Vitamin B_1, B_2, niacinamide or iron than by other causes.

(c) That respondent's said preparation has any value in treating a blotchy skin or other skin irritations, or a tired, run-down body, restlessness, nervousness, physical exhaustion, shortness of breath, weakness or heaviness in the limbs, stomach distress, backache, listlessness, fatigue, neuritis, tired or sluggish blood, nerves, muscles, stomach, liver, intestines, or glands, or in converting a nagging, irritable, quarrelsome woman into a good wife and mother, unless such representation be expressly limited to symptoms or conditions due to Vitamin B_1, B_2, niacinamide or iron deficiencies, and unless the advertisement clearly and conspicuously reveals that such symptoms or conditions are caused much less frequently by deficiencies of Vitamin B_1, B_2, niacinamide or iron than by other causes.

(d) That said preparation has any value in treating or avoiding dizziness, bloating, heartburn, sour stomach, gas on the stomach, burning in the stomach, muscular aches and pains, or pains wherever located, associated with stomach disorders, unless such representation

be expressly limited to symptoms or conditions due to Vitamin B_1, B_2, niacinamide or iron deficiencies, and unless the advertisement clearly and conspicuously reveals that such symptoms or conditions are caused much less frequently by deficiencies of Vitamins B_1, B_2, niacinamide or iron than by other causes.

(e) That said preparation, however taken, will provide Vitamin B_6 or Vitamin B_{12} in therapeutic quantities, or that it has any value in the treatment of any symptom or condition caused by deficiencies of Vitamins B_6 or B_{12}.

(f) That Thorkon is supercharged with vitamins and minerals in general or Vitamin B_{12} in particular.

2. Disseminating or causing to be disseminated 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, any advertisement which contains any of the representations prohibited in Paragraph 1 above, or which fails to comply with the affirmative requirements set forth in subparagraphs (b), (c) and (d) of Paragraph 1 hereof.

ORDER TO FILE REPORT OF COMPLIANCE

It is further ordered, That the respondent, The Thorkon Company, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist [as required by said decision and order of December 2, 1952].

IN THE MATTER OF

THE FROMMES METHOD, INC. ET AL.

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 6037. Complaint, Sept. 4, 1952—Decision, Dec. 2, 1952

Where a corporation and its three officers, engaged in the interstate sale and distribution of cosmetics and medicinal preparations for the hair and scalp, in that connection issuing franchise agreements granting the use of the "Frommes Method" to "Resident Managers," giving them the exclusive right to advertise, sell, render the services, and use the materials and preparations of the Frommes Method in their assigned territories, and undertaking to furnish advertising mats, stationery, and other forms of advertising material to said managers, who were to advertise in local newspapers, using copy furnished by the corporation at a specified rate, and to make certain reports and payments to it;

In carrying on their business under the aforesaid plan, in connection with which (1) the corporation furnished the managers with advertising mats, stationery, and other forms of advertising material representing that the manager could diagnose and cure scalp trouble, stop falling hair, regrow hair on bald heads, etc., to induce persons to come to his place of business; (2) the manager sold "Home Treatment Kits" to the public for home use; and (3) the corporation sent representatives to various cities and extensively advertised their visits and invited the public to call upon them for diagnosis and advice on a "free clinic", where the purchase of the aforesaid kits was recommended—

(*a*) Falsely represented directly and by implication in their advertisements in newspapers and periodicals of general circulation and through other advertising literature disseminated directly and in cooperation with their said Resident Managers, that the use of their said preparations, methods, and treatments by the said managers and their operators, and by purchasers in their homes would prevent baldness, including small bald patches, and cause the growth of hair on bald heads, and develop "fuzz" on the head into normal hair;

(*b*) Falsely represented as aforesaid that said preparations, etc., were effective in treating all kinds of scalp disorders; that their use would permanently eliminate dandruff, falling hair, dry itchy and irritated scalp, brittle hair, and oily hair and scalp; would normalize circulation in the scalp and revitalize the entire cycle of hair growing activity; would sterilize the scalp and normalize its acidity; and that certain of said preparations would destroy subscalp bacteria and prevent and cure psoriasis; and

(*c*) Falsely represented through the use of the designation "Trichologists" in their advertisements that said Resident Managers and their employees had had competent training in dermatology and branches of medicine having to do with diagnosis and treatment of the scalp and hair;

With the result of placing in the hands of said Resident Managers means and instrumentalities whereby they might and did mislead the public as to the benefits which might be derived through use of the preparations they sold to said managers; and

With capacity and tendency to mislead a substantial portion of the purchasing public into the mistaken belief that said representations were true and thereby induce it to visit the office of said Resident Managers to obtain treatments and to purchase their said products and Home Treatment Kits:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Michael J. Vitale and *Mr. Edward F. Downs* for the Commission.

Henderson & Halpern, of Minneapolis, Minn., for respondents.

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 The Frommes Method, Inc., a corporation, and Leo N. Frommes, Merlon Frommes and Marion McNeive 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. The Frommes Method, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business at 925 Metropolitan Building, Minneapolis, Minnesota.

Leo N. Frommes, Merlon Frommes and Marion McNeive are President, Vice President and Secretary-Treasurer, respectively, of corporate respondent. The office and principal place of business of the individual respondents is the same as that of the corporate respondent. The individual respondents as officers of the corporate respondent formulate, direct and control all of its business activities and policies.

PAR. 2. In the course and conduct of their business, the respondents for several years last past have been engaged in the sale and distribution of various cosmetics and medicinal preparations for external and internal use for the treatment of conditions of the hair and scalp in the manner as hereinafter set forth. Respondents cause said preparations when sold to be transported from their place of business in

the State of Minnesota to the 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 preparations in commerce between and among the various States of the United States. Their business in such commerce has been and is substantial.

PAR. 3. In the course and conduct of its business, corporate respondent issues franchise agreements to others granting the use of the "Frommes Method" for the treatment of the hair and scalp in particular localities for stated periods of time. Said agreements provide, among other things, that the persons obtaining said agreements, called Resident Managers, shall have the exclusive right to advertise, sell, render the services and use the materials and preparations of the "Frommes Method" in the territory assigned; that corporate respondent shall furnish advertising mats, stationery and other forms of advertising at cost to said Resident Managers with the provision that all advertising and publicity copy shall be subject to the approval of the corporate respondent. The Resident Managers agree, among other things, to advertise in local newspapers using copy furnished by corporate respondent in an amount not less than 10% of their gross receipts during each month; to give all their time to the business and to furnish daily and monthly reports to corporate respondent showing gross receipts and expenses; to use only the formula and products of corporate respondent and to pay to it a fixed percentage of the gross receipts of his business monthly. Corporate respondent has issued at least 20 franchise agreements mostly in the West and Midwest, in addition to one in Havana, Cuba.

PAR. 4. Corporate respondent has adopted several methods in connection with the sale of its various preparations. First, it furnishes the various Resident Managers with advertising mats, stationery and other forms of advertising material in accordance with the provision of the franchise agreements, said advertising material being to the effect that said Resident Managers can diagnose and cure scalp trouble, stop falling hair, regrow hair on bald heads and similar representations, for the purpose of inducing persons to come to the place of business of the various Resident Managers where the various preparations are sold and administered to the purchaser. Second, where it is not possible for the purchaser to come to the Resident Managers at intervals for the aforesaid purposes, an assortment of products known as "Home Treatment Kits" are sold to the public for administration in the home. Third, corporate respondent sends traveling representatives to various cities whose visits are extensively advertised in the cities to be visited, which advertisements invite the public to call upon

said representatives who conduct a "free clinic" for diagnosis and advice. The representatives at such times recommend the purchase of the Home Treatment Kits above described.

PAR. 5. The designations for the various preparations sold by corporate respondent to the Resident Managers, some of which preparations are included in the Home Treatment Kits, and the formulae thereof are as follows:

Shampoo #2

Oleic Acid	48%.
Triethanolamine	35%.
Diethylene Glycol Monoethylether	8.8%.
Sodium Hexamethaphosphate	1.66%.
Synthetic Detergent (Dupont WAT)	6.4%.
Rhodesia Perfume	0.14%.

General Mills, Inc.—Aliphet 44A may be used in place of part or all of the Oleic Acid.

Special Shampoo

Synthetic Detergent	77%.
Deodorant	1.2%.
Water	21.8%.
Brown Color	1½ gr. per 5 gallons.
Red Color	0.4 gr. per 5 gallons.

Hair Dress (Pomade)

Resorcinol menoacetate, oil, Petrolatum, wax, Cetyl alcohol, and Perfume.

Fromoil #8

Sulphonated Castor Oil	78%.
Lanamine (Robinson Wagner Co.)	8.6%.
Mineral Oil	4.2%.
Polyethylene Glycol Monolaurate	8.6%.
Deodorant #5 (Felton Chemical Co.)	0.4%.
Lanolin	0.2%.

Perfume with Wisteria and Isocyclo Citral S.
Color with Brown and Cherry Red.

Ointment #31

Acid Salicylic	14 oz. 30 grs.
Sulphur Sublimed	37½ oz.
Amber Petrolatum	37 lbs.
Oil Petrolatum	10 lbs.
Oxyquinoline Sulph	350 grs.

Ointment #35

Acid Salicylic	7¼ oz.
Sulphur Sublimed	18½ oz.
Oleoresin Capsicum	144 grs.
Fl. Ext. Jaborandi	305 MMs.
Amber Petrolatum	18 lbs.
Oil Petrolatum	6 lbs.

Formula #36

Oxyquinoline Sulphate	10 gr.
Resorcinol ½%	280 gr.
Oil Lavender	30 min.
Alcohol	840 cc.
Glycerine	200 cc.
Yellow Coloring q. s.	
Water q. s	1 gal.

Formula #37

Oxyquinoline Sulphate	10 gr.
Resorcinol	280 gr.
Alcohol	840 cc.
Glycerine	200 cc.
Oil Melissa	7.2 min.
Oil Bergamot	7.2 min.
Oil Lemon	3.6 min.
Oil Orange	1.2 min.
Oil Rosemary	1.2 min.
F. E. Jaborandi	550 gr.
Caromel q. s.	
Water q. s	1 gal.

Formula #38

Liq. Picis Carbonis	26 oz.
Acid Salicylic	9 oz.
Castor Oil	36 oz.
Oil Rosemary	6 oz.
Oil Lavender	6 oz.
Oil Bergamot	4 drams.
Oil Carnation	4 drams.
Isopropyl Alcohol q. s	8 gal.

Formula #39

Aqua Ammonia 28%	2½ gals.
Oil Rosemary	20 oz.
Benzaldehyde	5 oz.
Oil Lavender	5 oz.
Tr. Cantharides	2½ gals.
Isopropyl Alcohol q. s	20 gals.

Formula #43

Zinc peroxide	700 gr.
Jasamine	5 min.
Pink Coloring	5 min.
White Petrolatum q. s	1 lb.

Formula #44

Salicylic Acid	20 oz.
Sulphur Sublimed	2½ lbs.
Borax	150 grs.
Oxyquinoline Sulph	300 grs.
Resorcinol	17½ oz.
White Petrolatum	48 lbs.
Rosenol M. M. R	360 Mn.

Formula #45

Zinc Oxide	4 oz.
Boric Acid	2 oz.
Methyl Sal	80 min.
Petrolatum	1 lb. 14 oz.
Merusol	4 oz.
Green Coloring	50 min.

Formula #51

Eucalyptol.
Oil of Rosemary.
Thymol.
Petroleum Oil Base.

Formula #53

Oxyquinoline Sulphate	10 gr.
Resorcinol	280 gr.
Alcohol	840 cc.
Oil Melissa	7.2 min.
Oil Lemon	3.6 min.
Oil Orange	1.2 min.
Oil Rosemary	1.2 min.
Green coloring q. s.	
F. E. Jaborandi	24 cc.
Water q. s	1 gal.

Formula #55

Oil of Bergamot Art	1 oz.
Red Coloring q. s.	
Heavy Mineral Oil q. s	1 gal.

Formula #61

Testosterone in a special base of pure sterols, Oil of Eucalyptus	0.1%.

Formula #62

Diethyl Stilbesterol in a special base of pure sterols, oil of Eucalyptus	0.1%.

Formula #85

Ammoniated Mercury	1½ oz. 45 gr.
Petrolatum	1 lb. 10½ oz.
Merusol	4 oz.

Formula #86

5% Sulfathiazole Ointment.
Special base.

Formula #87

Ammoniated Mercury	5 lbs.
Zinc Oxide	5 lbs.
Eucalyptol	8 oz.
Lanolin Anhyd	20 lbs.
Amber Petrolatum	16 lbs.
Oil Petrolatum	4 lbs.

Formula #99

Resorcin	30 oz. 202 grs.
Oxyquinoline Sulph	14 oz. 209 grs.
Tr. Jaborandi	6½ pts.
Glycerine	13 pts.
Isopropyl Alcohol	10 gal. 72 oz.
Caramel	27 fl. oz.
Neutralizer	¼ oz.
Water q. s	50 gals.

Frommes Vitamins

Each Tabsule Contains—

Vitamin A	5000 U. S. P. Units.
Vitamin D	800 U. S. P. Units.
Vitamin C	600 U. S. P. Units.
30 MG Ascorbic Acid	
Vitamin B_1	500 International Units.
Vitamin B_2	1000 Gammas.
Vitamin B_6	50 Gammas.
Calcium Pantothenate	1000 gammas.
Niacinamide	20 Milligrams.

Frommes Minerals

Each Tablet Contains $\frac{1}{1000}$ gr. of —

Calcium Fluoride.
Calcium Phosphate.
Calcium Sulphate.
Iron Phosphate.
Potassium Chloride.
Potassium Phosphate.
Potassium Sulphate.
Magnesium Phosphate.
Sodium Chloride.
Sodium Phosphate.
Sodium Sulphate.
Silica.

PAR. 6. In the course and conduct of their business, respondents, directly and in cooperation and conjunction with their Resident Managers, have disseminated and caused the dissemination of various advertisements concerning the preparations above referred to 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 newspapers and periodicals of general circulation and by circulars, pamphlets, leaflets, and other advertising literature for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations or some of them; and respondents, as aforesaid, have also disseminated and caused the dissemination of advertisements by various means including, but not limited to, the advertisements above de-

scribed for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations or some of them in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. Among and typical of the statements and representations contained in said advertisements disseminated as aforesaid are the following:

NOTED SCALP SPECIALIST WILL SHOW YOU HOW TO STOP BALDNESS, ELIMINATE DANDRUFF, GROW STRONGER, THICKER HAIR AT HOME.

Trichologist C. G. Aasve in Attendance.

* * *

He will explain the Frommes treatment that helps you stop baldness and grow thicker, stronger hair * * * AT HOME.

Frommes treatment combines physical and chemical therapy. Among the exclusive formulae included in most treatments are fast-acting germicides, scalp cleaners and subscalp stimulants.

Each of the 14 kinds of external scalp disorders require a different therapy * * *.

As a rule, if your scalp grows "fuzz" your case is not hopeless.

Meet H. T. Casperson. He's a professional trichologist (hair specialist to you and me) and head of the Minneapolis offices of the Frommes Scalp Specialists. He has helped thousands prevent baldness—and often performed what seems to be the "miracle" of making hair grow on bald heads * * *.

How does he do it? He says it's partly old-fashioned common sense, mainly the scientific treatments and formulas employed exclusively in the Frommes method. For most people don't need to be bald! Close to 100% of baldness can be prevented with proper treatment. One of the first things he pointed out in our interview was that baldness is not inherited—it's the bad habits of hair and scalp care that are passed on from generation to generation.

Our treatments at Frommes, using our exclusive scientific formulae, clear up the specific condition that is causing baldness and start the growth of a healthy, good-looking head of hair.

No matter how bald a person is, we can start the regrowth of strong, healthy hair if the hair roots in the scalp have not died.

I am happy to say that we can and do help close to 100% of the cases that come to us.

New developments in the Frommes Formulæ, combined with Biochemistry, Electrotherapy and Physiotherapy have perfected a technique never before equalled.

Case histories prove the diagnostic soundness of the Frommes Method in thousands of cases of scalp disorders with 95% of accepted clients responding to treatment.

Latest Scientific developments point to these facts:

Luxuriant virile hair regrown—95% of baldness corrected.

Sore itchy scalp conditions relieved—Falling hair and dandruff stopped.

SCIENCE STOPS FALLING HAIR.

Exclusive Treatment restore healthy hair.

Excessive falling hair.

Dry, itchy scalp, brittle hair.
Receding hair line.
Small bald patches.
Excess dandruff.
Too oily hair and scalp.

These are all danger signals that can lead you to baldness. Check them quickly and chances are 19 out of 20 that exclusive Frommes Treatments can prevent baldness and restore a natural, thick healthy head of hair for you.

L. N. Frommes, founder of the nationally famous Frommes Scalp Specialists says "New Specially developed Frommes hormone formulae are the most important advance in successfully treating hair and scalp disorders in the last ten years. Combined with other steps of Frommes treatments, they bring results that are truly amazing".

GET MORE VIRILE HAIR IN JUST 30 DAYS.
HAIR SPECIALISTS * * *.

Demonstrates New Methods That Stop Hair Loss, Eliminate Dandruff, and Grow Stronger, Thicker Hair.

HAIR FALL STOPPED.
Dandruff eliminated
Baldness prevented.

Our intensive trichological treatments scientifically combine ultra-violet therapy, professional stimulation and exclusive laboratory created formulae; they penetrate clogged hair passages, attack subscalp bacteria, eliminate itchiness and irritation, normalize the blood circulation which "feeds" the hair roots, and revitalizes the entire cycle of hair-growing activity.

First, the Frommes expert sterilizes the scalp and normalizes acidity.
* * * A specific for psoriasis.

PAR. 8. Through the use of the statements and representations appearing in the aforesaid advertisements and others similar thereto, but not specifically set out herein, respondents represented, directly or by implication, that the use of their said preparations, methods and treatments by the Resident Managers and their operators in their various places of business and the use by purchasers of said preparations in their homes will prevent baldness including small bald patches and cause the growth of hair on bald heads; that fuzz on the head will develop into normal hair by reason of their treatments; that they are effective in treating all kinds of scalp disorders; that their use will permanently eliminate dandruff, falling hair, dry, itchy and irritated scalp, brittle hair, and oily hair and scalp; that their use will normalize the blood circulation in the scalp and revitalize the entire cycle of hair-growing activity; that certain of their preparations will penetrate clogged pores and destroy subscalp bacteria; that their use will sterilize the scalp, normalize the acidity of the scalp and that certain of said preparations will prevent and cure psoriasis.

Respondents, by the use of the designation "Trichologist" in their advertisements in referring to Resident Managers and their employ-

ees, thereby represent that said persons have had competent training in dermatology or branches of medicine having to do with the diagnosis and treatment of scalp disorders affecting the hair.

PAR. 9. The aforesaid representations are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, the said preparations, methods and treatments used by the Resident Managers or their operators or the use of the preparations by purchasers in their homes will not prevent baldness including small bald patches and will not cause the growth of hair on bald heads. Their use will not cause fuzz on the head to develop into normal hair, nor will they be effective in the treatment of all kinds of scalp disorders. Their use will not permanently eliminate dandruff, falling hair, dry, itchy or irritated scalp, brittle hair or oily hair or scalp. Their use will not have any significant effect upon blood circulation of the scalp nor will they revitalize or have any significant effect upon any hair-growing activity of the scalp. None of said preparations will penetrate clogged pores or destroy subscalp bacteria. The preparations, methods and treatments will not sterilize the scalp nor normalize the acidity of the scalp. None of the preparations will prevent or cure psoriasis.

The Resident Managers and their employees, in connection with which the designation "Trichologist" is used, have not undergone competent training in dermatology or any other branch of medicine pertaining to the treatment of scalp disorders affecting the hair.

PAR. 10. Respondents, by supplying to the Resident Managers the advertising matter, containing the materially misleading statements and representations hereinabove referred to, place in the hands of said Resident Managers means and instrumentalities by and through which said Resident Managers may and do mislead the public as to the benefits which may be derived through the use of the preparations sold by respondents to said Resident Managers. Further, respondents, by reason of the provisions of the franchise agreement set out in Paragraph Three hereof, are jointly responsible with their Resident Managers for the dissemination of said advertising matter.

PAR. 11. The use by the respondents of the foregoing false, deceptive and misleading statements and representations disseminated as aforesaid, has had and now has, the capacity and tendency to mislead and deceive a substantial portion of the public into the erroneous and mistaken belief that all such statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to visit the office of various Resident Managers for the purpose of obtaining treatments and to

purchase respondents' products hereinabove referred to and also to purchase home treatment kits, all because of such erroneous and mistaken belief engendered as above set forth.

PAR. 12. The aforesaid acts and practices of the respondents, 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.

CONSENT SETTLEMENT [1]

Pursuant to the provisions of the Federal Trade Commission Act the Federal Trade Commission on September 4, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with unfair and deceptive acts and practices in violation of the provisions of said Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of answer to said complaint, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.

2. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

3. Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

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[1] The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on December 2, 1952 and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The Frommes Method, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business at 925 Metropolitan Building, Minneapolis, Minnesota.

Leo N. Frommes, Merlon Frommes and Marion McNeive are President, Vice President and Secretary-Treasurer, respectively, of corporate respondent. The office and principal place of business of the individual respondents is the same as that of the corporate respondent. The individual respondents as officers of the corporate respondent formulate, direct and control all of its business activities and policies.

PAR. 2. In the course and conduct of their business, the respondents for several years last past have been engaged in the sale and distribution of various cosmetics and medicinal preparations for external and internal use for the treatment of conditions of the hair and scalp in the manner as hereinafter set forth. Respondents cause said preparations when sold to be transported from their place of business in the State of Minnesota to the 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 preparations in commerce between and among the various States of the United States. Their business in such commerce has been and is substantial.

PAR. 3. In the course and conduct of its business, corporate respondent issues franchise agreements to others granting the use of the "Frommes Method" for the treatment of the hair and scalp in particular localities for stated periods of time. Said agreements provide, among other things, that the persons obtaining said agreements, called Resident Managers, shall have the exclusive right to advertise, sell, render the services and use the materials and preparations of the "Frommes Method" in the territory assigned; that corporate respondent shall furnish advertising mats, stationery and other forms of advertising at cost to said Resident Managers with the provision that all advertising and publicity copy shall be subject to the approval of the corporate respondent. The Resident Managers agree, among other things, to advertise in local newspapers using copy furnished by corporate respondent in an amount not less than 10% of their gross receipts during each month; to give all their time to the business and to furnish daily and monthly reports to corporate respondent showing gross receipts and expenses; to use only the formula and products of corporate respondent and to pay to it a fixed percentage of the gross receipts of his business monthly. Corporate respondent has issued

at least 20 franchise agreements mostly in the West and Midwest, in addition to one in Havana, Cuba.

PAR. 4. Corporate respondent had adopted several methods in connection with the sale of its various preparations. First, it furnishes the various Resident Managers with advertising mats, stationery and other forms of advertising material in accordance with the provision of the franchise agreements, said advertising material being to the effect that said Resident Managers can diagnose and cure scalp trouble, stop falling hair, regrow hair on bald heads and similar representations, for the purpose of inducing persons to come to the place of business of the various Resident Managers where the various preparations are sold and administered to the purchaser. Second, where it is not possible for the purchaser to come to the Resident Managers at intervals for the aforesaid purposes, an assortment of products known as "Home Treatment Kits" are sold to the public for administration in the home. Third, corporate respondent sends traveling representatives to various cities whose visits are extensively advertised in the cities to be visited, which advertisements invite the public to call upon said representatives who conducts a "free clinic" for diagnosis and advice. The representatives at such times recommend the purchase of the Home Treatment Kits above described.

PAR. 5. The designations for the various preparations sold by corporate respondent to the Resident Managers, some of which preparations are included in the Home Treatment Kits, and the formulae thereof are as follows:

Shampoo #2

Oleic Acid	48%.
Triethanolamine	35%.
Diethylene Glycol Monoethylether	8.8%.
Sodium Hexamethaphosphate	1.66%.
Synthetic Detergent (Dupont WAT)	6.4%.
Rhodesia Perfume	0.14%.

General Mills, Inc.—Aliphet 44A may be used in place of part or all of the Oleic Acid.

Special Shampoo

Synthetic Detergent	77%.
Deodorant	1.2%.
Water	21.8%.
Brown Color	1½ gr. per 5 gallons.
Red Color	0.4 gr. per 5 gallons.

Hair Dress (Pomade)

Resorcinol menoacetate, oil, Petrolatum, wax, Cetyl alcohol, and Perfume.

630 Findings

Fromoil #8

Sulphonated Castor Oil	78%.
Lanamine (Robinson Wagner Co.)	8.6%.
Mineral Oil	4.2%.
Polyethylene Glycol Monolaurate	8.6%.
Deodorant #5 (Felton Chemical Co.)	0.4%.
Lanolin	0.2%.
Perfume with Wisteria and Isocyclo Citral S.	
Color with Brown and Cherry Red.	

Ointment #31

Acid Salicylic	14 oz. 30 grs.
Sulphur Sublimed	37½ oz.
Amber Petrolatum	37 lbs.
Oil Petrolatum	10 lbs.
Oxyquinoline Sulph	350 grs.

Ointment #35

Acid Salicylic	7¼ oz.
Sulphur Sublimed	18½ oz.
Oleoresin Capsicum	144 grs.
Fl. Ext. Jaborandi	305 MMs.
Amber Petrolatum	18 lbs.
Oil Petrolatum	6 lbs.

Formula #36

Oxyquinoline Sulphate	10 gr.
Resorcinol ½%	280 gr.
Oil Lavender	30 min.
Alcohol	840 cc.
Glycerine	200 cc.
Yellow Coloring q. s.	
Water q. s	1 gal.

Formula #37

Oxyquinoline Sulphate	10 gr.
Resorcinol	280 gr.
Alcohol	840 cc.
Glycerine	200 cc.
Oil Melissa	7.2 min.
Oil Bergamot	7.2 min.
Oil Lemon	3.6 min.
Oil Orange	1.2 min.
Oil Rosemary	1.2 min.
F. E. Jaborandi	550 gr.
Caromel q. s.	
Water q. s	1 gal.

Formula #38

Liq. Picis Carbonis	26 oz.
Acid Salicylic	9 oz.
Castor Oil	36 oz.
Oil Rosemary	6 oz.
Oil Lavender	6 oz.
Oil Bergamot	4 drams.
Oil Carnation	4 drams.
Isopropyl Alcohol q. s	8 gal.

Formula #39

Aqua Ammonia 28%	2½ gals.
Oil Rosemary	20 oz.
Benzaldehyde	5 oz.
Oil Lavender	5 oz.
Tr. Cantharides	2½ gals.
Isopropyl Alcohol q. s	20 gals.

Formula #43

Zinc peroxide	700 gr.
Jasamine	5 min.
Pink Coloring	5 min.
White Petrolatum q. s	1 lb.

Formula #44

Salicylic Acid	20 oz.
Sulphur Sublimed	2½ lbs.
Borax	150 grs.
Oxyquinoline Sulph	300 grs.
Resorcinol	17½ oz.
White Petrolatum	48 lbs.
Rosenol M. M. R	360 Mn.

Formula #45

Zinc Oxide	4 oz.
Boric Acid	2 oz.
Methyl Sal	80 min.
Petrolatum	1 lb. 14 oz.
Merusol	4 oz.
Green Coloring	50 min.

Formula #51

Eucalyptol.
Oil of Rosemary.
Thymol.
Petroleum Oil Base.

Formula #53

Oxyquinoline Sulphate	10 gr.
Resorcinol	280 gr.
Alcohol	840 cc.
Oil Melissa	7.2 min.
Oil Lemon	3.6 min.
Oil Orange	1.2 min.
Oil Rosemary	1.2 min.
Green coloring q. s.	
F. E. Jaborandi	24 cc.
Water q. s	1 gal.

Formula #55

Oil of Bergamot Art	1 oz.
Red Coloring q. s.	
Heavy Mineral Oil q. s	1 gal.

Formula #61

Testosterone in a special base of pure sterols, Oil of Eucalyptus	0.1%.

Formula #62

Diethyl Stilbesterol in a special base of pure sterols, oil of Eucalyptus ..... 0.1%.

Formula #85

Ammoniated Mercury ..... 1½ oz. 45 gr.
Petrolatum ..... 1 lb 10½ oz.
Merusol ..... 4 oz.

Formula #86

5% Sulfathiazole Ointment.
Special base.

Formula #87

Ammoniated Mercury ..... 5 lbs.
Zinc Oxide ..... 5 lbs.
Eucalyptol ..... 8 oz.
Lanolin Anhyd ..... 20 lbs.
Amber Petrolatum ..... 16 lbs.
Oil Petrolatum ..... 4 lbs.

Formula #99

Resorcin ..... 30 oz. 202 grs.
Oxyquinoline Sulph ..... 14 oz. 209 grs.
Tr. Jaborandi ..... 6½ pts.
Glycerine ..... 13 pts.
Isopropyl Alcohol ..... 10 gal. 72 oz.
Caramel ..... 27 fl. oz.
Neutralizer ..... ¼ oz.
Water q. s ..... 50 gals.

Frommes Vitamins

Each Tabsule Contains—

Vitamin A ..... 5000 U. S. P. Units.
Vitamin D ..... 800 U. S. P. Units.
Vitamin C ..... 600 U. S. P. Units.
30 MG Ascorbic Acid
Vitamin B_1 ..... 500 International Units.
Vitamin B_2 ..... 1000 Gammas.
Vitamin B_6 ..... 50 Gammas.
Calcium
Pantothenate ..... 20 Gammas.
Niacinamide ..... 20 Milligrams.

Frommes Minerals

Each Tablet Contains $\frac{1}{1000}$ gr. of —

Calcium Fluoride.
Calcium Phosphate.
Calcium Sulphate.
Iron Phosphate.
Potassium Chloride.
Potassium Phosphate.
Potassium Sulphate.
Magnesium Phosphate.
Sodium Chloride.
Sodium Phosphate.
Sodium Sulphate.
Silica.

PAR. 6. In the course and conduct of their business, respondents, directly and in cooperation and conjunction with their Resident Managers, have disseminated and caused the dissemination of various advertisements concerning the preparation above referred to 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 newspapers and periodicals of general circulation and by circulars, pamphlets, leaflets, and other advertising literature for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations or some of them; and respondents, as aforesaid, have also disseminated and caused the dissemination of advertisements by various means including, but not limited to, the advertisements above described for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations or some of them in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. Among and typical of the statements and representations contained in said advertisements disseminated as aforesaid are the following:

NOTED SCALP SPECIALIST WILL SHOW YOU HOW TO STOP BALDNESS, ELIMINATE DANDRUFF, GROW STRONGER, THICKER HAIR AT HOME.

Trichologist C. G. Aasve in Attendance.

* * *

He will explain the Frommes treatment that helps you stop baldness and grow thicker, stronger hair * * * AT HOME.

Frommes treatment combines physical and chemical therapy. Among the exclusive formulae included in most treatments are fast-acting germicides, scalp cleaners and sub-scalp stimulants.

Each of the 14 kinds of external scalp disorders require a different therapy * * *.

As a rule, if your scalp grows "fuzz" your case is not hopeless.

Meet H. T. Casperson. He's a professional trichologist (hair specialist to you and me) and head of the Minneapolis offices of the Frommes Scalp Specialists. He has helped thousands prevent baldness—and often performed what seems to be the "miracle" of making hair grow on bald heads * * *.

How does he do it? He says it's partly old-fashioned common sense, mainly the scientific treatments and formulas employed exclusively in the Frommes method. For most people don't need to be bald! Close to 100% of baldness can be prevented with proper treatment. One of the first things he pointed out in out interview was that baldness is not inherited— it's the bad habits of hair and scalp care that are passed on from generation to generation.

Our treatments at Frommes, using our exclusive scientific formulae, clear up the specific condition that is causing baldness and start the growth of a healthy, good-looking head of hair.

No matter how bald a person is, we can start the regrowth of strong, healthy hair if the hair roots in the scalp have not died.

I am happy to say that we can and do help close to 100% of the cases that come to us.

New developments in the Frommes Formulae, combined with Biochemistry, Electrotherapy and Physiotherapy have perfected a technique never before equalled.

Case histories prove the diagnostic soundness of the Frommes Method in thousands of cases of scalp disorders with 95% of accepted clients responding to treatment.

Latest Scientific developments point to these facts:

Luxuriant virile hair regrown—95% of baldness corrected.

Sore itchy scalp conditions relieved—Falling hair and dandruff stopped.

SCIENCE STOPS FALLING HAIR.

Exclusive Treatments restore healthy hair.

Excessive falling hair.

Dry, itchy scalp, brittle hair.

Receding hair line.

Small bald patches.

Excess dandruff.

Too oily hair and scalp.

These are all danger signals that can lead you to baldness. Check them quickly and chances are 19 out of 20 that exclusive Frommes Treatments can prevent baldness and restore a natural, thick healthy head of hair for you.

L. N. Frommes, founder of the nationally famous Frommes Scalp Specialists says "New Specially developed Frommes hormone formulae are the most important advance in successfully treating hair and scalp disorders in the last ten years. Combined with other steps of Frommes treatments, they bring results that are truly amazing."

GET MORE VIRILE HAIR IN JUST 30 DAYS.

HAIR SPECIALISTS * * *.

Demonstrate New Methods That Stop Hair Loss, Eliminate Dandruff, and Grow Stronger, Thicker Hair.

HAIR FALL STOPPED.

Dandruff eliminated.

Baldness prevented.

Our intensive trichological treatments scientifically combine ultraviolet therapy, professional stimulation and exclusive laboratory created formulae; they penetrate clogged hair passages, attack subscalp bacteria, eliminate itchiness and irritation, normalize the blood circulation which "feeds" the hair roots, and revitalizes the entire cycle of hair-growing activity.

First, the Frommes expert sterilizes the scalp and normalizes acidity.

* * * A specific for psoriasis.

PAR. 8. Through the use of the statements and representations appearing in the aforesaid advertisements and others similar thereto, but not specifically set out herein, respondents represented, directly or by implication, that the use of their said preparation, methods and treatments by the Resident Managers and their operators in their various places of business and the use by purchasers of said preparations in their homes will prevent baldness including small bald patches and cause the growth of hair on bald heads; that fuzz on the head will

develop into normal hair by reason of their treatments; that they are effective in treating all kinds of scalp disorders; that their use will permanently eliminate dandruff, falling hair, dry, itchy and irritated scalp, brittle hair, and oily hair and scalp; that their use will normalize the blood circulation in the scalp and revitalize the entire cycle of hair growing activity; that certain of their preparations will destroy subscalp bacteria; that their use will sterilize the scalp, normalize the acidity of the scalp and that certain of said preparations will prevent and cure psoriasis.

Respondents, by the use of the designation "Trichologist" in their advertisements in referring to Resident Managers and their employees, thereby represent that said persons have had competent training in dermatology or branches of medicine having to do with diagnosis and treatment of scalp disorders affecting the hair.

PAR. 9. The aforesaid representations are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, the said preparations, methods and treatments used by the Resident Managers or their operators or the use of the preparations by purchasers in their homes will not prevent baldness including small bald patches and will not cause the growth of hair on bald heads. Their use will not cause fuzz on the head to develop into normal hair, nor will they be effective in the treatment of all kinds of scalp disorders. Their use will not permanently eliminate dandruff, falling hair, dry, itchy or irritated scalp, brittle hair or oily hair or scalp. Their use will not have any significant effect upon blood circulation of the scalp nor will they revitalize or have any significant effect upon any hair growing activity of the scalp. None of said preparations will destroy subscalp bacteria. The preparations, methods and treatments will not sterilze the scalp nor normalize the acidity of the scalp. None of the preparations will prevent or cure psoriasis.

The Resident Managers and their employees, in connection with which the designation "Trichologist" is used, have not undergone competent training in dermatology or any other branch of medicine pertaining to the treatment of scalp disorders affecting the hair.

PAR. 10. Respondents, by supplying to the Resident Managers the advertising matter, containing the materially misleading statements and representations hereinabove referred to, place in the hands of said Resident Managers means and instrumentalities by and through which said Resident Managers may and do mislead the public as to the benefits which may be derived through the use of the preparations sold by respondents to said Resident Managers. Further, respondents, by reason of the provisions of the franchise agreement set out in Paragraph

Three hereof, are jointly responsible with their Resident Managers for the dissemination of said advertising matter.

PAR. 11. The use by the respondents of the foregoing false, deceptive and misleading statements and representations disseminated as aforesaid, has had and now has, the capacity and tendency to mislead and deceive a substantial portion of the public into the erroneous and mistaken belief that all such statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to visit the office of various Resident Managers for the purpose of obtaining treatments and to purchase respondents' products hereinabove referred to and also to purchase home treatment kits, all because of such erroneous and mistaken belief engendered as above set forth.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, 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.

ORDER TO CEASE AND DESIST

It is ordered, That the respondent, The Frommes Method, Inc., a corporation, and its officers, and the respondents, Leo N. Frommes, Merlon Frommes and Marion McNeive, individually and as officers of said respondent corporation, and respondents' respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale and sale of treatments of the hair and scalp in which the various cosmetic and medicinal preparations, as set out in the findings herein, are used; and in connection with the sale, offering for sale or distribution of the various cosmetic and medicinal preparations, as set out in the findings herein, which are used in the treatment of conditions of the hair and scalp, or any other products or preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same or any other name, do forthwith cease and desist from, directly or indirectly:

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 represents directly or through inference:

(a) That the use of said preparations, methods and treatments by respondents' Resident Managers or their operators, in their various

places of business or the use by purchasers of said preparations, in their homes;

(1) Will prevent baldness or small bald patches or cause the growth of hair on bald heads.

(2) Will cause fuzz on the scalp to develop into normal hair.

(3) Are an effective treatment for all kinds of scalp disorders.

(4) Will permanently eliminate dandruff, falling hair, dry, itchy or irritated scalp, brittle hair or oily hair or scalp.

(5) Will normalize the blood circulation in the scalp or revitalize or have any effect upon any hair growing activity of the scalp.

(6) Will sterilize the scalp or normalize the acidity of the scalp.

(b) That any of their preparations will destroy subscalp bacteria.

(c) That any of their said preparations will prevent or cure psoriasis.

2. Disseminating or causing to be disseminated, by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in subparagraphs (a) through (c) of Paragraph 1 hereof or which represents, directly or by implication, that respondents' resident managers or any of their employees who have not had competent training in dermatology or other branches of medicine having to do with the diagnosis and treatment of scalp disorders affecting the hair are trichologists.

It is further ordered, That 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 this order.

THE FROMMES METHOD, INC.,
A CORPORATION,
By (S) Leo N. Frommes,
LEO N. FROMMES,
Individually and as Officers of The Frommes Method, Inc., a Corporation.
By (S) Merlon Frommes,
MERLON FROMMES,
Individually and as Officers of The Frommes Method, Inc., a Corporation.
By (S) Marion McNeive,
MARION MCNEIVE,
Individually and as Officers of The Frommes Method, Inc., a Corporation.

Date: October 27, 1952.

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 2nd day of December 1952.