

Complaint

IN THE MATTER OF

BAILEY RADIUM LABORATORIES, INC., ET AL.

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

Docket 1756. Complaint, Feb. 5, 1930—Decision, Dec. 19, 1931

Order requiring respondent corporation, and respondent individual, its president, treasurer, and principal stockholder, to cease and desist, in connection with sale in interstate commerce of their radioactive water, "Radithor," as in said order in detail set forth, from—

- (1) Falsely representing development of said product as the outstanding achievement in application of radioactive rays, the circumstances leading to the production thereof, the safety, healing, and beneficial qualities thereof, and conditions or symptoms ameliorated thereby;
- (2) Publishing or causing to be published and distributed statements of physicians as to (a) therapeutic value of radioactive therapy, not specifically applicable to radithor, unless specifically and plainly so stated and published, or (b) therapeutic value of radithor, unless and until said statements based on physician's clinical experience in connection with the use thereof;
- (3) Publishing or causing to be published or distributed books, leaflets, booklets, or other publications advertising their said products in question, but written or prepared by a person or persons other than those held out therein as the authors thereof; and
- (4) Using corporate name Bailey Radium Laboratories, Inc., or otherwise representing that their aforesaid product is made by them in a laboratory.

Mr. Robert H. Winn for the Commission.

Hulbert & Heermance, of New York City, for respondents.

COMPLAINT

Acting in the public interest pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties and for other purposes," the Federal Trade Commission charges that Bailey Radium Laboratories, Inc., and William J. A. Bailey, individually and as president and as treasurer and as principal owner of the stock of respondent Bailey Radium Laboratories, Inc., hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act and states its charges in that respect as follows:

PARAGRAPH 1. Respondent Bailey Radium Laboratories, Inc., is a

corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located in the city of East Orange in said State. Respondent Bailey Radium Laboratories, Inc., is and has been for more than one year last past engaged in the manufacture, fabrication, or preparation of a certain medical preparation or compound for internal use by human beings, the same being a solution composed of water and radium salt and/or mesothorium salt and in the sale of said preparation or compound under the trade name of Radithor direct to purchasers thereof located in various States of the United States. Respondent Bailey Radium Laboratories, Inc., causes its said preparation or compound when so sold to be transported from its said place of business in the State of New Jersey or from other States of the United States into and through other States of the United States to the purchasers thereof located in a State or States of the United States other than the State of origin of such shipment. In the course and conduct of its said business respondent, Bailey Radium Laboratories, Inc., is in competition with other corporations, partnerships and individuals engaged in the sale and distribution of preparations or compounds in commerce between and among various States of the United States, which preparations and compounds sold and distributed by such competitors are to be used for a purpose or purposes similar to that purpose or those purposes for which Radithor is to be used. Respondent William J. A. Bailey is now and for more than one year last past has been president, treasurer, and principal owner of the capital stock of the respondent Bailey Radium Laboratories, Inc.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof respondent Bailey Radium Laboratories, Inc., in order to aid the sale of said compound or preparations, has caused to be published certain books, leaflets, booklets, circulars, and other similar publications and has distributed the said books, leaflets, booklets, circulars, and other publications throughout various States of the United States in which said books, leaflets, booklets, circulars, and other publications respondent William J. A. Bailey as author, and/or respondent Bailey Radium Laboratories, Inc., as publishers have made false and misleading statements and representations, among them being such assertions as the following:

1. "The outstanding achievement in the application of radioactive rays has been the development of Radithor." "This is Radithor, the climax of thirty years of toil by hundreds of scientists who labored with invisible rays that the cause of humanity might be served." In truth and in fact the development of Radithor has not been the out-

standing achievement in the application of radioactive rays nor is Radithor the climax of thirty years of toil by hundreds of scientists who labored with invisible rays that the cause of humanity might be served.

2. And such other assertions as the following: "There are three chief rays—the alpha, beta, and gamma (of radium). The gamma ray is the most penetrating and is destructive. Hence it is used in cancer. The alpha ray is not penetrating and is not destructive. In fact, it is the most valuable of the three rays. According to Mme. Curie, 90 per cent of the total energy of radioactivity is due to the alpha ray. It is this ray that we get largely in Radithor." In truth and in fact when radium or mesothorium are taken into the body through the mouth, the alpha ray is destructive and poisonous and causes serious diseases in various portions of the body.

3. In the booklet "Radithor," published by respondent Bailey Radium Laboratories, Inc., bearing copyright notice indicating that the publication had been copyrighted by respondent Bailey Radium Laboratories, Inc., there are published excerpts from statements of various physicians as to the therapeutic value of radioactive therapy, all alleged to be based on clinical records, which excerpts import or imply that the said therapeutic value is obtained by the use of Radithor. Many of these reports are not based on physicians' experiences resulting from the use of any radioactive water and many others are based upon the use of a radioactive water other than Radithor. Other portions of the so-called "medical evidence" as contained in the alleged clinical reports contain statements to the effect that various diseases and unhealthy conditions have responded favorably to Radithor or that Radithor has been used successfully in such cases when in truth and in fact such conditions have not been successfully treated with Radithor nor have such conditions responded favorably to Radithor as a result of any treatments with Radithor given by the doctor or doctors alleged to have made such clinical reports.

4. In the said publication Radithor, caused to be published by respondent Bailey Radium Laboratories, Inc., to advertise the compound or preparation Radithor, the following paragraph is used under the heading "Summary of Effects" to summarize the results of using respondents' product Radithor; "An examination of the various chapters of this book will show the following effects of radioactive therapy:

Raises energy output.

Raises biological level.

Stimulates lowered metabolism.

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Corrects imperfect nutritional processes.

Eliminates toxic wastes.

Acts as catalyzing agent of chemistry processes.

Supplies ionization to the cells.

Increases oxidation.

Stimulates the functional activity of the endocrines.

When we consider this vast range of functions performed by the radioactive rays it is not difficult to appreciate why this single agent may bring amelioration to so many abnormal conditions."

The following diseases or conditions are listed in the said publication Radithor as being conditions in which internal radioactive treatment has been given by the use of radioactive water. The statement is made that "while the list gives many conditions regarded as symptoms rather than diseases yet in the last analysis diseases are themselves frequently but symptoms of a few primarily underlying causes which Radithor appears to ameliorate to a considerable degree."

Anemia.
Arteriosclerosis.
Arthritis.
High blood pressure.
Debility.
Digestive disorders.
Gout.
Heart conditions.
Kidney conditions.
Menopause disorders.

Acidosis.
Acne.
Adenoids.
Adynamia.
Albuminuria.
Alcoholism.
Amenorrhea.
Angina pectoris.
Angioneurotic edema.
Ankylosis.
Anorexia.
Apoplexy.
Arthritis deformans.
Arthritis sicca.
Articular rheumatism.
Asthemia.
Asthma.
Auto-intoxication.
Backward development.
Bacterial infections.

Bolls.
Bright's disease.
Bronchitis.
Cataract.
Catarrhal conditions.
Catarrh of antrum and ethmoid.
Cardiac neurosis.
Chlorosis.
Chorea.
Chronic articular rheumatism.
Chronic pharyngitis.
Glycosuria.
Gotter.
Gonorrheal arthritis.
Hardening of arteries.
Hay fever.
Headache.
Heart conditions.
Hodgkin's disease.
Hydrarthrosis.
Hypertension.
Hyperthyroidism.
Hypothyroidism.
Hysteria.
Impotency.
Indigestion.
Infection.
Inflammatory conditions.
Insomnia.
Intercostal neuralgia.
Interstitial nephritis.

Ivy poisoning.	Enuresis.
Leukemia.	Epigastralgia.
Leukoplakia.	Epilepsy.
Locomotor ataxia (pains).	Erythro-polycythemia.
Low blood pressure.	Exophthalmos.
Lumbago.	Exhaustion.
Malaria.	Eye troubles.
Malignancies.	Fatigue.
Malnutrition.	Flatulence.
Melancholia.	Gastric indigestion.
Menorrhagia.	Gastric neurosis.
Mental aberration.	Gastro-intestinal fermentation.
Metrorrhagia.	Genital disorders.
Migraine.	Genito-urinary diseases.
Multiple neuritis.	Nausea.
Muscle pains.	Necrosis.
Muscular atrophy.	Nephritis.
Muscular rheumatism.	Nervous breakdown.
Myalgia.	Nervousness.
Myasthenia.	Obesity.
Myocarditis.	Paralysis agitans.
Menstrual disorders.	Parenthesis.
Neuralgia.	Pernicious anemia.
Neurasthenia.	Plumbism.
Neuritis.	Pneumonia.
Neurosis.	Polyneuritis.
Prostatitis.	Polyuria.
Rheumatism.	Psychosis.
Sexual decline.	Psoriasis.
Senility.	Pyelitis.
Skin disorders.	Pyelo-nephritis.
	Pyorrhea.
Chronic rhinitis.	Raynaud's disease.
Chronic skin diseases.	Rheumatoid arthritis.
Colds.	Rickets.
Colitis.	Sciatica.
Constipation.	Scleroderma.
Coronary sclerosis.	Sexual neurasthenia.
Cystitis.	Sinusitis and antrum conditions.
Cystic goiter.	Stomach disorders.
Deafness.	Subacute rheumatism.
Dental conditions.	Syphilitic reactions.
Dermatoses.	Tabes (lancinating pains).
Diabetes mellitis.	Thyrotoxicosis.
Diabetes insipidus.	Tic douloureux.
Duodenal indigestion.	Trifacial neuralgia.
Dysmenorrhea.	Tuberculosis of glands.
Dyspepsia.	Ulcers.
Dyspnea.	Varicose veins.
Eczema.	Vertigo.
Edema.	Wrinkles.

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In truth and in fact treatment with Radithor neither ameliorates nor cures nor appears to ameliorate to a considerable degree the diseases or conditions listed above but the use of Radithor in instances where these diseases or conditions are present or under any other conditions might be seriously harmful to the patient and result in an aggravation of disease.

PAR. 3. Respondent William J. A. Bailey has prepared books, leaflets, booklets, circulars, and/or other publications which have been published by respondents as the products of the minds of other persons. In these books, leaflets, booklets, circulars, and/or other publications Radithor is referred to as a treatment which has been successfully used by the alleged authors in many cases, when in truth and in fact the alleged authors not only had prescribed Radithor in a limited number of cases only, if at all, but had kept no accurate clinical records, the publications in such cases, being wholly the writings of respondent William J. A. Bailey.

PAR. 4. Respondent Bailey Radium Laboratories, Inc., purchases from the U. S. Radium Corp. the concentrated radioactive fluid which is diluted with distilled water, the only preparation necessary in the compounding of Radithor. In the books, leaflets, booklets, circulars, and/or other publications published under the auspices of the respondent Bailey Radium Laboratories, Inc., such expressions as "these laboratories carried on costly and extensive research, assisted by innumerable clinical tests, over a considerable time to develop a product that would best meet the requirements for the 'ideal treatment.' Only as a result of several years' effort in this direction was Radithor finally perfected."

"Radithor is thus distinctly a laboratory product." In truth and in fact no such research nor clinical tests were carried on and the place where the radioactive fluid is diluted to produce Radithor is not a laboratory and the use by respondent Bailey Radium Laboratories, Inc., of the word "laboratories" in its corporate name or in its advertising is false and misleading.

PAR. 5. Respondent Bailey Radium Laboratories, Inc., in its advertising and advertising matter refers to Radithor in the following terms, among others:

In no branch of medicine has greater progress been made than in the use of rays as therapeutic agents. This is especially true with respect to the radioactive rays which, in the form of Radithor, have become to-day an outstanding agency in the treatment of endocrine gland disorders.

In truth and in fact Radithor is not and never has been an outstanding agency in the treatment of endocrine gland disorders.

PAR. 6. The acts and things above alleged to have been done by respondent have the capacity and tendency to mislead and deceive the purchasing public into the belief that the preparation or compound Radithor—

1. Is a scientifically accurate method of treatment.
2. Is the result of many years of scientific research.
3. Is prepared in a laboratory.
4. Is a safe, effective, and dependable remedy that may be used by all purchasers thereof without inconvenience, sacrifice or danger or harmful results to physical health.
5. Is a remedy which will ameliorate the diseases and conditions listed in respondent's books, leaflets, booklets, circulars, and/or other publications.
6. Is being and has been used by many physicians with success, and that such physicians have written and published books and testimonials in which Radithor is recommended and its curative properties praised.

PAR. 7. The acts and practices of respondent are all to the prejudice of the public and of competitors of respondents and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of an act of Congress entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission on the 5th day of February, 1930, issued its complaint against Bailey Radium Laboratories, Inc., a corporation, and William J. A. Bailey, individually and as president and as treasurer and as principal stockholder of the Bailey Radium Laboratories, Inc., respondents herein, and caused the same to be served upon said respondents as required by law, in which complaint it is charged that respondents have been and are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

On March, 8, 1930, the respondents filed with the Commission an answer to the charges of the complaint. Subsequent thereto the Commission appointed John W. Addison, an examiner of the Federal Trade Commission, to take testimony and receive evidence in support of this complaint and in support of the respondents' answer.

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Testimony on behalf of the Federal Trade Commission was received. Thereafter on September 29, 1931, the respondents filed with the Commission a motion whereby they moved for leave to withdraw the answer theretofore filed by the respondents and further moved that the pleading be accepted by the Commission as an answer within the terms of section 2 of Rule III of the Rules of Practice and Procedure of the Federal Trade Commission, and stated that for that purpose the respondents refrain from contesting the proceeding. On November 6, 1931, the Commission granted the said motion, and accepted the pleading as an answer, and the Commission being advised in the premises finds that the respondents have violated the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties and for other purposes,"

It is now ordered, That respondents, Bailey Radium Laboratories, Inc., a corporation, and William J. A. Bailey, their agents, representatives, servants, and employees, cease and desist in connection with the offering for sale and sale in interstate commerce of the radioactive water heretofore known as Radithor:

1. From representing that the outstanding achievement in the application of radioactive rays has been the development of Radithor.

2. From representing that Radithor is the climax of 30 years of toil by hundreds of scientists who labored with invisible rays that the cause of humanity might be served.

3. From representing that the alpha ray in radium, as contained in respondents' product Radithor, is not destructive.

4. From publishing or causing to be published and distributing or causing to be distributed statements of physicians as to the therapeutic value of radioactive therapy not specifically applicable to Radithor, unless the fact that the said statements as to the therapeutic value of radioactive therapy were not made specifically in connection with the product Radithor is also plainly published or printed and distributed therewith.

5. From publishing or causing to be published and distributing or causing to be distributed statements of various physicians as to the therapeutic value of Radithor unless and until the said statements are based on the said physicians' clinical experiences in connection with the use of the product Radithor.

6. From representing that radiotherapy has any of the following effects:

- Raises energy output.

- Raises biological level.

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Stimulates lowered metabolism.

Corrects imperfect nutritional processes.

Eliminates toxic wastes.

Acts as catalyzing agent of chemistry processes.

Supplies ionization to the cells.

Increases oxidation.

Stimulates the functional activities of the endocrines.

7. From representing that the product Radithor ameliorates or appears to ameliorate to a considerable degree the following conditions or symptoms, or any of them:

Anemia.	Chronic articular rheumatism.
Arteriosclerosis.	Chronic pharyngitis.
Arthritis.	Glycosuria.
Debility.	Goiter.
Digestive disorders.	Gonorrheal arthritis.
Gout.	Hardening of arteries.
Heart conditions.	Hay fever.
High blood pressure.	Headache.
Kidney conditions.	Heart conditions.
Menopause disorders.	Hodgkin's disease.
	Hydrarthrosis.
Acidosis.	Hypertension.
Acne.	Hyperthyroidism.
Adenoids.	Hypothyroidism.
Adynamia.	Hysteria.
Albuminuria.	Impotency.
Alcoholism.	Indigestion.
Amenorrhea.	Infection.
Angina pectoris.	Inflammatory conditions.
Angioneurotic edema.	Insomnia.
Ankylosis.	Intercostial neuralgia.
Anorexia.	Interstitial nephritis.
Apoplexy.	Ivy poisoning.
Arthritis deformans.	Leukemia.
Arthritis sicca.	Leukoplakia.
Articular rheumatism.	Locomotor ataxia (pains).
Asthenia.	Low blood pressure.
Asthma.	Lumbago.
Auto-intoxication.	Malaria.
Backward development.	Malignancies.
Bacterial infections.	Malnutrition.
Boils.	Melancholia.
Bright's disease.	Menorrhagia.
Bronchitis.	Mental aberration.
Cataract.	Metrorrhagia.
Catarrhal conditions.	Migraine.
Catarrh of anthrum and ethmo'	Multiple neuritis.
Cardiac neurosis.	Muscle pains.
Chlorosis.	Muscular atrophy.
Chorea.	Muscular rheumatism.

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Myalgia.	Gastric indigestion.
Myasthenia.	Gastric neurosis.
Myocarditis.	Gastro-intestinal fermentation.
Menstrual disorders.	Genital disorders.
Neuralgia.	Genito-urinary diseases.
Neurasthenia.	Nausea.
Neuritis.	Necrosis.
Neurosis.	Nephritis.
Prostatitis.	Nervous breakdown.
Rheumatism.	Nervousness.
Sexual decline.	Obesity.
Senility.	Paralysis agitans.
Skin disorders.	Paresthesia.
	Pernicious anemia.
Chronic rhinitis.	Plumbism.
Chronic skin diseases.	Pneumonia.
Colds.	Polyneuritis.
Colitis.	Polyuria.
Constipation.	Psoriasis.
Coronary sclerosis.	Psychosis.
Cystitis.	Pyelitis.
Cystic goiter.	Pyelo-nephritis.
Deafness.	Pyorrhea.
Dental conditions.	Raynaud's disease.
Dermatoses.	Rheumatoid arthritis.
Diabetes mellitis.	Rickets.
Diabetes insipidus.	Sciatica.
Duodenal indigestion.	Scleroderma.
Dysmenorrhea.	Sexual neurasthenia.
Dyspepsia.	Sinusitis and antrum conditions.
Dyspnea.	Stomach disorders.
Eczena.	Subacute rheumatism.
Edema.	Syphilitic reactions.
Enuresis.	Tabes (lancinating pains).
Epigastralgia.	Thyrototoxicosis.
Epilepsy.	Tic douloureux.
Erythro-polycythemia.	Trifacial neuralgia.
Exophthalmos.	Tuberculosis of glands.
Exhaustion.	Ulcers.
Eye troubles.	Varicose veins.
Fatigue.	Vertigo.
Flatulence.	Wrinkles.

8. From publishing or causing to be published and distributing or causing to be distributed books, leaflets, booklets, circulars, or other publications advertising respondents' product Radithor, which have been written or prepared by a person or persons other than the person or persons held out in the said books, leaflets, booklets, circulars, or other publications as the author or authors thereof.

9. From using the corporate name, Bailey Radium Laboratories, Inc., or representing otherwise that respondents' product Radithor is manufactured by respondents in a laboratory.

10. From representing that respondents' product Radithor is an outstanding agency in the treatment of endocrine gland disorders.

11. From representing that respondents' product Radithor is harmless.

It is further ordered, That respondents, Bailey Radium Laboratories, Inc., and William J. A. Bailey, shall within 30 days after the service upon them of a copy 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 hereinbefore set forth.

