

Complaint

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IN THE MATTER OF

NEIL M. JONES AND ROBERT D. EMERY, COPARTNERS
DOING BUSINESS UNDER THE NAME AND STYLE OF
AMERICAN RADIUM PRODUCTS COMPANY.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1752. Complaint, Jan. 30, 1930—Order, Oct. 29, 1932.*

Consent order requiring respondent individuals to cease and desist from representing that "water drawn from the lined water jar sold by them and heretofore designated 'The Radium Spa' has any therapeutic or curative value for any bodily ailment or disease whatsoever."

Mr. Eugene W. Burr for the Commission.

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 Neil M. Jones and Robert D. Emery, copartners doing business under the firm name and style of American Radium Products Co., hereinafter referred to as the respondents, have been and are using unfair methods of competition in commerce in violation of the provisions of section 5 of the said act, and states its charges in that respect, as follows:

PARAGRAPH 1. Respondents, Neil M. Jones and Robert D. Emery, are copartners trading under the name and style of American Radium Products Co., with their principal place of business in the city of Los Angeles, in the State of California. They are engaged in the business of manufacturing, offering for sale and selling to purchasers located in various States of the United States, earthenware water jars, lined with what the said respondents assert to be radium ore, causing such earthenware water jars when sold, to be transported from their place of business in Los Angeles, Calif., into and through other States of the United States to said purchasers at their respective points of location.

PAR. 2. The name which respondents have given to said water jar, by which respondents refer thereto, and under and by which the same is so offered for sale and sold by respondents, is "The Radium-Spa". Respondents assert to the public and to prospective purchasers in their advertising matter hereinafter referred to, and

in their activities, correspondence, statements, representations, and negotiations in relation thereto, that the radium ore with which said water jar is so alleged to be lined, "imparts to any water placed therein, millions of tiny gaseous particles known as radio-activity, in exactly the same manner as nature does herself". The name so given by respondents to said water jar literally means, and is intended by respondents to be taken and accepted as meaning, "the mineral spring, the waters of which have been charged with radio-activity by contact with radium, an intensely radio-active metallic element".

PAR. 3. Respondents assert that water poured into such water jar and permitted to remain therein for as many as twelve hours has imparted to it by said radium ore a degree of radio-activity that makes such water, when drawn out of such jar and consumed by a person in need thereof, a therapeutic agent that is a cure of each and all of many bodily diseases enumerated and set forth by respondents in advertising matter and in statements and representations by respondents otherwise made to the public and prospective purchasers of such water jars.

PAR. 4. In scientific nomenclature relating to radium the following definitions are established and universally accepted and used, to wit:

A millimicrocurie is one one thousandth of one millionth of a curie, or one billionth of a gram.

The term "M. U." refers to Mache Units and 2,700 M. U's equals a microcurie.

One microcurie equals 1,000 millimicrocuries.

A gram is 1/28.3 of an ounce.

PAR. 5. In their said business enterprise, and in the procurement of purchasers for said water jars so being offered for sale and sold by respondents, respondents are in competition with other persons, firms, associations, and corporations who are engaged in offering for sale and selling in interstate commerce their products as and for remedial agents with therapeutic value in the treatment and cure of one or more of said many diseases for which respondents claim the water drawn from such water jar to be of therapeutic value as a remedy and cure. At various points in and throughout the several States of the United States, competitors of respondents above referred to have been, and are, engaged in offering for sale and selling various products as remedial agents of therapeutic value in the treatment and cure of one or more of the diseases hereinabove referred to and hereinafter enumerated, and in causing the same to be transported, through the United States mails or otherwise, from their respective places of business into and through the several States

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of the United States of America to the respective places of residence of the purchasers thereof in such several States.

PAR. 6. In their said business and for the purpose of inducing purchasers to enter into contracts for the purchase of such water jars, and to pay the purchase price thereof, respondents cause advertisements and descriptions of such water jars to be inserted and made accessible to the public and to prospective purchasers, in newspapers, magazines, periodicals, and other publications of general circulation in the United States and in the several parts thereof, and in order blanks and other blanks, in catalogs, pamphlets, letters, circulars, and other forms of written, mimeographed, or printed matter.

In such advertisements and descriptions and in said written, mimeographed, or printed matter, respondents make the following statements, representations and promises, referred to, to wit, that:

1. The mystery of "health springs" has been solved. Health spring waters are highly radio-active, and they have therapeutical value in direct proportion to the amount of radio-active emanation in such health springs. All natural waters at their source show radio-activity, but the more noted health springs are many times more radio-active than other springs.

The secrets of the Turkish harem have been revealed. For centuries the famous "Well of Beauty" at Donje Vodne, near Urkub, Turkey, have been guarded as sacred and kept only for the beauties of the Turkish harems.

These favored women actually retained youth and beauty long after others of the same age had become old and wrinkled. After long scientific research the wonderful element responsible for the lasting youth and beauty of the favored harem is known and now made possible for every woman to have. It was found that the only therapeutical difference between the waters of the "Well of Beauty" and any other water was just one—that element was radio-activity.

Elaborate research has since positively determined that the radio-active water of the "Well of Beauty" is successfully duplicated by the Radium-Spa and the results are the same. A few of the findings resulting from these researches are as follows:

- (a) Pimples and blotches disappear.
- (b) The flesh becomes firm.
- (c) The skin becomes velvet soft over the entire body.
- (d) The face fills out and wrinkles disappear.
- (e) The complexion becomes clear and rosy.
- (f) Constipation is relieved and the health in general is much improved.
- (g) Thyroid activity is increased, causing a filling out of scrawny neck and shoulders.
- (h) Unhealthy fat is reduced, while those underweight gain in flesh.
- (i) Rinsing the hair in the water after washing and allowing the hair to dry in the sun without rubbing with a towel makes the hair glossy and like silk. Also in many cases hair which is originally straight becomes naturally curly.

The Radio-Spa faithfully duplicates the "Well of Beauty" and is now ready for you. It is guaranteed to make any water placed in it radioactive equal in strength to the famous "Well of Beauty" within twelve hours. Just fill it tonight with hydrant water; tomorrow it is ready for use. It lasts forever and now costs but \$30 delivered to you.

2. Radio-active water from the Radium-Spa carries a superabundance of this health-infusing emanation. The water from the Radium-Spa has been proven by tests to possess a radio-activity far in excess of that of natural springs and consequently its biological influences and its health-giving powers greatly exceed similar influences derived from the natural radio-active springs.

3. *The physiological action of radium emanation is:*

- (a) Radium emanation is more soluble in blood than in water.
- (b) Emanation, upon entering the blood stream, almost immediately causes an increase in red corpuscles (soldiers of the body).
- (c) Radium emanation increases the metabolism.
- (d) There is an augmented excretion of uric acid and a solution of sodium biurate.
- (e) Enhances the action of pepsin, pancreatin, rennin and diastase.
- (f) Radium emanation tends to normalize the entire system.
- (g) Radium emanation stimulates the germination of seeds and growth of plants.
- (h) There is a decided rejuvenating effect on glands.
- (i) The cells throughout the body are made more permeable.
- (j) Action of the rays of radium emanation are very beneficial in ridding the blood stream of uric acid.
- (k) Rays have bactericidal action.
- (l) Radium emanation is not a drug or medicine.
- (m) Radium emanation enters every part of the body.
- (n) Radium emanation has a decided ionizing and catalytic action.

4. *Radium emanation is applicable to the following specific physical conditions:*

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|--------------------------|-----------------------|
| (a) Arteriosclerosis | (k) Gout |
| (b) Anemia | (l) Insomnia |
| (c) Asthma | (m) Menopause |
| (d) Backward development | (n) Nervous condition |
| (e) Cancer | (o) Neuralgia |
| (f) Constipation | (p) Obesity |
| (g) Diabetes | (q) Prostate |
| (h) Dysmenorrhea | (r) Rheumatism |
| (i) Dyspepsia | (s) Rejuvenation |
| (j) Goiter | (t) Neurasthenia |

5. The following list of diseases shows the wide range of conditions benefited by radio-active water, which demonstrates how radio-active water may be used in the re-establishment of health:

- | | |
|-------------------|----------------------|
| Acidosis | Bacterial infections |
| Anemia | High blood pressure |
| Arthritis | Low blood pressure |
| Arteriosclerosis | Bright's disease |
| Asthma | Catarrhal conditions |
| Auto-intoxication | Constipation |

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Debility	Kidney troubles
Diabetes	Leucorrhea
Dyspepsia	Lumbago
Exhaustion	Melancholia
Eye troubles	Menopause disorders
Genital disorders	Menstrual complaints
Goiter	Nervous complaints
Gout	Neuralgia
Hay fever	Neuritis
Heart troubles	Obesity
Impotency	Prostatitis
Insomnia	Sciatica
Indigestion	Skin disorders.

6. Many famous physicians and many other men and women have affirmed in language quoted in such advertising matter that the use of radio-active water including water so drawn from such water jar, has cured many and diverse specifically enumerated diseases, the same being many of the diseases above enumerated, and also serious maladies not so enumerated.

7. The Government of the United States has ascertained and officially declared the great therapeutic or remedial value of radio-active waters from mineral springs as a treatment or cure for many of said diseases.

PAR. 7. The truth and the facts in relation to the subject matter of said statements, representations, and promises so being made by respondents, are as follows:

1. Science has not yet learned with certainty the fact of the therapeutic value of radio-active water, but has discovered its probably therapeutic value in a limited number of cases and within narrow limitations of conditions and effectiveness.

2. Science has demonstrated that water poured into, permitted to remain therein for a period of 12 or 24 hours, and thereafter drawn from a radium emanation generator which yields less than 2,000 millimicrocuries of emanation per litre during each period of 24 hours, has a dosage of radium emanation so small as to have no therapeutic value; and that the use of such water cannot have any degree of effectiveness as a treatment, remedy or cure for any of the above enumerated diseases of any other bodily ailment or disease.

3. Scientific investigations of the actual radium emanation imparted by said water jar, manufactured and sold by respondents, to water poured into, permitted so to remain in, and afterward drawn therefrom, demonstrates that the same is in every case less than 60 millimicrocuries of emanation per litre during any period of 24 hours;

4. Said water jar and any water that may be so poured into the same, permitted to remain therein for 24 hours and thereafter drawn therefrom, in compliance with the instructions therefor given by the respondents, have no therapeutic value whatever and may not by possibility be or become effective as a treatment, remedy or cure of the above enumerated diseases or of any ailment or disease of the human body.

5. Said statements, representations and promises so made by respondents as to the therapeutic value of said water jar and of water so receiving radio emanation by being poured into and permitted to remain therein as recited here-

Inabove, are wholly without foundation in fact, such water, treated and used as directed by respondents in their advertising matter, printed instructions and other written, mimeographed or printed matter hereinabove referred to, is not effective as a remedy or cure of any of the physical ailments and diseases hereinabove enumerated.

PAR. 8. The use by respondents of said trade practice and method of competition, to wit, the making and publication of said false, deceptive, and misleading statements, representations and promises as set forth above, has the tendency and capacity to mislead and deceive the public and prospective purchasers, and will probably mislead and deceive the public and prospective purchasers, into the erroneous belief:

1. That such statements, representations and promises are true.
2. That persons suffering from any of the above enumerated physical ailments or diseases may be relieved therefrom and cured thereof by drinking, as so directed by respondents, water poured into, permitted to remain in, and thereafter drawn from, such water jar, all in accordance with directions so given by respondents.

PAR. 9. The use by respondents of said trade practice or method of competition, to wit, the making and publication of said false, deceptive, and misleading statements, representations, and promises as above set forth, has the tendency and capacity to, and probably will, injuriously affect the public, prospective purchasers and the competitors of respondents in the particulars as follows, to wit:

1. To induce the public and prospective purchasers to purchase and pay for said water jar solely on account of said false, deceptive and misleading statements, representations and promises, and for the sake of the said pretended benefits that cannot in fact be realized by such purchasers.

2. To induce prospective purchasers to select, purchase and pay for said water jar so being offered for sale by respondents, in preference to, and to the exclusion of competitive articles being offered for sale by competitors of respondents, solely because of such false, deceptive and misleading statements, representations and promises, and solely in order to receive the particular benefits so promised, but which such purchasers from respondents are not enabled to receive or realize.

3. To divert prospective purchasers from competitors of respondents, solely by the making and publication of such false, deceptive and misleading statements, representations and promises.

PAR. 10. Such acts and practices of the respondents 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 June 30, 1930, issued its complaint against the respondents named in the above-entitled proceeding and caused the same to be served upon said respondents, as required by law, in which complaint the Commission 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 or about February 14 and March 3, 1930, respective respondents filed two certain answers to the charges of the said complaint. Subsequent thereto the Commission appointed an examiner to receive evidence in support of the said complaint and in support of the said respective answers. Thereafter on July 6, 1932, respondents jointly applied to the Commission for leave to withdraw their said respective answers and for leave to file a substitute answer, submitted with their said application whereby, pursuant to Rule III, subdivision 2 of the Rules of Practice of the Commission, they waived hearing on the charges set forth in the said complaint and gave their consent that the Commission make, enter and serve upon the respondents an order to cease and desist from the violations of law alleged in the said complaint. By order of July 15, 1932, leave as aforesaid was granted by the Commission and the said substitute answer was caused to be filed.

It is now ordered, That the respondents above named shall cease and desist from representing, directly or indirectly, either orally or in writing, that water drawn from the lined water jar sold by them and heretofore designated "The Radium Spa" has any therapeutic or curative value for any bodily ailment or disease whatsoever.

It is further ordered, That respondents, within 60 days after the service upon them of this order shall 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 hereinabove set forth.

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IN THE MATTER OF
ROCHESTER NURSERIES, INC.COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1949. Complaint, May 8, 1931—Decision, Oct. 31, 1932*

Where a corporation engaged as a sales organization or jobbing concern, for a short period and with small capital, in business of selling and distributing nursery stock, in which permanence, stability, and responsibility are of peculiar importance to customers, and neither owning any nursery nor growing stock dealt in, but purchasing same, under contract, from a nursery which it neither owned directly nor indirectly,

Included word "Nursery" in its corporate name, and in its advertising matter in catalogs, pamphlets, newspapers, etc., referring to its "large nurseries", "farms", and "most careful and scientific management", and "well earned reputation for stock of the highest quality", and making such statements as that it had "had a lot of experience in growing trees and plants" and knew that it was "poor economy to grow stock carelessly or to sacrifice quality", and describing the careful growing, digging, and handling of its stock, its 44 years of nursery stock merchandising and shipping experience, with its own packing houses and organization, and its asserted competitive advantages over such concerns as mail order houses, department stores, etc., "not in position to furnish trees and plants as well taken care of and freshly shipped as can be, being strictly and exclusively in the nursery business—growing the stock we send out in the open field, in a soil and climate adapted to its proper development", etc.;

With capacity and tendency to mislead and deceive purchasers into believing that it actually grew or propagated the nursery products sold and distributed by it, and owned, operated, and controlled nurseries and farms on which aforesaid products were grown, and that it was a large concern long in the nursery business, and to induce purchase of its stock and divert trade from and otherwise injure competitors, including growers of the nursery stocks sold by them:

Held, That such acts and practices, under the circumstances set forth, were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. Richard P. Whiteley for the Commission.

Lewis, Bown, Johnson & Tobin, of Rochester, N.Y., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in the purchase of fruit and ornamental nursery stock and in the sale thereof to purchasers in various States, and with principal office and place of business in