

Syllabus

IN THE MATTER OF
CROXON, INCORPORATED, AND A. W. LUBLIN¹

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

Docket 2096. Complaint, Mar. 27, 1933—Decision, May 28, 1934

Where a corporation engaged in the manufacture and sale of certain preparations for the removal of hair, including a cream (for use with which a certain wax preparation is sold), the principal ingredients of which were sodium perborate and commercial zinc peroxide, and a powder, which contained strontium sulphide; in advertising the same in trade magazines and those of general circulation, and in booklets and other forms of advertising material distributed by it,

- (a) Represented that its said cream would kill the hair roots and prevent and permanently destroy hair growth through such statements as "Actually destroys superfluous hair permanently", "Definitely prevents the regrowth of superfluous hair", "Completely destroys both hair and hair root—painlessly—harmlessly—permanently"—facts being there is no chemical or combination of chemicals which, applied to the skin, will permanently remove hair and prevent its regrowth without injuring the skin, and said statements and claims were false, deceptive, and misleading;
- (b) Falsely represented said cream as the result of extended research by doctors, during which sections of human skin were taken from living bodies for purposes of experimentation, "So that the microscope might tell the investigators exactly what was happening to the hair roots, because nothing less than an absolute cure would satisfy them", the facts being no such research or experiments had been conducted and the originator of the product was a chemist;
- (c) Falsely represented said cream as a treatment based on an entirely new principle, through such statements as "A revolutionary product", "Scientists have finally triumphed over this age-old problem", "The principle * * * is entirely new", involving a combination of "gentle chemical reactions" which "dissolves both hair and its roots without injury to the health and vitality of the skin", etc.;
- (d) Represented that it had on file complete records proving the truth of its claims through such statements as "Complete records of their entire research work (i.e., 'the doctors and scientists' who made the cream 'possible') proving every claim, are in our files", facts being it did not have on file records proving the truth of claims and representations as to the efficacy of said cream, and no records were in existence which proved that it would permanently remove hair and prevent its regrowth; and
- (e) Falsely represented that said depilatory powder, which accomplished its results through burning the hair off, was harmless and nonirritating to the skin when used for the removal of hair, facts being that preparation in question would cause irritation, and, if left on the skin too long, would cause inflammation;

¹ Dismissed as to respondent A. W. Lublin.

Complaint

19 F. T. C.

With effect of causing members of the public to purchase the aforesaid products in the belief that such claims and representations were true, to the prejudice and injury of the public and competitors, from whom trade was diverted:

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

Mr. G. Ed. Rowland for the Commission.

Palmer & Serles, of New York City, 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, Croxon, Inc., a New York corporation engaged in the manufacture and sale of certain depilatory products, and with principal office and place of business in New York City, and respondent Lublin, its president, actively engaged since its incorporation in the management, direction and operation of its business, with advertising falsely or misleadingly as to nature, history and results or properties of product, in violation of the provisions of Section 5 of such Act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, engaged as aforesaid, in advertising said products, as charged, in trade and other periodicals of general distribution and circulation among women, and in pamphlets sent in response to inquiries from prospective users, and packed and distributed with each jar of its products, falsely and misleadingly represents that its said cream will permanently and completely destroy superfluous hair and prevents the regrowth thereof, is based on an entirely new principle, and was developed through the use of sections of skin from living bodies, and its depilatory powder will remove all objectionable hair in from one to five minutes and is harmless, and that complete research records are on file proving the truth of every claim made for the products in question, facts being said powder, if not used with the utmost care, may burn the skin and cause great irritation and permanent ill effects, and each of the other aforesaid various misrepresentations are also false and misleading.

Said false, deceptive and misleading statements and representations, as alleged, have the capacity and tendency to an do, mislead and deceive the purchasing and consuming public and cause them to buy such products in the erroneous belief that such statements and representations are true in fact, and use thereof constitutes unfair methods of competition which tend to and do prejudice and injure the public, and unfairly divert trade from and otherwise prejudice

and injure competitors, and operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in the business of marketing depilatory products and other products and appliances adapted to and used for the removal of superfluous hair and other hair from the body; all to the prejudice of the public and competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission issued and served its complaint upon the respondents above named, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondents having entered their appearance, and having filed their answers herein, hearings were had and evidence was thereupon introduced on behalf of the Commission and respondents before an examiner of the Federal Trade Commission theretofore duly appointed.

Thereupon this proceeding came on for final hearing on the briefs and oral argument of counsel for the Commission and counsel for the respondents, and the Commission having duly considered the record, and being fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Croxon, Inc., is a corporation organized under the laws of the State of New York, in May, 1932, with its principal office and place of business at 363 Seventh Avenue in the City of New York, State of New York, where it has been engaged, ever since its organization, in the business of manufacturing and selling certain preparations designed for use in removing hair from the human body.

Respondent A. W. Lublin is the president of respondent Croxon, Inc., owner of part of its capital stock, and one of its directors, and has been actively engaged in the management, direction, and operation of the business of said respondent. Said respondent has not been engaged as an individual in the manufacture and sale of any of the preparations distributed by respondent Croxon, Inc.

Respondent Croxon, Inc., sells and distributes the products manufactured by it throughout the United States to wholesale and retail dealers, and causes said products, when so sold, to be transported

from the City of New York, State of New York, through and into the several States of the United States, and the District of Columbia, to the purchasers thereof at their respective points of location. In the course and conduct of its said business as aforesaid, respondent has been and is now in active competition with various other persons, partnerships, and corporations engaged in the manufacture and sale in interstate commerce among the several States of the United States, and the District of Columbia, of preparations, products, and appliances designed for the removal of hair from the human body.

PAR. 2. In the course and conduct of its aforesaid business respondent Croxon, Inc., manufactures and sells a preparation in the form of a cream, which it calls "Croxon Cream"; a wax preparation which it calls "Croxon Plastik" and at the time the complaint was issued, and for some time thereafter, a depilatory powder, which it calls "Croxon Depilatory Powder." The last-named product is not being advertised by respondent at the present time and, while it is still sold on specific orders, no efforts are being made to sell it.

The principal product manufactured and sold by respondent is "Croxon Cream." The principal ingredients in this preparation are approximately 16.9 percent of sodium perborate, and 20.7 percent of commercial zinc peroxide, incorporated in a petroleum base. The cream originally was packed in 1-ounce and 3-ounce jars, which sold at retail at \$5 and \$10 respectively; but later it was packed in 2-ounce and 6-ounce jars, which were sold at the same prices. The depilatory powder is packed in 2-ounce glass jars and sold at retail at \$1 per jar. This powder contains strontium sulphide, and accomplishes its results by burning the hair off. The wax preparation "Croxon Plastik", has been sold by respondent since August, 1933, and is packed in 5-ounce packages at a retail price of \$1. A sample of this product is packed with each jar of Croxon Cream. It is intended to be used as an accessory to Croxon Cream.

PAR. 3. Respondent Croxon, Inc., obtained the formulae from which Croxon Cream and Croxon Depilatory Powder are manufactured in April, 1932, by purchase from the director of the department of biochemistry of the New York Post Graduate Medical School and Hospital, who is a chemist and not a doctor of medicine. It was represented to respondent that the formulae had been developed by one of the research workers connected with the hospital as a result of a series of experiments on sections of skin from human bodies, as well as on animals. It was further represented to re-

spondent that a cream produced from one of the formulae would contain no compounds that would be toxic; that it would remove superfluous hair when applied as directed; and that it would prevent the regrowth of hair when applied as directed over a period of a year. After purchasing the formulae respondent made application for letters patent, and entered into a royalty agreement with the research worker who developed the cream. The application for patent is still pending.

Relying on the statements made to it, and without further investigation to determine whether such claims were correct, respondent immediately began manufacturing the cream, prepared advertising material, and sent out salesmen soliciting orders.

PAR. 4. Beginning in June, 1932, respondent advertised its Croxon Cream in magazines having a general circulation throughout the United States, and in trade magazines having a circulation among dealers in toilet articles. Respondent also prepared, and caused to be distributed to the public, booklets and other forms of advertising material making various representations and claims concerning the efficacy of Croxon Cream in removing hair from the human body and preventing its regrowth.

On August 20, 1932, an article appeared in the Journal of the American Medical Association concerning Croxon Cream, in which an analysis of the cream was given, and the statement was made that it was worthless as a means of removing hair and preventing its regrowth. Respondent immediately canceled all its advertising contracts, but the advertisements appeared in certain of the magazines until December. In August, 1933, respondent resumed advertising, and at the time of the hearing in this case it was advertising its cream in one magazine and the rotogravure sections of certain Sunday newspapers in a number of the largest cities in the United States.

PAR. 5. In the advertising caused by respondent to be inserted in the magazines as aforesaid, and in the booklets and other forms of advertising material distributed to the public by it, respondent made numerous claims and representations concerning the said Croxon Cream and Croxon Depilatory Powder. Among such claims and representations in said magazines were the following:

A revolutionary product *Croxon*—the remarkable new cream that actually destroys superfluous hair permanently.

Professional ethics forbid the publishing of the names of the doctors and scientists who made Croxon possible. Complete records of their entire research work, proving every claim, are in our files.

Findings

19 F. T. C.

Forever free from ugly hairs on face, neck, limbs, and underarm. Croxon Cream definitely prevents the regrowth of superfluous hair.

Absolutely guaranteed. Now at last the natural beauty of your face, arms, and legs need no longer be blemished by ugly, superfluous hair. For scientists have finally triumphed over this age-old problem and have perfected a remarkable cream that destroys both hair and root—positively, harmlessly, and entirely without pain, hair-pulling, irritation, or unpleasant odor. * * * Croxon Cream destroys the hair faster than it can grow in again and, after a number of applications, the hair root, itself, is actually destroyed and can therefore never grow hair again.

Ugly hairs on face, neck or limbs can grow no more! Absolutely guaranteed.

Why not end, once and for all, the ugly, disfiguring superfluous hair * * * science has at last completely solved the problem of preventing the regrowth of superfluous hair * * * and finally its regrowth is completely checked—so that it will never grow again.

In the booklets prepared and distributed by respondent appear the following statements and representations:

Absolutely guaranteed to harmlessly and permanently destroy wherever applied, both hair and hair root so that hair will never grow there again.

Completely destroys both hair and hair root—Painlessly—Harmlessly—Permanently.

In the research, incident to the development of Croxon, a study was made of all available data together with an examination of the various preparations on the market for the relief of this trouble.

* * * * *

It is unnecessary to go into detail about the thousands of experiments that were made—the many promising avenues that later turned out to be merely blind alleys and the final sacrifice of sections of human skin from living bodies so that the microscope might tell the investigators exactly what was happening to the hair root, because nothing less than an absolute cure would satisfy them.

* * * * *

Croxon is the result of these studies.

The principle underlying the Croxon treatment is entirely new. A combination of gentle chemical reactions dissolves both hair and its roots without injury to the health and vitality of the skin, for they are similar to the reaction constantly taking place in all living cells.

* * * * *

Croxon is the perfect solution to the problem of superfluous hair. It provides a simple, positive and permanent method, guaranteed to harmlessly destroy, wherever used, both hair and hair root, so that no unwanted hair can ever grow there again.

* * * * *

Use the cream steadily for three months and then stop. If any hair grows back again, continue immediately with the Croxon Treatment for an additional three months. In every normal case, that will finish the growth and no hair will ever grow again where you have applied Croxon.

Abnormally strong growths * * * may require still an additional six months treatment before these strong hair roots are completely destroyed.

With reference to Croxon Depilatory Powder appears the following:

This is a dainty, harmless, pleasant and nonirritating product which quickly and easily removes all objectionable surface hair.

PAR. 6. The claims and representations made by respondent concerning Croxon Cream and Croxon Depilatory Powder, set forth in paragraph 5 herein, are false, deceptive, and misleading, because there is no chemical or combination of chemicals which, when applied to the skin of the human body, will permanently remove hair and prevent its regrowth without causing injury to the skin. Four physicians who are specializing in the practice of dermatology testified as witnesses for the Commission. Two of them had been employed by respondent to do research work on patients with Croxon Cream. They conducted a series of tests on women who had superfluous hair on their faces, arms and legs, over a period of months. During the duration of the tests the patients were under observation of the dermatologists, who made examinations of the progress of the treatments at frequent intervals. The cream was applied to the parts of the skin from which it was desired to remove the growths of hair by the physicians and by the patients themselves. Instructions for use of the cream as set forth by respondent were followed. At the end of the period during which the tests were made, covering three to five months with one physician, and eight months with the other, they prepared and gave to respondent written reports containing their conclusions. They found that Croxon Cream would not permanently remove hair from the human body, and would not prevent its regrowth.

Two other physicians of many years experience in the practice of dermatology testified that a cream composed of the ingredients contained in Croxon Cream would not permanently remove hair and would not prevent its regrowth. The physicians called as witnesses by the Commission testified that there were only three methods to permanently remove hair from the human body, which were electrolysis, X-ray and radium, and the latter two methods were dangerous to use.

The Croxon Depilatory Powder manufactured and sold by respondent contains strontium sulphide, which chemical is an irritant to the skin. A preparation containing this chemical, if left on the skin for too long a time will cause inflammation. One physician testified that no preparation containing strontium sulphide can be safely compounded, or directions given, which would avoid the possibilities of burning the skin. All the physicians agreed that such a preparation would cause irritation.

PAR. 7. At the time respondent purchased the formula for Croxon Cream no experiments had been conducted with sections of human skin from living bodies, and no doctors of medicine had made any research in developing the cream. The originator of the preparation was a chemist. Respondent did not have on file records proving the truth of the claims and representations it made as to the efficacy of Croxon Cream, and no records were in existence which proved that the cream would permanently remove hair and prevent its regrowth.

Respondent claims that its Croxon Cream employs an oxidizing agent in accomplishing the removal and prevention of regrowth of hair, and that its results are obtained by oxidation. It introduced testimony to the effect that years ago a woman doctor connected with the University of Bern had used pumice stone and an oxidizing agent and had accomplished a permanent removal of hair growths in many cases. The article in question describes the abrasion of the skin surface with pumice stone as being the principal corrective. The physicians who testified in this proceeding stated the results set forth in the article were incorrect because neither pumice stone by itself, or in combination with an oxidizing agent will permanently remove hair or prevent its regrowth. An oxidizing agent which will destroy hair will also destroy the skin tissues if it penetrates to the hair follicle.

PAR. 8. There are a number of preparations manufactured and sold for the removal of hair from the human body by competitors of respondent. Some of them are in the form of powders and some in the form of wax. Witnesses from two of such competitors testified in this proceeding to the effect that no claims or representations are made in the advertising of their companies that preparations manufactured and sold by them will permanently remove hair and prevent its regrowth. Said companies do represent that the use of their products will retard the regrowth of hair and weaken the hair roots.

PAR. 9. The Commission finds that Croxon Cream will not permanently remove hair from the human body, and will not prevent its regrowth, and that the claims and representations contained in the advertising material inserted in magazines by respondent, and distributed to the public in the form of booklets and other material to the effect that said Croxon Cream will and does permanently remove hair from the human body and prevent its regrowth, and kills the hair root, are false, deceptive and misleading; that Croxon Depilatory Powder is not harmless and nonirritating, but is in fact harmful to use; that Croxon Cream is not based on a new principle;

35

Order

that respondent did not have complete research records proving the truth of all its claims, because no such records exist; and that no extensive research involving the use of skin sections from human bodies was conducted in the development of Croxon Cream.

The use of the aforesaid false, deceptive, and misleading claims and representations by respondent in its advertising literature concerning Croxon Cream and Croxon Depilatory Powder is prejudicial and injurious to the public and respondent's competitors, causes members of the public to purchase said products in the belief that such claims and representations are true, and results in a diversion of trade to respondent from its said competitors.

PAR. 10. Respondent called as witnesses six women who had used its preparation Croxon Cream, and these witnesses testified that said cream had benefited them by the removal of superfluous hair. Three of these women were under observation by the physicians who were conducting research with the cream by direction of respondent. The other three were not under observation of any physician. Two of said witnesses were employees of respondent, and another one was supplied with the cream free of charge by respondent in exchange for allowing herself to be used for experimental purposes. Four of these women testified that the hair became lighter in color, finer in texture, and was pulled out easier by the use of tweezers. Three of them stated that the hair regrew on the surfaces treated. Two women testified that they had used the cream and that the hair disappeared entirely and had not grown back. Neither of these witnesses had been under the care and observation of a physician, and in each case the growth of hair to which the cream had been applied was blond in color and of a very light growth.

CONCLUSION

The aforesaid acts and practices of respondent, Croxon, Inc., under the conditions and circumstances set forth in the foregoing findings of fact, are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce, and constitute a violation of Section 5 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and the testimony taken and briefs filed herein, and the

Order

19 F. T. C.

Commission having made its findings as to the facts and conclusion that the respondent has 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 the respondent, Croxon, Inc., its officers, agents, representatives, and employees, in the manufacture, sale, and distribution in interstate commerce and in the District of Columbia, of depilatory preparations and other products designed and intended to remove hair from the human body, do cease and desist from:

(1) Advertising or representing in any manner that Croxon Cream, or any cream or other preparation containing as its principal ingredients sodium perborate and commercial zinc peroxide:

(a) Will permanently remove hair from the human body when used over any period of time;

(b) will prevent the regrowth of hair;

(c) will permanently destroy the hair and hair root;

(d) is the result of extended research by doctors, during which sections of skin were taken from human bodies, when such is not the fact;

(e) is a treatment based on an entirely new principle.

(2) Advertising or representing in any manner that it has on file complete research records proving the truth of every claim made for Croxon Cream.

(3) Advertising or representing in any manner that Croxon Depilatory Powder, or any powder or preparation containing strontium sulphide, is harmless and nonirritating to the skin when used for the removal of hair.

It is further ordered, That the respondent above named, within 60 days after the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner in which this order has been complied with and conformed to.

ORDER OF DISMISSAL

This proceeding coming on to be heard by the Commission on the complaint of the Commission, the answer of the respondent, the testimony and briefs of counsel for both sides; and the Commission being fully advised in the premises:

It is now ordered, That the complaint as to respondent A. W. Lublin be, and the same is hereby, dismissed.

Complaint

IN THE MATTER OF

HENRY B. TONNIES, DOING BUSINESS UNDER THE
NAME AND STYLE OF LANDIS MEDICINE COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2162. Complaint, Feb. 8, 1934—Order, June 4, 1934*

Consent order requiring respondent individual, his agents, etc., in connection with the sale, offer for sale, or distribution in interstate commerce and the District of Columbia, of the medicinal preparation known and designated as "Special Prescription Tablets" and also described as "Special Prescription" and "Landis' Special Prescription", or of a medicine of the same or essentially the same composition under any other name or names, to cease and desist from representing or implying that said preparation is a cure, remedy, or competent and adequate treatment for high blood pressure or that it is a cure, remedy or treatment for the various bodily ailments and conditions that cause high blood pressure.

Mr. Harry D. Michael for the Commission.

COMPLAINT

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, having reason to believe that Henry B. Tonnies, doing business under the name and style of Landis Medicine Co., has been or is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said 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. That said respondent, Henry B. Tonnies, is the sole owner and manager of the business conducted by him under the name and style of Landis Medicine Co. That respondent has owned and conducted said business since July 1, 1931, and has his office and place of business in the city of Cincinnati, in the State of Ohio.

PAR. 2. That said business so owned and conducted by respondent consists in the sale and distribution in interstate commerce of various medicinal preparations among which is one known and designated as "Special Prescription Tablets", and also variously described as "Special Prescription" and "Landis' Special Prescription." That respondent in the course and conduct of his said business causes his said products, including said "Special Prescription Tablets", to be

Complaint

19 F. T. C.

transported in interstate commerce from his said place of business in Ohio to, into, and through States of the United States other than Ohio to various members of the consuming public to whom they are or have been sold. That respondent usually sells his said products directly to the purchasing public by mail.

PAR. 3. That during the time above mentioned other individuals, firms, and corporations in various States of the United States are and have been engaged in the sale and distribution in interstate commerce of preparations designed, intended, and used for the same general purpose as respondent's said "Special Prescription Tablets", and also other preparations designed, intended, and used for the treatment of the various bodily ailments that produce the condition for which respondent's said medicine is advertised as a remedy as hereinafter shown, and such other individuals, firms, and corporations have caused and do now cause their said preparations, when sold by them, to be transported from various States of the United States to, into, and through States other than the State of the origin of the shipment thereof. Said respondent has been, during the aforesaid time in competition in interstate commerce in the sale of its said preparation with such other individuals, firms and corporations. Said competing products are sold in some instances direct to the consumer and in other instances to wholesale and retail druggists for ultimate resale to members of the public.

PAR. 4. Respondent, in advertising his said "Special Prescription Tablets", causes advertisements to be inserted in magazines and other publications circulated to the purchasing public in the various States of the United States and also distributes form letters, advertising circulars, and folders by mail to prospective customers in various States of the United States, which said advertisements, form letters, advertising circulars, and folders represent or imply that said "Special Prescription Tablets" constitute a cure or remedy for high blood pressure or that it will relieve such condition regardless of the cause. Respondent, in advertising his said preparation as aforesaid, causes advertisements to be inserted in magazines or other publications, an example of which is as follows:

Blood Pressure is often the cause of head pains, heart palpitation, hot flashes, numbness, hard breathing, dizziness, sleeplessness, nervousness. Send for Free Booklet explaining causes, symptoms, and treatment simply and inexpensively; also testimonials. Write today to J. R. Landis, 134 Mary Lane, Cincinnati, Ohio.

To those who answer such advertisements as the above, respondent sends by mail various form letters, advertising circulars and folders containing many statements and representations as aforesaid in regard to such preparation, among which are the following:

... Our Special Prescription for the relief of High Blood Pressure ...

... We have come to the conclusion that our prescription discovery will help in over 95 out of every 100 cases ...

... Landis' Special Prescription is just what the name implies, a Specific Formula for the Relief of High Blood Pressure. In preparing this medicine only one thought was kept in mind; to produce the best combination possible for the complaint ...

Special prescription for high blood pressure. Will help to relieve the pains and discomfort, reduce the pressure, and assist in restoring a normal condition. As high blood pressure often leads to apoplexy, paralytic stroke, and other dangerous complications, action should not be delayed.

... The fact that the remedy is selling in increasing volume year after year leads us to believe that it has outstanding merit, and is worthy of your full consideration ...

... If you are sick and ailing we know that this good doctor's prescription will help you, just as it has relieved hundreds of others ...

Special Prescription Tablets—This special prescription for the relief of the discomforts of High Blood Pressure is successfully used in the reduction of high arterial tension. ...

... Dizzy spells, hot flashes, headache, nervousness, and shortness of breath, are the result of the overworked heart. The Special Prescription Tablets are a very effective medicine for this serious ailment, and this medicine may be depended upon to give excellent results.

Treatment—The first thing to do is to reduce the pressure on account of the danger involved. Our Special Prescription is designed to do this. Not so many years ago very little was known about treating High Blood Pressure ... Our remedy (the prescription of a physician) comprises a combination of therapeutic agents carefully selected for their usefulness in bringing about relieved and improved conditions in cases of hypertension of the arteries, commonly called High Blood Pressure ...

and others of like import, some of which are contained in testimonials reproduced by respondent in its said advertising literature.

PAR. 5. That, in truth and in fact, respondent's said medicine is not a competent and adequate cure, remedy or treatment for high blood pressure and is not a cure, remedy or treatment for high blood pressure regardless of the cause thereof or for the various bodily ailments and conditions that cause the same, but is adapted only for use in cases brought on by temporary causes where temporary relief is desired by lowering blood pressure temporarily. That all of said statements, representations and implications are either wholly beyond the therapeutic effects of said medicine or are greatly exaggerated or wholly inaccurate.

PAR. 6. That the representations of respondent, as aforesaid, have had and do have the tendency and capacity to confuse, mislead and deceive members of the public into the belief that respondent's said medicine is a cure, remedy or competent and adequate treatment for high blood pressure; that it is a cure, remedy, or treatment for high

Order

19 F. T. C.

blood pressure regardless of the cause thereof and for the various bodily ailments and conditions that cause the same; when in truth and in fact such are not the facts or only to a limited extent. That said representations of respondent have had and do have the tendency and capacity to induce members of the public to buy and use said medicine because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale in interstate commerce of medicines of the same or similar kind and of those adapted and used for the treatment of the various ailments and conditions that produce high blood pressure.

PAR. 7. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate 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 8th day of February, 1934, issued its complaint against Henry B. Tonnies, doing business under the name and style of Landis Medicine Co., respondent herein, and caused the same to be served upon him as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

On February 23, 1934, said respondent filed herein an answer in writing to said complaint. Subsequently, said respondent filed herein a petition to withdraw its said answer and asking that a new answer therewith submitted be filed in lieu thereof, which said petition was granted by the Commission and said new answer was accordingly filed. By said new answer respondent elected to refrain from contesting this proceeding and consented to the issuance of an order to cease and desist from the practices set forth in the complaint herein.

Thereafter, this proceeding came on regularly for disposition and decision by the Commission under subdivision (2) of Rule III of the Rules of Practice and Procedure adopted by the Commission, and the Commission being fully advised in the premises:

It is ordered, That respondent, his agents, employees, or successors, in connection with the sale, offering for sale, or distribution in interstate commerce and the District of Columbia of the medicinal preparation known and designated as "Special Prescription Tablets" and also described as "Special Prescription" and "Landis' Special Prescription", or of a medicine of the same or essentially the same composition under any other name or names, cease and desist from representing by statements which represent or imply that said preparation is a cure, remedy or competent and adequate treatment for high blood pressure or that it is a cure, remedy or treatment for the various bodily ailments and conditions that cause high blood pressure.

It is further ordered, That respondent, within 60 days from and after the date of the service upon him of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which he is complying with the order to cease and desist hereinabove set forth.

50

FEDERAL TRADE COMMISSION DECISIONS

Complaint

19 F. T. C.