

Complaint

IN THE MATTER OF
ELECTRO THERMAL COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2243. Complaint, Oct. 29, 1934—Decision, July 23, 1936*

Where a corporation engaged in the sale of an electric device designated "Thermal-aid", for treatment of prostate gland, in competition with others engaged in offer and sale in commerce of various therapeutic devices and appliances designed and intended for treatment thereof—

Falsely represented, in advertisements thereof in newspapers and periodicals and in booklets sent to prospective purchasers, and through asserted testimonials published therein, that said device would cure diseases and ailments of said gland, and constipation and other ailments associated by it therewith, and, in connection with its advertisement of its said device, made numerous false and misleading statements with respect to the functioning of said gland, and the asserted symptoms, and results on masculine performance, efficiency and well-being which assertedly followed its failure to function properly, and asserted results of surgical or other methods of treating ailments and diseases thereof;

With effect of misleading and deceiving purchasers and inducing their purchase from it of said device in reliance upon the truth of such various misrepresentations in its said advertisements, booklets, pictorial representations, form letters, and published testimonials, and with capacity and tendency so to mislead and deceive and to divert trade to it from competitors; to the substantial injury of substantial competition:

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

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. Morton Nesmith for the Commission.

Mr. John A. Nash and *Mr. Harry S. Harned*, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress 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 Electro Thermal Company, a corporation, has been and 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.

PARAGRAPH 1. Respondent, Electro Thermal Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, and having its principal place of business at Steubenville in the State of Ohio.

Respondent corporation has, for more than five years last past, been and is now engaged in the business of offering for sale and selling an electric device designated as "Thermalaid" for the treatment of the prostate gland by the application of heat, in commerce between and among the several States of the United States. Respondent has caused and still causes said electric device when so sold to be transported from its place of business in the city of Steubenville, State of Ohio, into and across the several States of the United States to purchasers thereof located at various places in said several States.

Other persons, firms, associations, and corporations have been and are engaged in offering for sale, selling, and transporting in said commerce like and competitive devices, medicines, preparations, and treatments for the prostate gland.

In the course and conduct of its said business, respondent corporation has been and is in competition with all such other persons, firms, associations, and corporations so engaged in offering for sale and selling in said commerce between and among the several States of the United States said like and competitive devices, medicines, preparations, and treatments for the prostate gland.

PAR. 2. Respondent in the sale and offering for sale of its said product has caused same to be advertised in newspapers, magazines, and periodicals. In said advertisements, respondent offered to mail to prospective purchasers a free booklet upon request, said booklet being styled "Why Many Men Are Old at 40." Both said advertisements, the advertising booklet, and form letters accompanying same, mailed upon request to the prospective purchasers, contain certain inaccurate, exaggerated, false, and misleading statements and representations with reference to said product, a portion of which are hereinafter specifically set out.

PAR. 3. In said ways and by said means respondent has made and makes the following statements and representations with reference to its said product so offered for sale and sold by the designation or name of "Thermalaid":

**CURE THIS GLAND ANNOYANCE
THAT CAUSES THESE FAMILIAR SYMPTOMS IN
MEN PAST 40!**

If you are past 40, and now have to get up every night, and have started to suffer from what you think are "bladder symptoms", you should know what

doctors say this weakness often means. They say it may be a warning of failure of a vital male gland—the prostate. In millions of men—one authority says 65% of *all* men past 50—this gland starts to slow down shortly after middle age period. Night rising is one of the surest signs of this gland weakness. Constipation; piles; pains in the back and legs that feel like sciatica or rheumatism; weakness and lack of endurance are frequent results. If unchecked, this gland may swell until surgery is needed to relieve it. Yet today a simple home treatment acts immediately to check these symptoms and to bring amazing quick relief. This same principle, used in New York hospital tests, has recently brought splendid results.

FREE TO MEN PAST 40

Now a vital free book on “Why Many Men Are Old at 40”, explains complete facts about prostate gland weakness and the method of prevention. Complete details of the simple Thermalaid treatment, and actual experiences of many of Thermalaid’s 100,000 users. No cost or obligation—just write today.

In said booklet entitled “Why Many Men Are Old at 40” appears the following:

A STARTLING FACT:

Many medical authorities have long claimed that 65% of all men past middle age have prostate trouble. Thousands have it without the least idea in the world that there is such a thing as the prostate gland. Hence the sexual life, the efficiency, the mental serenity of thousands is being deteriorated, often without their knowledge.

Truly the destroyer of male health.

Many men are old at forty because they do not know the meaning of the little symptoms; little signs of a big trouble that often robs life of much happiness.

There are men who rise often at night to void urine, men who suffer leg pains of sciatica, men who have backaches at nape of the neck and further down, men who have aches in the pelvic region or the perineum (crotch), men who exaggerate every worry and care. Many of these persons are so busy with the affairs of life that they do not know and perhaps never heard of the prostate gland.

The neglect of a prostatic condition leads to baneful results and often serious surgery—don’t wait. If you love health, happiness, smiles and sunshine; if efficiency and longer life mean more than dollars, if youth seems fleeting, you will certainly accept with an open mind that which is reasonable help and that which has served so many others with a service beyond the value of money.

* * * By means of a splendid little appliance called a Thermalaid you use this powerful nature force directly behind the prostate gland. *Immediately you feel its gentle warmth and immediately nature responds with an abundant local circulation of active blood coursing through the prostate.* Blood cleanses, blood builds, blood is nature’s greatest scavenger.

The Thermalaid presented in this way gently dilates rectal muscles, sets up reflexes and physiological conditions tending to correct many forms of piles and constipation.

The applicator presents thermic energy in a constant outflow, evenly, at the right place, and can be controlled to the right amount * * * The physiologist will tell you that the use of Thermalaid increases the local circulation

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of blood by its action upon the vaso-motor nerves; he would tell you that its action increases metabolism, that wonderful chemical action by which nature, through the blood, virtually tears down the old and rebuilds with new.

That is why the nerves of the prostate are relieved, congestion removed and restoration of health and strength encouraged.

* * * * *
 "Headaches, sciatic pains, constipation, indigestion and prostate weakness reduced me to a terrible condition.

"Reading your frank, sincere discussion of disorders which seem to handicap so many men these days led me to try your invention, at your risk and I can now say in all sincerity that I believe it saved my life."

* * * * *
 A few months ago I was certainly a sick man. My back hurt, my kidneys hurt, my head hurt and the outlook was not at all bright. I was a nervous wreck and I did not care whether I lived or not.

"Through the use of a THERMALAID I have experienced complete relief from the conditions which made me feel so miserable. Now, I feel fine and would like to tell all the men in the world who suffer with prostate trouble, that I believe the THERMALAID Method worth a million dollars."

* * * * *
 Constipation often being a contributing cause of prostate trouble, it is evident that a successful treatment for the latter should necessarily relieve constipation. As a matter of fact, THERMALAID has been found to be of great benefit in treating constipation.

* * * * *
 Piles so frequently occurring when constipation exists may be expected to respond quickly to this treatment. This troublesome and painful malady often and in numerous cases responds after other methods have proven futile. In this connection, many letters are received from sufferers of this disagreeable malady enthusiastically praising THERMALAID for the relief it has afforded from this condition.

* * * * *
 Thus we expect ideal conditions for the successful treatment of prostatic sluggishness and hypertrophy of the gland; a gland often concerned in impotency and the marital instincts. * * *

* * * * *
 With a form letter accompanying said booklet, "WHY MEN ARE OLD AT 40", respondent makes, among other things, the following representations:

The booklet you asked for gets right down to brass tacks about this prostate gland shortcoming, that so often steals energy, personality, memory and ambition. Do you realize that prostate trouble is an insidious disease and may be developing for years with little or no warning? If you have to rise at night to void urine, if backache, foot and leg pains are present, if you feel below par, then it may be time to look to the prostate.

If you have a mild case, you may surprise yourself with new joy of living, new energy and enhanced power to do. If you have a fretful, serious, nagging case, by all means waste not one minute in getting THERMALAID. * * *

"It has brought me more relief and vitality than all remedies I ever tried."

* * * * *

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If you are looking for health, happiness and freedom from backache, foot and leg pains, frequent urination, so-called bladder troubles, worry, depression and debilities due to prostatic trouble, mail your order now. Delay is inadvisable * * *

When in truth and in fact said device known as "Thermalaid" is not a remedy or cure for prostatic trouble, piles, constipation, sciatica, nervousness, bladder weakness, and hypertrophy of the gland. The benefits alleged to be derived from use of said device are grossly exaggerated, misleading, and inaccurate in that the said device does not constitute competent treatment for the various ailments mentioned.

PAR. 4. The use of the said false and misleading statements and representations with reference to this said device has a tendency and capacity to deceive and mislead the public into the erroneous belief that said statements and representations are true, and to induce the public to purchase such device in and because of such erroneous belief. Respondent's said use of said false and misleading statements and representations has the tendency and capacity to divert trade to respondent and from its said competitors to the unfair advantage of respondent, to the injury of respondent's competitors and to the injury of the purchasing public.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's competitors 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 October 29, 1934, issued and on October 31, 1934, served its complaint in this proceeding upon the respondent, Electro Thermal Company, a corporation, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, and the filing of respondent's answer thereto, testimony and evidence, in support of the allegations of said complaint, were introduced by Morton Nesmith, attorney for the Commission, before Charles F. Diggs, an examiner of said Commission, theretofore duly designated by it, and in defense of the allegations of the complaint by John A. Nash and Harry S. Harned, attorneys for the respondent; and said testimony and evidence was duly recorded and filed in the

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office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and evidence, briefs in support of the complaint and in defense thereof, and the oral arguments of counsel aforesaid; and the Commission, having duly considered the same, and being fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Electro Thermal Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business located at Steubenville in said State.

The respondent corporation has, for more than five years last past, been and is now engaged in the business of offering for sale and selling an electric device designated "Thermalaid" in commerce between and among the several States of the United States. This device consists of a hard rubber unit designed to be inserted in the rectum for the application of heat to the prostate gland and adjacent tissues. It is activated through electricity derived from ordinary electric current or from a battery supply where no electricity is available. Respondent did cause and still causes this device when so sold to be transported from its place of business in the city of Steubenville, State of Ohio, usually by United States mail or parcel post, into and across the several States of the United States, to purchasers thereof located at various places in said several States.

In the course and conduct of its business, the respondent is, and has been, in competition with other individuals, corporations, and associations engaged in offering for sale and selling in commerce between and among the different States of the United States various therapeutic devices and appliances designed and intended for the treatment of the prostate gland.

PAR. 2. The respondent in the sale and offering for sale of its said device has caused same to be advertised in newspapers, magazines, and periodicals. In said advertisements, respondent offered, and still offers, to mail to prospective purchasers a free booklet upon request, said booklet being styled "Why Many Men are Old at Forty." The respondent further sends to prospective purchasers through the mail numerous form letters and advertisements and pictorial representations which contain many reasons why the said prospective purchaser should purchase "Thermalaid". These advertisements, book-

lets, pictorial representations, and form letters accompanying some of respondent's advertising material contained certain inaccurate, exaggerated, false and misleading statements and representations concerning the efficacy, curative and palliative value of "Thermalaid". A portion of these statements, representations and claims are as follows:

**CURB THIS GLAND ANNOYANCE
THAT CAUSES THESE FAMILIAR SYMPTOMS IN
MEN PAST 40!**

If you are past 40, and now have to get up every night, and have started to suffer from what you think are 'bladder symptoms', you should know what doctors say this weakness often means. They say it may be a warning of failure of a vital male gland—the prostate. In millions of men—one authority says 65% of all men past 50—this gland starts to slow down shortly after middle age period. Night rising is one of the surest signs of this gland weakness. Constipation; piles; pains in the back and legs that feel like sciatica or rheumatism; weakness and lack of endurance are frequent results. If unchecked, this gland may swell until surgery is needed to relieve it. Yet today a simple home treatment acts immediately to check these symptoms and to bring amazing quick relief. This same principle, used in New York hospital tests, has recently brought splendid results.

FREE TO MEN PAST 40

Now a vital free book on "Why Many Men Are Old at 40", explains complete facts about prostate gland weakness and the method of prevention. Complete details of the simple Thermalaid treatment, and actual experiences of many of Thermalaid's 100,000 users. No cost or obligation—just write today.

In said booklet entitled "Why Many Men Are Old at 40" appears the following:

A STARTLING FACT:

Many medical authorities have long claimed that 65% of all men past middle age have prostate trouble. Thousands have it without the least idea in the world that there is such a thing as the prostate gland. Hence the sexual life, the efficiency, the mental serenity of thousands is being deteriorated, often without their knowledge.

Truly the destroyer of male health.

Many men are old at forty because they do not know the meaning of the little symptoms; little signs of a big trouble that often robs life of much happiness.

There are men who rise often at night to void urine, men who suffer leg pains of sciatica, men who have backaches at nape of the neck and further down, men who have aches in the pelvic region or the perineum (crotch), men who exaggerate every worry and care. Many of these persons are so busy with the affairs of life that they do not know and perhaps never heard of the prostate gland.

The neglect of a prostatic condition leads to baneful results and often serious surgery—don't wait. If you love health, happiness, smiles and sunshine; if efficiency and longer life mean more than dollars, if youth seems fleeting, you will certainly accept with an open mind that which is reasonable help and that which has served so many others with a service beyond the value of money.

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* * * By means of a splendid little appliance called a Thermalaid you use this powerful nature force directly behind the prostate gland. Immediately you feel its gentle warmth and immediately nature responds with an abundant local circulation of active blood coursing through the prostate. Blood cleanses, blood builds, blood is nature's greatest scavenger.

The Thermalaid presented in this way gently dilates rectal muscles, sets up reflexes and physiological conditions tending to correct many forms of piles and constipation.

The applicator presents thermic energy in a constant outflow, evenly, at the right place, and can be controlled to the right amount * * * The physiologist will tell you that the use of Thermalaid increases the local circulation of blood by its action upon the vaso-motor nerves; he would tell you that its action increases metabolism, that wonderful chemical action by which nature, through the blood, virtually tears down the old and rebuilds with new.

That is why the nerves of the prostate are relieved, congestion removed and restoration of health and strength encouraged.

* * * * *
 "I had headaches, sciatic pains, constipation, indigestion and prostate weakness reduced me to a terrible condition.

"Reading your frank, sincere discussion of disorders which seem to handicap so many men these days led me to try your invention, at your risk and I can now say in all sincerity that I believe it saved my life."

* * * * *
 "A few months ago I was certainly a sick man, My back hurt, my kidneys hurt, my head hurt and the outlook was not at all bright. I was a nervous wreck and I did not care whether I lived or not.

Through the use of a THERMALAID I have experienced complete relief from the conditions which made me feel so miserable. Now, I feel fine and would like to tell all the men in the world who suffer with prostate trouble, that I believe the THERMALAID Method worth a million dollars."

* * * * *
 Constipation often being a contributing cause of prostate trouble, it is evident that a successful treatment for the latter should necessarily relieve constipation. As a matter of fact, THERMALAID has been found to be of great benefit in treating constipation.

* * * * *
 Piles so frequently occurring when constipation exists may be expected to respond quickly to this treatment. This troublesome and painful malady often and in numerous cases responds after other methods have proven futile. In this connection, many letters are received from sufferers of this disagreeable malady enthusiastically praising THERMALAID for the relief it has afforded from this condition.

* * * * *
 Thus we expect ideal conditions for the successful treatment of prostatic sluggishness and hypertrophy of the gland; a gland often concerned in impotency and the marital instincts. * * *

* * * * *
 With a form letter accompanying said booklet, "WHY MANY MEN ARE OLD AT 40", respondent makes, among other things, the following representations:

The booklet you asked for gets right down to brass tacks about this prostate gland shortcoming, that so often steals energy, personality, memory and ambi-

tion. Do you realize that prostate trouble is an insidious disease and may be developing for years with little or no warning? If you have to rise at night to void urine, if backache, foot and leg pains are present, if you feel below par, then it may be time to look to the prostate.

If you have a mild case, you may surprise yourself with new joy of living, new energy and enhanced power to do. If you have a fretful, serious, nagging case, by all means waste not one minute in getting THERMALAID. * * *

"It has brought me more relief and vitality than all remedies I ever tried."

* * * * *

If you are looking for health, happiness and freedom from backache, foot and leg pains, frequent urination, so-called bladder troubles, worry, depression and debilities due to prostatic trouble, mail your order now. Delay is inadvisable * * *.

PAR. 3. The Commission finds that the expert medical testimony of record in this case preponderates to show the following facts:

1. That the number of men past 50 suffering from prostatic diseases or diseases referable to the prostatic gland is nearer 45% than 65%;

2. That prostatitis is an inflammatory or congested condition or swelling of the prostate gland;

3. That hypertrophy is an enlargement or growth of the prostate itself;

4. That prostatitis may be due to congestion caused by sexual excesses, gonorrheal infection, drugs, cystitis, trauma, injuries to the pelvis, rectum, bladder, perineum or an infection in subjacent structures;

5. That the etiology of hypertrophy of the prostate gland is not well known;

6. That "Thermalaid" will not cure prostatitis but might afford temporary relief by reducing the inflammation and congestion;

7. That "Thermalaid" will not cure hypertrophy of the prostate gland but may afford some temporary relief where the hypertrophy is accompanied by inflammation and congestion;

8. That there is no known cure for hypertrophy other than surgery, viz, recision or removal;

9. That "Thermalaid" will not cure piles or constipation, but will afford temporary relief if the piles are internal and the constipation is purely local or reflex and not organic or due to organic lesions in the intestinal tract;

10. That while the prostate gland plays a small part in the sexual act, it is not necessary in copulation and the removal of the prostate will not result in impotency or sterility. However, impotency or sterility may result in some cases where the spermatic cord or ducts are severed during the operation;

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11. That "Thermalaid" will cure none of the prostate diseases as claimed by the respondent, but might tend to have some palliative effect;

12. That respondent's claim that "the prostate gland slows down in men past middle age and, if unchecked, will swell until surgery is needed" is false and misleading, the evidence being that the gland does not slow down and swelling is not treated surgically, but that surgery is only used for hypertrophy;

13. That respondent's claim "If you love health, happiness, smiles and sunshine; if efficiency and longer life mean more than dollars, if youth seems fleeting, you will certainly accept with an open mind that which is reasonable help and that which has served so many others with a service beyond the value of money" is false and misleading;

14. That respondent's claim that the "prostate gland short-coming, that so often steals energy, personality, memory and ambition" is false and misleading;

15. That respondent's claim "If you have a mild case, you may surprise yourself with new joy of living, new energy and enhanced power to do. If you have a fretful, serious, nagging case, by all means waste not one minute in getting THERMALAID. * * *" is false and misleading;

16. That respondent's claim "If you are looking for health, happiness and freedom from backache, foot and leg pains, frequent urination, so-called bladder troubles, worry, depression and debilities due to prostatic trouble, mail your order now. Delay is inadvisable * * *." is false and misleading;

17. That respondent's claim "Hence the sexual life, the efficiency and the mental serenity of thousands is being destroyed, often without their knowledge. Truly a destroyer of male health." when made with reference to the prostate gland, is false and misleading;

18. That respondent's claim "Another point worthy of emphasis is the effect of an operation on sexual strength. When you lose your prostate gland you bid goodbye forever to a vital part of the procreative system. In a very real sense the saying is true that a man is no longer a man when his prostate is gone." is false and misleading;

19. That respondent's claim "Thus we expect ideal conditions for the successful treatment of sluggishness and hypertrophy of the gland; a gland often concerned in impotency and the marital instincts." is false and misleading;

20. That respondent's claim "Constipation often being a contributing cause of prostate trouble, it is evident that a successful treatment for the latter should necessarily relieve constipation. As a matter of

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fact, THERMALAID has been found to be of great benefit in treating constipation." is false and misleading;

21. That respondent's claim "Piles so frequently occurring when constipation exists may be expected to respond quickly to this treatment. This troublesome and painful malady often and in numerous cases responds after other methods have proven futile." is false and misleading.

PAR. 4. The foregoing false and misleading representations by the respondents have a capacity and tendency to mislead and have misled and deceived purchasers, and said advertisements, booklets, pictorial representations, form letters, and published testimonials accompanying respondent's said advertising material have misled and deceived purchasers thereof who, relying upon the truth of such representations and actuated by the erroneous belief that the use of "Thermalaid" is therapeutically efficacious as represented by respondent, in the prevention, treatment, relief, and cure of the various and sundry ailments, as hereinbefore set forth, have purchased and do purchase from respondent the said device known as "Thermalaid".

PAR. 5. The aforesaid advertisements, representations and statements made by the respondent, as hereinbefore set out, have had the capacity and tendency to divert trade to said respondent from competitors and by such representations and statements substantial competition throughout the various States of the United States has been injured by said respondent to a substantial extent.

CONCLUSION

The practices of the respondent under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and of respondent's competitors and are 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 respondent, testimony and evidence taken before Trial Examiner Charles F. Diggs, an examiner of the Commission theretofore duly designated by it, in support of the charges of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Morton Nesmith, counsel for the Commission, and by John A. Nash, counsel for the

respondent, and the Commission having made its findings as to the facts and its conclusion that said 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 ordered, That the respondent, Electro Thermal Company, a corporation, its officers, directors, agents, representatives, and servants or employees in connection with the advertising, offering for sale, or sale in interstate commerce and in the District of Columbia of its device heretofore known as "Thermalaid", cease and desist from representing in any manner, including by or through the use of testimonials or endorsements or guarantees, or in or through newspapers, magazines, radio, circulars, pamphlets, photographs or pictures, letters, or otherwise:

- (1) That 65% of all men past middle age have prostate trouble.
- (2) That the use of said device is a positive cure for any ailment.
- (3) That the use of said device constitutes a competent treatment or cure for prostatitis.
- (4) That the use of said device constitutes a competent treatment or cure for hypertrophy.
- (5) That the use of said device constitutes a competent treatment or cure for constipation.
- (6) That the use of said device constitutes a competent treatment or cure for piles.
- (7) That the use of said device may surprise one with the new joy of living, new energy and enhanced power to do; that if one has a fretful, serious, nagging case, that said device will cure same.
- (8) That if one is looking for health, happiness and freedom from backache, foot and leg pains, frequent urination, so-called bladder trouble, worry, depression and debilities due to prostatic trouble, he may expect immediate relief from the use of said device.
- (9) That the proper functioning of the prostate gland is necessary in the sexual act.
- (10) That a man is no longer a man when his prostate is gone.
- (11) That the prostate gland slows down in men past middle age and, if unchecked, will swell until surgery is needed.
- (12) That the loss of the prostate gland means goodbye forever to a vital part of the procreative system.
- (13) That if one is suffering from any of the aforementioned ailments, delay in ordering "Thermalaid" is inadvisable.

It is further ordered, That the respondent shall within 30 days after the service upon it of a copy 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 the order to cease and desist hereinabove set forth.

Syllabus

IN THE MATTER OF

JONAS SCHAINUCK & SON, INC.

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

Docket 2768. Complaint, May 12, 1936¹—Decision, July 23, 1936

Where a corporation engaged in the operation of a chain of clothing stores for sale at retail of men's clothing in various States and cities, and in purchasing at wholesale, in connection therewith, ready-made clothing which it shipped or reshipped to its various retail stores for resale to purchasing and consuming public—

- (a) Made such statements by radio broadcast in soliciting sale of and selling its clothing, as "Divide the saving—Buy direct from Schainuck's—Their Factory-to-You Policy Saves You Money," and affixed to its garments and containers thereof labels containing legend "Maker to Wearer" and "Direct from our Factory to You," facts being it neither owned nor operated a clothing factory and did not make clothing sold by it; with effect of leading the purchasing public to believe that it was the manufacturer thereof, and thereby permitted them to receive better prices and better workmanship from it than from other retailers who do not misrepresent themselves as manufacturers;
- (b) Advertised in newspapers of wide and general circulation that it sold "All Wool Suits—Silk Lined for \$6.85," facts being chemical analysis thereof by a textile expert showed that they contained a large percentage of cotton and rayon and lining thereof contained no silk whatever;
- (c) Made such statements, in advertising, through newspapers of wide circulation and through circulars and handbills and over the radio, as "2 Suits, 2 Coats, or 1 Suit and 1 Coat for 1 Low Price," "We're Doubling the value of your clothing dollar to double the number of our clothing friends—and customers!" "2 garments for 1 low price," "It's the two-for-one low price which we originated," "Schainuck's is the shop famous for the two garments for one low price," etc., and set forth on its salesmen's cards "Schainuck's Clothes—2 for 1 Price"; facts being average price to public for any two of its garments was approximately double that at which one garment of similar quality and workmanship was offered and sold to public by other retail clothing dealers; with result of leading purchasing and consuming public to believe, and with tendency to create impression, that by patronizing its stores they would obtain two suits or two coats or one of each for price which they would ordinarily pay at other stores for only one garment of similar grade and workmanship, and thus double value of customer's clothing dollar, or obtain an extra suit or overcoat without additional cost;

With a capacity and tendency to deceive and possibility of deceiving and misleading ultimate purchasers into buying suits, overcoats or other garments from it in belief that they were dealing with the manufacturer and thus obtaining better value and workmanship for price paid than they would

¹ Amended.