

## Syllabus

IN THE MATTER OF  
JOSEPH A. PIUMACOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2229. Complaint, Sept. 5, 1934—Decision, Apr. 6, 1937*

Where an individual, manufacturing pharmacist, engaged in sale and distribution of a preparation made for him under his formula and known and sold for some seven or eight years theretofore under name "Glendage," and formerly under name "Sexvitor," and in marketing said preparation, packaged in bottles of ninety tablets, for sale at retail for \$3.00, through wholesale drug jobbers principally, and through retail drug chains, and occasionally direct to consumers, at various points in the several States and in the District of Columbia, in substantial competition with those engaged in offer and sale of remedies, preparations, products and treatments used and useful for treatment and correction of ailments and conditions for which his said "Glendage" might possess any corrective or therapeutic value, and for treatment and correction of ailments and conditions for which he represented said preparation as an effective corrective or treatment—

Represented, in advertising said "Glendage" in newspapers in various cities and through form letters mailed to prospective purchasers thereof and through pamphlets distributed among such purchasers and containing statements as to the value thereof in the treatment and correction of human ailments and conditions, and superiority thereof compared with other preparations and products used in treatment and correction of ailments and conditions for which it was recommended, that said "Glendage" was a gland tonic and remedy which would restore vigorous health, and was the best such remedy known, and the "last word" in "modern science" in such remedies, and one which stimulated all the glands to healthy activity and was entirely unlike other so-called gland remedies, and stood superior as a tonic, and was a remedy for nervousness, overwork, and lack of vim and vigor, and would return one to the full vigor of manhood or womanhood, and constituted competent and effective treatment or corrective for use in remedying ailments and conditions indicated, facts being it did not possess the therapeutic efficacy represented and implied by him in treatment and correction of ailments and conditions for which recommended, and said various representations and statements were false and misleading;

With effect of misleading and deceiving many persons affected with ailments and conditions concerning which said representations and implications were made, and of causing a substantial portion of such persons erroneously to believe that said representations and implications were true, and that preparation in question possessed therapeutic efficacy represented, and was a competent and effective treatment or corrective for use in remedying ailments and conditions for which recommended, and of causing a substantial portion of such persons, because of such erroneous belief, to buy said preparation, and thereby unfairly divert trade to him from his competitors who truthfully represent their preparations, products, remedies and treatments; to their substantial injury and that of the public:

## Complaint

24 F. T. C.

*Held*, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. W. W. Sheppard*, trial examiner.

*Mr. Edw. W. Thomerson* for the Commission.

*Canepa & Castruccio*, of Los Angeles, Calif., for respondent.

## 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 Joseph A. Piuma, hereinafter referred to as respondent, 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 stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Joseph A. Piuma, is a manufacturing pharmacist, with his principal office and place of business in the city of Los Angeles, in the State of California. Now and for more than two years last past he has been engaged in the business of selling, among other articles, a purported medicinal preparation designated by him as "Glendage," and in the sale thereof between and among the various States of the United States and in the District of Columbia, causing said "Glendage" when sold by him to be transported from his place of business in the city of Los Angeles, California, to the purchasers thereof located in said State and to other purchasers thereof located in other States of the United States and in the District of Columbia. There is now and has been for more than two years last past a constant current of trade in commerce by the respondent in the said "Glendage" between and among the various States and territories of the United States and in the District of Columbia. In the course and conduct of his said business, respondent is now, and for more than two years last past has been, in substantial competition with other persons, and with firms, partnerships, and corporations engaged in commerce between and among the various States of the United States; in medicinal preparations, pills and compounds for use in the treatment of physical impairments and physical disabilities for which respondent's said "Glendage" is advertised and represented by respondent to be a remedy.

PAR. 2. In and by advertisements, circulars, and letters sent by respondent through the mails, respondent in selling and soliciting the sale between and among the various States of the United States and in the District of Columbia, of his said product called "Glend-

age," now and for more than two years last past, has falsely represented, and still falsely represents, among other things concerning said "Glendage," that—

1. Said "Glendage" is a gland tonic;
2. Said "Glendage" restores vigorous health;
3. Said "Glendage" is the best gland remedy known;
4. Said "Glendage" constitutes a remedy for glands;
5. Said "Glendage" is the last word in modern science;
6. Said "Glendage" stimulates all the glands to healthy activity;
7. Said "Glendage" is entirely unlike other so-called gland remedies;
8. Said "Glendage" stands superior to a tonic;
9. Said "Glendage" is a wonderful remedy for cases of nervousness or overwork, or lack of vim, or lack of vigor; and
10. Said "Glendage" will return one to the full vigor of manhood or womanhood,

when in truth and in fact said "Glendage" is not a gland tonic; will not restore vigorous health; not only is not the best gland remedy known but is not a gland remedy; does not constitute a remedy for glands; not only is not the last word in modern science but is not a scientific product; will not stimulate all of the glands to healthy activity, or any of them; is not unlike other so-called gland remedies; is not a tonic; is not a wonderful remedy, or any remedy at all, for cases of nervousness or overwork, or lack of vim, or lack of vigor, and will not return one to the full vigor of manhood or womanhood.

PAR. 3. The aforesaid misrepresentations made by the said respondent as set out in paragraph 2 hereof, have had, and still have, the capacity and tendency to mislead and deceive, and have misled and deceived the purchasing public in the beliefs that the aforesaid statements set out in paragraph 2 hereof made by the said respondent, are true, and have had and still have the capacity and tendency to induce, and have induced the purchasing public to purchase said "Glendage" from the respondent in such beliefs.

PAR. 4. There are among the competitors of the respondent mentioned in paragraph 1 hereof, manufacturers and sellers of medicinal preparations and products who do not make representations concerning their medicinal preparations and products such as those made by the respondent and enumerated in paragraph 2 hereof. The aforesaid misrepresentations made by respondent have the capacity and tendency to divert trade from such competitors in interstate commerce and thereby substantial injury is done by respondent to substantial competition in interstate commerce.

PAR. 5. The above alleged acts and things done by respondent are all to the injury and prejudice of the public and respondent's competitors in commerce within the intent and meaning of Section 5 of

## Findings

24 F. T. C.

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 September 5, 1934, issued and, on September 10, 1934, served its complaint in this proceeding upon respondent Joseph A. Piuma, charging him 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 other evidence in support of the allegations of said complaint were introduced by Edw. W. Thomson, attorney for the Commission, before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, no evidence having been offered by the respondent in opposition thereto; and said testimony and evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and evidence, brief in support of the complaint, no brief having been filed in opposition thereto; and the Commission having duly considered the same, and being now 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, Joseph A. Piuma, is a manufacturing pharmacist and sells and distributes a number of medicinal preparations, with his office and principal place of business at 600 Spring Street in the city of Los Angeles, in the State of California, and maintains a laboratory at 221 San Fernando Road, Los Angeles, Calif. Among the medicinal preparations sold and distributed by the respondent from his said place of business in the city of Los Angeles, in the State of California, is a preparation manufactured by Sharp and Dohme of Philadelphia, Pa., under a formula of the respondent, which is now, and has been for the past seven or eight years, known as, and sold under the name, "Glendage" and which was formerly known as and sold under the name of "Sexvitor."

Respondent markets said preparation Glendage principally through wholesale drug jobbers, through retail drug chains, and, occasionally, direct to consumers located at various points in the several States of the United States other than in the State of California and in the District of Columbia, and when such sales are made, the respondent causes said preparation to be transported from his place of business in the city of Los Angeles and State of California to the said purchasers thereof.

The preparation Glendage is packaged in bottles of ninety tablets each which sell at retail for the sum of \$3.00. Respondent's annual business in the sale of said preparation for the past three or four years has ranged from \$25,000 to \$30,000. The respondent in offering for sale and selling the preparation Glendage in commerce between and among the several States of the United States and in the District of Columbia, is in substantial competition with other individuals and with firms and corporations who are engaged in said commerce in the business of offering for sale and selling remedies, preparations, products, and treatments used and useful for the treatment and correction of the ailments and conditions for which the respondent's said preparation Glendage might possess any corrective or therapeutic value and for the treatment and correction of the ailments and conditions for which the respondent represents the preparation Glendage to be an effective corrective or treatment.

PAR. 2. The preparation Glendage is in tablet form and is packaged in bottles containing ninety tablets which retail for \$3.00 per bottle. The approximate annual sales of the preparation Glendage are between \$25,000 and \$30,000.

The preparation Glendage is compounded of glandular substances in combination with phosphorus nux vomica and cascara. An analysis of the preparation Glendage shows that it is constituted as follows:

Number of tablets—63.

Average weight (50 tabs.), 0.3155 gm. or 4.868 grs./tablet

Total alkaloids calculated as nux vomica extract (USP X), 3.59% or 0.175 grs./tablet

Iodine in organic combination, 0.0334% or 0.00148 grs./tablet, 0.0304% or 0.00148 grs./tablet

Equivalent to thyroid, 0.87 grs./tablet

Qualitative Tests:

Alkaloids—Present. (Brucine and strychnine identified, which point to presence of nux vomica extract)

Phosphates—Trace.

Emodin test—Positive. (Extract cascara sagrada indicated)

Zinc—Present.

## Findings

24 F. T. C.

Tablet excipients Present. (Talc, iron oxide, calcium carbonate, and red coloring matter)

Glandular substances—Indicated by odor.

Inorganic iodides—Absent.

Product is a red coated pill, and is composed of animal tissues apparently glandular in nature (which is indicated by odor of the substance, and also the organically combined iodine content), with small amounts of alkaloids (strychnine and brucine, probably indicating the presence of *nux vomica*), emodin bearing drugs (cascara indicated by taste and odor), and traces of zinc, phosphates, iron, calcium, and talc (the latter three probably as tablet excipients).

The organically combined iodine content of the pills correspond to 0.87 gr./tablet of thyroid (U. S. P. X), but iodine is also a constituent of other glandular substances.

The formula used in compounding the preparation in 1927 is as follows:

|                                             |           |
|---------------------------------------------|-----------|
| Suprarenal Glands desiccated.....           | 1/8 Gr.   |
| Thyroid desiccated.....                     | 1/8 Gr.   |
| Pituitary Whole desiccated.....             | 1/12 Gr.  |
| Orchic Substance desiccated.....            | 2 Gr.     |
| Zinc Phosphide to represent Phosphorus..... | 1/100 Gr. |
| Ext. Nux Vomica.....                        | 1/8 Gr.   |
| Ext. Cascara Sagrada.....                   | 1/8 Gr.   |
| Excipient to make one tablet.               |           |

PAR. 3. The respondent, Joseph A. Piunna, during the five years last past, has advertised the preparation Glendage in newspapers located in various cities in the States of the United States, and through form letters mailed to prospective purchasers of said preparation, and through pamphlets distributed among prospective purchasers containing statements as to the value of said preparation in the treatment and correction of ailments and conditions found to exist in the human body and the superiority of the preparation when compared with other preparations and products used in the treatment and correction of the ailments and conditions for which it is recommended.

Among and typical of the statements so used are the following:

GLENDAGE is the last word in glandular therapy. In convenient tablet form, Glendage contains the extracts from the glands of healthy animals, and stimulates ALL OF THE GLANDS to healthy activity. The effect is astonishing—almost magical. You return to the full vigor of manhood and womanhood. Your interest in life returns. Vigorous health is necessary for success in all activity today.

Do not confuse Glendage with other so called gland remedies. It is entirely unlike others—is a REAL GLAND PRODUCT and carries an unlimited guarantee of satisfaction or money back.

## Restores Vigorous Health

We guarantee to restore your pep, vigor, vitality, or we refund every cent. That's how sure we are that we have the best gland remedy known. Thousands of tests have proved this to our full satisfaction. Now, **WITHOUT RISK**, you can prove it to yours.

## IS YOUR HEALTH SLIPPING?

## New Gland Tonic Discovered

If you feel that the "big kick" of life is passing, if your vigor and pep is waning, try Glendage, the new money-back glandular tablet. It is no longer necessary to be weak, nervous, frail, run down. By regulating and stimulating gland secretions millions of red blood corpuscles are built and you again feel the glow of youthful vigor.

## IS YOUR VIGOR SLIPPING?

PAR. 4. By the means and in the manner above stated, the respondent Joseph A. Piuma represents and implies that the said preparation Glendage is a gland tonic; that it will restore vigorous health; that it is the best gland remedy known; that it constitutes a remedy for glands; that it is the last word in "modern science" in gland remedies and stimulates all of the glands to healthy activity; that it is entirely unlike other so-called gland remedies; that it stands superior to all other tonics as a tonic; that it is a remedy for cases of nervousness, overwork, lack of vim and lack of vigor; that it will return one who does not possess the full vigor of manhood or womanhood to such a state; and that said preparation Glendage is a competent and effective treatment or corrective for use in remedying the ailments and conditions mentioned.

In truth and in fact, said preparation Glendage is not a competent and effective treatment or corrective for use in remedying the ailments and conditions for which it is recommended; it is not a gland tonic; it will not restore vigorous health; it is not the best gland remedy known; it does not constitute a remedy for glands; it is not the last word in "modern science" in gland remedies nor does it stimulate all the glands to healthy activity; it is not unlike other so-called gland remedies; it is not superior as a tonic; it is not a remedy for cases of nervousness, overwork, lack of vim and lack of vigor; and it will not return one to the full vigor of manhood or womanhood.

In truth and in fact, said preparation Glendage does not possess the therapeutic efficacy represented and implied by the respondent Joseph A. Piuma in the treatment and correction of the ailments and conditions for which it is recommended.

Order.

24 F. T. C.

PAR. 5. The representations and implications so used by the respondent Joseph A. Piuma, in connection with the sale of said preparation Glendage in said commerce, in the matter hereinabove set out, are false and misleading and have had, and do have, the tendency and capacity to, and have, and do, mislead and deceive many persons affected with the ailments and conditions about which said representations and implications are made, and cause a substantial portion of such persons erroneously to believe that said representations and implications are true and that said preparation possesses the therapeutic efficacy represented and is a competent and effective treatment or corrective for use in remedying the ailments and conditions for which it is recommended; and cause a substantial portion of such persons, because of such erroneous belief, to purchase said preparation Glendage, thereby unfairly diverting trade to the respondent from his competitors who truthfully represent their preparations, products, remedies, and treatments, to the substantial injury of said competitors in said commerce and to the injury of the public.

## CONCLUSION

The aforesaid acts and practices of the respondent, Joseph A. Piuma, are to the prejudice of the public and the respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning 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 other evidence taken before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and brief in support of the complaint, no brief having been filed by the respondent, and the Commission having made its findings as to the facts and its 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 ordered*, That the respondent, Joseph A. Piuma, his representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of the medicinal preparation now known

as, and sold under the name, Glendage, or any other preparation, under whatever name sold, composed of similar ingredients and possessing therapeutic properties similar to the preparation now known as, and sold under the name, Glendage, in commerce between and among the several States of the United States and in the District of Columbia, forthwith cease and desist from directly or indirectly representing:

1. That said preparation is a gland tonic;
2. That said preparation will restore vigorous health;
3. That said preparation is the best gland remedy known;
4. That said preparation constitutes a remedy for glands;
5. That said preparation is the "last word" in "modern science" in gland remedies, and stimulates all the glands to healthy activity;
6. That said preparation is entirely unlike other so-called gland remedies;
7. That said preparation stands superior as a tonic;
8. That said preparation is a remedy for cases of nervousness, overwork, lack of vim and lack of vigor;
9. That said preparation will return one to the full vigor of manhood or womanhood;
10. That said preparation is a competent and effective treatment or corrective for use in remedying the ailments and conditions hereinabove mentioned.

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

Complaint

24 F. T. C.

IN THE MATTER OF  
**E. G. ZELLERS AND M. W. ZELLERS, TRADING AS ZELLERS  
LABORATORIES**

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

*Docket 2835. Complaint, June 5, 1936—Decision, Apr. 6, 1937*

Where a firm engaged in the sale and distribution of poultry medicines and remedies, including their "Zellers Kamala Nicotine Tabs," "Zellers Fowl Tone Formula No. 1," "Zellers Fowl Tone Formula No. 2," and "Carbo-Zel Tablets," in substantial competition with others engaged in the manufacture and sale of similar and like commodities used for the same or similar purposes—

Represented, in advertising their aforesaid four preparations, that said products, as the case might be, constituted effective remedies or treatments for round and tape worms and internal parasites in fowls, and an effective remedy and agency for the removal of all such parasites, and effective remedies and treatments for intestinal flu and various other conditions and ailments in turkeys and irritations caused by worms in fowls, and constituted perfect and ideal antiseptics for fowls, and would preclude infestation by worms, or were scientifically prepared successfully to combat the ravages of intestinal worms in fowls, and to counteract toxic poisons created by their presence, and constituted a worm preventive, facts being such representations and statements were false and misleading and said various preparations did not have the qualities or properties thus represented, and would not accomplish such results;

With tendency and capacity to deceive and mislead substantial portions of purchasing public into the erroneous belief that such representations were true, and with the result that consuming public, as a direct consequence of mistaken and erroneous beliefs thus engendered, purchased substantial volume of their commodities and trade was thereby unfairly diverted to them from competitors engaged in sale of products of same kind and nature, and who truthfully advertise and represent their character and quality and results to be obtained from use thereof; to the substantial injury of competition in commerce:

*Held*, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. W. W. Sheppard*, trial examiner.

*Mr. John Darsey* 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 E. G. Zellers and M. W. Zellers, copartners, doing business under the trade