

Syllabus

IN THE MATTER OF
AMERICAN MUSHROOM INDUSTRIES, LTD.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3057. Complaint, Feb. 12, 1937—Decision, Oct. 26, 1937*

Where a corporation engaged in promoting sale of mushroom spawn, purchased by it from producer thereof, and by it sold primarily through mail order, in response to prolific advertising, for price, ordinarily, about ten-fold that paid by professional planters for same quantity of same identical spawn produced by same producer, and, as thus engaged, in competition with those who sell mushroom spawn in interstate and foreign commerce without falsely representing that there is a shortage of fresh mushrooms on the market, no experience is necessary in growing of said product, there is a big profit in such growing at home, or making use of any false and misleading representations below set forth; in soliciting sale of and selling its said spawn, in correspondence, advertisements and trade literature—

- (a) Represented that same would produce extraordinary financial returns to purchasers and users thereof, and that mushroom growing was so simple inexperienced amateurs possessing no previous knowledge or technical skill might earn substantial weekly income raising such product in any idle space about the house, there was shortage on the market, spawn sold by it was a new and superior type which would produce white mushrooms at rate of from two and one-half to three pounds per square foot per planting, and mushrooms grown therefrom were superior to, or commanded higher prices than, white mushrooms grown from other spawn, and it gave book free to its customers, through such statements, among others, as "Shortage of fresh mushrooms on the market. New growers needed immediately. Earn up to \$25.00 or more * * *," " * * * even a boy or girl can really grow mushrooms the AMI way," " * * * BIG PROFIT business at your own Home Make BIG MONEY full or part time * * *," "Prices are advancing rapidly * * *," facts being there was no such shortage, prices had been on a downward trend with many professional growers forced into bankruptcy, product could not be successfully raised in any idle space about the home, but growing thereof involved unpleasant elements, required experience, and was not simple or easy occupation, spawn sold by it was of same type as that sold by producer in large quantities to many others, no book was given free to customers, but cost thereof was included in purchase price of spawn sold, and representations aforesaid were otherwise false; and
- (b) Represented that it was the largest concern in the world of its kind, and that it had a world-wide service and gave "Expert Advice—Laboratory Analysis—Research," and maintained "a staff of experts to advise you on every phase of the industry" and it had an office in London, England, facts being it maintained no offices in said city, nor any such world-wide service, had no personnel in the United States competent to give expert advice on raising of such products, nor any laboratories, or research facilities of

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its own, and was not the largest concern in the world engaged in sale of mushroom spawn;

With effect of misleading and deceiving a substantial portion of purchasing and consuming public into erroneous belief that all said representations were true, and into purchase of said spawn in reliance thereon, and with result that, through such false and misleading representations made as above indicated, it increased its own sales of such mushroom spawn, thus dishonestly promoted, advertised or represented, and with effect of lessening thereby market for similar spawn by other growers, merchants or dealers who truthfully represent nature, advantage or expectant financial return from planting their spawn or desirability of becoming mushroom growers, and their true size and character as commercial concerns in industry in question, and expert advice and service which they are capable of giving purchasers of their products, and result that trade was thus unfairly diverted to it from aforesaid competitors who do not make use of same or similar representations in conduct of their respective businesses; 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. John W. Addison* and *Mr. Irving D. Royal*, trial examiners.

Mr. James M. Hammond 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 American Mushroom Industries, Ltd., hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issued its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Mushroom Industries, Ltd., is a Canadian Corporation, having its principal office and place of business at 28-30 Bloor Street, West, Toronto, Canada. It also maintains a branch office in the United States located at 73 West Eagle Street, Buffalo, N. Y. The respondent company is now, and has been, for more than one year last past, engaged in the business of promoting the sale of mushroom spawn. Approximately 95% of its total sales are made in the United States and the balance in Canada. In the course and conduct of its business in the United States it ships said mushroom spawn when sold from its place of business in New York; to the purchasers thereof, some located in

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the State of New York, and others located in various other States of the United States and in the District of Columbia. There is now, and has been for more than one year last past, a constant current of trade and commerce by respondent in the aforesaid mushroom spawn, between and among the various States of the United States and between the United States and the Dominion of Canada. In the course and conduct of its business the respondent is now, and has been, in substantial competition with other corporations, firms, partnerships, and persons likewise engaged in the sale of mushroom spawn in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, and for more than one year last past, the respondent herein, in soliciting the sale of and selling its mushroom spawn in commerce, as herein set out, states in its correspondence, advertisements, and trade literature, among other things, that:

Shortage of fresh mushrooms on the market. New growers needed immediately. Earn up to \$25.00 or more growing fancy White Queen Mushrooms in your cellar, shed, stable or some other vacant space.—Experience is unnecessary.

So simple to do that even a boy or girl can really grow mushrooms the AMI way.

Fast increasing demand insures ready market.

Start this **BIG PROFIT** business at your own Home Make **BIG MONEY** full or part time—year around.

There's a real shortage of fresh mushrooms on the market. This is the ideal time to start.

Prices are advancing rapidly all over the country.

Said statements together with other similar statements not herein set out, serve as representations on the part of the respondent to a substantial portion of the purchasing public that there is a shortage of and a tremendously increasing demand for fresh mushrooms and that the respondent's mushroom spawn will produce extraordinary financial returns to purchasers and users thereof; that said spawn may be planted in any idle space about the home; that mushroom growing is an easy and pleasant occupation and may be successfully accomplished by persons of no experience whatsoever.

In truth and in fact, there is no shortage of mushrooms or any unusual demand therefor, and prices are not advancing. On the contrary prices for a number of years have been on a downward trend. The production of mushrooms by amateur growers at home, in small beds, is not highly remunerative financially. Mushrooms cannot be successfully raised in any idle space about the home, but can only be grown in properly constructed places kept at a definite temperature,

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ventilated in a precise manner, accompanied by the exclusion of light. The raising of mushrooms cannot be satisfactorily accomplished in the home as the preparation of the beds involves the use of a compost made from manure, which produces a highly disagreeable odor. Mushrooms cannot be successfully grown without experience, as production requires a high degree of horticultural skill. It is not a simple or easy occupation, due to the hard work and skill required, the disagreeable odor incident to preparing the compost, erecting the beds, and the constant care and attention required in regulating the temperature, humidity, and ventilation. Mushrooms cannot be grown the year around.

PAR. 3. In the course and conduct of its business, as described in paragraph 1 hereof, and for more than one year last past, the respondent herein, in soliciting the sale of and in selling its mushroom spawn in commerce as herein set out, states in its correspondence, advertisements, or trade literature, among other things, that:

It has a "World Wide Service."

That it gives "Expert Advice—Laboratory Analysis—Research."

We maintain a staff of experts to advise you on every phase of the industry.

Largest concern of its kind in the World.

No competition with fancy variety, White Queens.

Improved type, AMI spawn is entirely different from any other spawn offered for sale.

That White Queen mushrooms which can be produced only from AMI spawn command the highest prices wherever marketed.

Some AMI growers produce 3 lbs. to the square foot.—We would say that 2½ lbs. per square foot represents the ideal yield.

American Mushroom Industries, Ltd., Toronto, Can., Buffalo, N. Y., London, Eng.

\$1.50 book FREE.

Said statements serve as representations on the part of respondent to a substantial portion of the purchasing public that respondent maintains a world-wide service, maintains a staff of experts; is in a position to give expert advice, laboratory and research service; that it maintains an office in London, England, and is the largest concern in the world of its kind and that the spawn which it sells is superior to all other types of mushroom spawn and produces mushrooms entirely superior to all other types of white mushrooms at the rate of from two and one-half to three pounds per square foot per planting; that they command higher prices than other mushrooms and that it gives books free to its customers.

In truth and in fact, respondent does not maintain offices in London, England, and does not maintain a world-wide service. It maintains no personnel in the United States competent to give expert advice on

the raising of mushrooms and has no laboratory or research facilities of its own. It is not the largest concern in the world in the mushroom business. Mushroom spawn of the same type, sold by respondent, under the name of "White Queen" is sold in large quantities by the producer thereof to many corporations, firms, and individuals other than to the respondent, and the mushrooms raised therefrom do not command a higher price than mushrooms raised from other types of spawn producing white mushrooms and the said spawn will not produce from two and one-half to three pounds of mushrooms per square foot per planting. Respondent does not give books free to its customers, but the cost thereof is included in the purchase price of the spawn sold.

PAR. 4. There are among the competitors of respondent, as set forth in paragraph 1 hereof, other corporations, individuals, or partnerships who do sell mushroom spawn in interstate and foreign commerce and who do not falsely represent that there is a shortage of fresh mushrooms on the market, or that no experience is necessary in the growing of mushrooms, or that there is big profit in growing mushrooms at home, or use any of the false and misleading representations set forth in paragraphs 2 and 3 hereof.

PAR. 5. The acts and practices of respondent in falsely representing and advertising that there is a tremendous demand for mushrooms, that there is a shortage of mushrooms on the market, that it maintains offices in London, England; and has a world-wide service; that its mushroom spawn is superior to all other mushroom spawn and in making the other representations set forth in paragraphs 2 and 3 hereof, have the capacity, tendency, and effect of misleading and deceiving, and have misled and deceived, a substantial portion of the purchasing and consuming public into the erroneous belief that all of said representations are true and into the purchase of respondent's mushroom spawn, in reliance on said representations.

By means of these false and misleading representations, made to the purchasing public as above described, respondent has increased its own sales of said mushroom spawn, so dishonestly promoted, advertised, or represented, thereby lessening the market for similar spawn sold by other growers, merchants, or dealers, who truthfully represent the nature, advantage, or expectant financial return from planting their mushroom spawn or the desirability of becoming mushroom growers, and their true size and character as commercial concerns in the mushroom industry and the expert advice and service which they are capable of giving purchasers of their products.

As a result thereof, trade is unfairly diverted to the respondent from competitors engaged in the sale in interstate commerce of similar mushroom spawn, who truthfully represent the nature of the mushroom business or the desirability of becoming mushroom growers, or the demand for mushrooms, and the financial returns obtainable thereby, or the desirability of using the mushroom spawn sold by them or their true size in the industry and the financial returns to be obtained from growing mushrooms. Further, as a result thereof, substantial injury has been and is being done by respondent to the purchasing public and to competition in commerce among and between the various States of the United States and the District of Columbia.

PAR. 6. The above and foregoing acts, practices, and representations of the respondent have been and are all to the prejudice of the public and respondent's competitors, as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent 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."

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 February 12, 1937, issued and served its complaint in this proceeding upon respondent, American Mushroom Industries, Ltd., 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 other evidence in support of the allegations of said complaint were introduced by James M. Hammond, attorney for the Commission, before John W. Addison and Irving D. Royal, trial examiners of the Commission theretofore duly designated by it, and said testimony and other 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 the said complaint, the answer thereto, testimony and other evidence, and Commission's brief in support of the complaint, 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. Respondent, American Mushroom Industries, Ltd., is a Canadian corporation, having its principal office and place of business at 28-30 Bloor Street, West, Toronto, Canada. It also maintains a branch office in the United States located at 73 West Eagle Street, Buffalo, N. Y. The respondent company was, prior to the filing of the complaint herein, and for a long time prior thereto, engaged in the business of promoting the sale of mushroom spawn. This spawn was purchased by it from a Pennsylvania producer, who packed the same in one-pound containers furnished by the respondent. It is what is known in the trade as "dry" spawn, as distinguished from the "wet" spawn, the article generally used by professional growers. Respondent's sales were primarily of the "mail order" type, and deliveries were made in that manner on receipt of orders in response to its prolific advertising. All advertising and the labels on respondent's containers featured the words "White Queen." Respondent claimed great superiority for this spawn over other types of white mushroom spawn, as hereinafter shown, although the expert testimony taken shows that all white mushrooms are grown from the same identical type of spawn. Approximately 90% of respondent's total sales are made in the United States, and the balance in Canada. In the course of its business in the United States, it ships said mushroom spawn, when sold, from its place of business in Buffalo, N. Y. to the purchasers thereof, some located in the State of New York, and others located in various States of the United States and in the District of Columbia. There was, prior to the filing of the complaint in this case, a constant current of trade and commerce by the respondent in the aforesaid mushroom spawn, between and among the various States of the United States and between the United States and the Dominion of Canada. In the conduct of its business, the respondent was, prior to the filing of the complaint herein, in February 1937, in substantial competition with other corporations, firms, partnerships, and persons likewise engaged in the sale of mushroom spawn in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the conduct of its business, as described hereinabove, the respondent herein, in soliciting the sale of and selling its mushroom spawn in commerce, states in its correspondence, advertisements and trade literature, among other things, that:

Shortage of fresh mushrooms on the market. New growers needed immediately. Earn up to \$25.00 or more growing fancy White Queen Mushrooms

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in your cellar, shed, stable or some other vacant space.—Experience is unnecessary.

So simple to do that even a boy or girl can really grow mushrooms the AMI way.

Fast increasing demand insures ready market.

Start this BIG PROFIT business at your own Home Make BIG MONEY full or part time—year around.

There's a real shortage of fresh mushrooms on the market. This is the ideal time to start.

Prices are advancing rapidly all over the country.

These statements together with other similar statements not herein set out, serve as representations on the part of the respondent to a substantial portion of the purchasing public that there is a shortage and a tremendously increasing demand for fresh mushrooms, and that the respondent's mushroom spawn will produce extraordinary financial returns to purchasers and users thereof; that said spawn may be planted in any idle space about the home; that mushroom growing is an easy and pleasant occupation and may be successfully accomplished by persons of no experience whatsoever.

In truth and in fact, there is no shortage of mushrooms or any unusual demand therefor, and prices are not advancing. On the contrary, prices for a number of years have been on a downward trend, and many professional mushroom growers have been forced into bankruptcy because of that fact. The production of mushrooms by amateur growers at home, in small beds, is not highly remunerative financially, particularly in view of the fact that the respondent usually charges approximately \$5.00 per one-pound unit for his spawn, as compared with the price of 50c paid by professional planters for the same quantity of the same identical spawn produced by the same producer. Mushrooms cannot be successfully raised in any idle space about the home, but can only be grown in properly constructed places kept at a definite temperature between fifty-five and sixty-five degrees Fahrenheit, and ventilated in a precise manner. The raising of mushrooms cannot be satisfactorily accomplished in the home, as the preparation of the beds involves the use of a compost made from manure which, for several weeks after the preparation commences, produces a highly disagreeable odor. In metropolitan areas, this fact alone would, in many cases, prevent preparation of the beds. Mushrooms cannot be successfully grown without experience, as production requires a high degree of horticultural skill. It is not a simple or easy occupation, due to the hard work and skill required, the disagreeable odor incident to preparing the compost, erecting the beds, and the constant care and attention required in regulating the temperature, humidity, and ventilation. Mushrooms cannot be grown the year around without

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artificial refrigeration or cooling devices necessary to keep the temperature below 65 degrees Fahrenheit. In most sections, the growing operations require heating in winter, and if grown in summer, cooling apparatus is necessary.

PAR. 3. In the course and conduct of its business, as described hereinabove, the respondent, in soliciting the sale of and in selling its mushroom spawn in commerce as herein set out, states in its correspondence, advertisements, or trade literature, among other things, that:

It has a "World Wide Service."

That it gives "Expert Advice—Laboratory Analysis—Research."

We maintain a staff of experts to advise you on every phase of the industry.

Largest concern of its kind in the World.

No competition with fancy variety, White Queens.

Improved type, AMI spawn is entirely different from any other spawn offered for sale.

That White Queen mushrooms which can be produced only from AMI spawn command the highest prices wherever marketed.

Some AMI growers produce 3 lbs. to the square foot.—We would say that 2½ lbs. per square foot represents the ideal yield.

American Mushroom Industries, Ltd. Toronto, Can., Buffalo, N. Y., London, Eng.

\$1.50 book FREE.

Said statements serve as representations on the part of respondent to a substantial portion of the purchasing public that respondent maintains a world-wide service and maintains a staff of experts; that it is in a position to give expert advice and laboratory and research service; that it maintains an office in London, England, and is the largest concern in the world of its kind; that the spawn which it sells is superior to all other types of mushroom spawn and produces mushrooms entirely superior to all other types of white mushrooms at the rate of from two and one-half to three pounds per square foot per planting; that mushrooms grown from its spawn command higher prices than other mushrooms and that it gives books free to its customers.

The testimony and pleadings in this case show that the respondent does not maintain offices in London, England, and does not maintain a world-wide service. It maintains no personnel in the United States competent to give expert advice on the raising of mushrooms and has no laboratory or research facilities of its own. It is not the largest concern in the world engaged in selling mushroom spawn. Mushroom spawn of the same type as that sold by respondent under the name of "White Queen" is sold in large quantities by the producer thereof to many corporations, firms and individuals other than to the respondent. The mushrooms raised from respondent's spawn do not

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command a higher price than mushrooms raised from other types of spawn producing white mushrooms and the said spawn will not produce from two and one-half to three pounds of mushrooms per square foot per planting. In fact, expert professional growers only average from one to one and one-fourth pounds per square foot, and the crop which an amateur would obtain, if one were obtained at all, would probably be less. Respondent does not give books free to its customers, but the cost thereof is included in the purchase price of the spawn sold.

PAR. 4. There are among the competitors of respondent, as set forth in paragraph 1 hereof, other firms and individuals who sell mushroom spawn in interstate and foreign commerce and who do not falsely represent that there is a shortage of fresh mushrooms on the market, or that no experience is necessary in the growing of mushrooms, or that there is big profit in growing mushrooms at home, and who do not use any of the false and misleading representations set forth in paragraphs 2 and 3 hereof.

PAR. 5. The acts and practices of respondent in falsely representing and advertising that there is a tremendous demand for mushrooms; that there is a shortage of mushrooms on the market; that it maintains offices in London, England, and has a world-wide service; that its mushroom spawn is superior to all other mushroom spawn and in making the other representations set forth in paragraphs 2 and 3 hereof, have the capacity, tendency and effect of misleading and deceiving, and have misled and deceived, a substantial portion of the purchasing and consuming public into the erroneous belief that all of said representations are true and into the purchase of respondent's mushroom spawn, in reliance on said representations.

By means of these false and misleading representations, made to the purchasing public as above described, respondent has increased its own sales of said mushroom spawn, so dishonestly promoted, advertised, or represented, thereby lessening the market for similar spawn sold by other growers, merchants, or dealers, who truthfully represent the nature, advantage, or expectant financial return from planting their mushroom spawn or the desirability of becoming mushroom growers, and their true size and character as commercial concerns in the mushroom industry and the expert advice and service which they are capable of giving purchasers of their products.

As a result thereof, trade has been unfairly diverted to the respondent from competitors referred to herein who do not make use of the same or similar misrepresentations in the conduct of their respective businesses. As a further result, substantial injury has been

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done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent, American Mushroom Industries, Ltd., are 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, 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 and other evidence taken before John W. Addison and Irving D. Royal, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief filed herein in support of the complaint, 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, American Mushroom Industries, Ltd., its officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of mushroom spawn in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing, or holding out, as usual or customary earnings or profits to be derived by mushroom growers, any sum or amount in excess of the average, usual, and customary sums or amounts actually earned by users of respondent's spawn or other spawn, under normal conditions in due course of business;
2. Representing that mushroom growing is so simple inexperienced amateurs possessing no previous knowledge or technical skill may earn substantial weekly incomes raising mushrooms in any idle space about the home, such as an attic, garage or basement;
3. Representing that there is a shortage of mushrooms on the market, or distorting or exaggerating in any manner the true facts concerning mushroom growing;

4. Representing that the mushroom spawn sold by it is a new and superior type or variety which will produce white mushrooms in a greater quantity per square foot than is actually the case, or that mushrooms grown from its spawn are superior to or command higher prices than white mushrooms grown from other spawn;

5. Representing itself to be a larger concern than it actually is or that it is one of the pioneers in the mushroom or mushroom spawn industry;

6. Representing that it is one of the largest concerns of its kind in the world;

7. Representing that it maintains a world-wide service or maintains a staff of scientific and laboratory personnel;

8. Representing that it has an office in London, England, or any other place when such is not the case.

It is further ordered, That the respondent shall, within 30 days after the service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF
NATIONAL LABORATORYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 2900. Complaint, Aug. 14, 1936—Decision, Oct. 30, 1937*

Where a corporation engaged in sale and distribution of its alleged "Nuga-Tone" tablet remedy for treatment of those suffering from diseases and ailments of the stomach, intestines, and other organs, and in transporting and causing its said product to be transported in commerce among the several States, direct from its place of business to consumers in other States, to and through wholesale druggists for resale, and otherwise, in competition with those engaged in offer and sale in like commerce of compounds or preparations for use in treatment of same or similar ailments and diseases; in advertising its said "Nuga-Tone" by radio and in periodicals and newspapers and by mail—

- (a) Represented that it was a combination of bitter stomachic tonics, or a valuable and effective alterative tonic, which might be taken over long periods by anyone without harmful results, and constituted an effective remedy or cure for indigestion and stomach or intestinal ailments, and would aid digestion, relieve pains or discomfort following eating, increase the appetite, and permit one to eat anything;
- (b) Represented that said "Nuga-Tone" removed the causes of aches and pains in the muscles, nerves, and bones, and gave new power and energy to the muscular and nervous system, and constituted an effective remedy or treatment for poor heart action and for loss of power and energy, which would protect the body against the most serious diseases and stimulate and invigorate the entire system, and act directly on the vital organs, and make sick people strong and healthy and cause paleness to disappear, and produce normal sleep; and
- (c) Represented, through use of word "Laboratory" in its corporate name, that it owned, operated, or controlled a laboratory, and made use of such statements on labels, cartons, etc., as "Distributed by" or "From" National Laboratory, etc.;

Facts being preparation in question contained arsenic, corrosive sublimate and strychnin, and constituted dangerous composition, by reason of presence of said fatal poisons, which should only be taken under prescription of physician and which no good doctor would thus combine for any purpose, no warning against use for children was included in connection with sale thereof nor that product should be taken under doctor's prescription, number of tablets which, as asserted thereon, could be taken at one time safely, would result, based on aggregate content of aforesaid poisons thus involved, under accepted medical authority, in dosage for child far beyond accepted standard, and in fatal dosage under maximum suggested for adult, preparation had no such value and brought about no such effects as above set forth, but constituted "shot-gun" prescription, of type carefully avoided by modern medical profession, and product which could not be taken indefinitely without harmful results, and dangerous mixture with its three aforesaid