

IN THE MATTER OF

ALBERT J. TARRSON, INDIVIDUALLY AND TRADING AS
NATIONAL ADVERTISERS COMPANY, A. J. SALES &
MANUFACTURING COMPANY, THE TARRSON COMPANY,
AND PLA-PAL RADIO & TELEVISION COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3081. Complaint, Mar. 18, 1937—Decision, Jan. 25, 1938*

Where an individual engaged in sale and distribution of clocks, cameras, radio receiving sets, pen and pencil sets, safety razors, and other merchandise—
Furnished and distributed, to members of the general public in practically all States and in the District of Columbia, push cards, order blanks, and advertisements depicting particular items of merchandise thus being offered, and instructions, suggestions, and circulars describing his said plan of selling said merchandise, by which chance purchaser paid for chance varying amount, dependent upon number disclosed within various disks of aforesaid cards, and received rotary clock (or camera, radio set, or other merchandise), or nothing, depending upon success or failure in selecting feminine name corresponding to that concealed under card's master seal, and he compensated by one or more items of merchandise operator or representative, and thereby placed in the hands of others means of conducting lotteries, games of chance, or gift enterprises in distribution of his said merchandise, with knowledge and intent that said cards had been, were, and would be used in sale and distribution of his said products to public by lot or chance, contrary to public policy, and in competition with many who are opposed to use of such cards in sale and distribution of their merchandise and refrain from furnishing same;

With result that sale of similar or like merchandise by such competitors was thereby injuriously affected and trade was diverted from them to him by reason of said furnishing of such cards or like devices, and there was a restraint upon and detriment to the freedom of fair and legitimate competition; to the prejudice and injury of the public and competitors:

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

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. Henry C. Lank and *Mr. P. C. Kolinski* for the Commission.

Nash & Donnelly, of Chicago, Ill., 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 Albert J. Tarrson, individually and trading as the National Advertisers Company, the

Complaint

A. J. Sales & Manufacturing Company, The Tarrson Company, and the Pla-Pal Radio & Television Company, 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 is an individual doing business under the following trade names and styles: National Advertisers Company, A. J. Sales & Manufacturing Company, The Tarrson Company, and Pla-Pal Radio & Television Company, and has his principal office and place of business at 230 East Ohio Street, in the city of Chicago, State of Illinois. He is now, and for some time last past has been, engaged in the sale and distribution of cameras, pen and pencil sets, radio receiving sets, safety razors, clocks, and various other articles of merchandise, to wholesale dealers, jobbers, retail dealers, and to the purchasing public. Respondent's customers are located at points in the various States of the United States, and respondent causes his said products when sold to be transported from his principal place of business in the city of Chicago, State of Illinois, to purchasers thereof in other States of the United States at their respective places of business; and there is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise between and among the States of the United States. In the course and conduct of said business, respondent is in competition with other individuals and with partnerships and corporations engaged in the sale and distribution of similar or like articles of merchandise in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of his business, as described in paragraph 1 hereof, the respondent, in soliciting the sale of and in selling and distributing the said merchandise, has furnished various devices and plans of merchandising which involve the operation of gift enterprises or lottery schemes and a distribution of such merchandise to the ultimate consumers thereof wholly by lot or chance. Said devices or plans of merchandising consist of a variety of push cards, the use of which, in connection with the sale and delivery to the purchasing public by the method or plan suggested by respondent, was and is substantially as follows:

The said push cards bear a number of girls' names; concealed under each name is a number; also, under a master seal there is a name corresponding to one of the names on the card. Prospective purchasers select one of the names and remove the same disclosing the number thereunder. Persons selecting numbers from 1 to 29

Complaint

26 F. T. C.

(occasionally 1 to 35) pay in cents the amount of such number, and persons selecting numbers over 29 pay 29 cents (occasionally where the number is over 35, the purchaser pays 35 cents) for the privilege of selecting one of the names. The push cards bear various legends informing purchasers and prospective purchasers of the plan or method by which said push card is operated and by which the merchandise described thereon is to be distributed. Certain push cards bear legends informing customers and prospective customers that a few of the numbers will be free to the person selecting such numbers. Illustrative of a few, but not descriptive of all of such legends, are the following:

Select your favorite girl's name and receive a New Modern Rotary Clock—the latest clock sensation—\$5.00 value—Numbers under 29 pay what you draw—Numbers over 29 pay only 29 cents—No higher—Write your name opposite name you select on reverse side.

Persons selecting name under seal receive choice of articles for 1 cent to 35 cents.

FREE numbers 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, pay nothing.

4—EXTRA WINNERS—4

Numbers 23—33—43—and last sale, each receives a genuine Tarco Vacuum Pen—Pencil Set—\$2.50 value

Numbers 1 to 35 pay what you draw

All numbers over 35 pay only 35 cents—No higher

Write purchaser's name on back of card opposite name selected

When all the names have been purchased the master seal is removed, and the person who has selected the name corresponding to the name under the master seal receives the article of merchandise described without further charge, and the salesman, agent, or representative or retail dealer, soliciting purchases of chances as above described, also receive an article of merchandise without further charge or additional service. The numbers under the names are concealed from purchasers and prospective purchasers, and they do not know how much they will have to pay for the privilege of selecting one of the names, or whether the same will be obtained free of charge, until the selection has been made and the name removed. Also the name under the master seal is concealed from purchasers and prospective purchasers until all the names have been selected, and the customers or purchasers do not know what they will receive for their name, if anything, until after the master seal has been removed. Those qualifying to receive one of the other articles of merchandise by selecting a particular number do not know what they will receive, if anything, until after their selection has been made and the name removed. Those customers selecting names which do not correspond to the name under the master seal, or who do not qualify

for one of the other articles of merchandise by selecting a particular number, receive nothing but the privilege of making a selection for the money which they pay.

The purchasing public are thus induced and persuaded into purchasing pushes from said cards in the hope that they may select a prize-winning name, or one of the prize-winning numbers, and thus obtain an article of merchandise free of charge or for a sum not in excess of 29 cents (occasionally 35 cents). The various articles of merchandise are thus distributed to the purchasing public wholly by lot or chance.

PAR. 3. The wholesale dealers and jobbers to whom respondent sells his merchandise resell the same to retail dealers, together with the push cards furnished by respondent, and such retail dealers and the retail dealers to whom respondent sells direct offer for sale and sell said merchandise to the purchasing public by means of said push cards in accordance with the aforesaid sales plans. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of his merchandise in accordance with the sales plans hereinabove set forth, and said sales plans have the capacity and tendency of inducing purchasers thereof to purchase respondent's said merchandise in preference to like or similar merchandise offered for sale and sold by his competitors.

PAR. 4. The sale and distribution of merchandise to the purchasing public, as above alleged, involves a game of chance or the sale of a chance to procure such articles of merchandise in the manner alleged.

The use by respondent of said methods in the sale of his merchandise, and the sale of such merchandise by and through the use thereof and by the aid of said methods, is a practice of the sort which the common law and criminal statutes have long deemed contrary to public policy, and is contrary to an established public policy of the Government of the United States. The use by respondent of said methods has the tendency unduly to hinder competition or to create monopoly in this, to wit: That the use thereof has the tendency and capacity to exclude from the trade involved in this proceeding competitors who do not adopt and use the same method or an equivalent or similar method involving the same or an equivalent or similar element of chance or lottery scheme.

Many persons, firms, and corporations who sell and distribute merchandise in competition with the respondent, as above alleged are unwilling to offer for sale or sell merchandise by any method involving a game of chance or the sale of a chance to win something by chance, or any other method that is contrary to public policy, and such competitors refrain therefrom.

Complaint

26 F. T. C.

PAR. 5. Many dealers in and ultimate purchasers of merchandise as distributed by respondent are attracted by respondent's said methods or sales plans and by the element of chance involved in the sale or purchase thereof in the manner above described, and are thereby induced to purchase said merchandise of respondent in preference to merchandise offered for sale and sold by competitors of respondent who do not use the same or equivalent methods. The use of said methods or sales plans by respondent has the tendency and capacity, because of said game of chance, to divert to respondent trade and custom from his said competitors who do not use the same or equivalent methods; to exclude from said trade all competitors who are unwilling to and who do not use the same or equivalent methods because the same are unlawful; to lessen competition in said trade, and to tend to create a monopoly of said trade in respondent and such other distributors as use the same or equivalent methods; and to deprive the purchasing public of the benefit of free competition in said trade. The use of said methods or sales plans by respondent has the tendency and capacity to eliminate from said trade all actual competitors, and to exclude therefrom all potential competitors who do not adopt and use said methods or equivalent methods.

PAR. 6. In the course and conduct of his business, as described in paragraph 1 hereof, respondent has caused and causes the representation to be made to his customers and prospective customers, by means and by the use of the trade name "A. J. Sales & Manufacturing Company" and by the use of the words "Makers of Tarco products—Manufacturers" on his stationery, that he is the manufacturer of said articles of merchandise, or some of them, in which he deals. A substantial portion of the purchasing public, including wholesale dealers, jobbers, and retail dealers, have expressed and have a preference for dealing direct with the manufacturer of products being purchased, such purchasers believing that they secure closer prices, superior quality, and other advantages that are not obtained when they purchase from a selling agency or middleman.

PAR. 7. The use by respondent of said representation, that he is a manufacturer of the merchandise in which he deals, has the capacity and tendency to and does mislead and deceive many of respondent's said customers and prospective customers into the erroneous belief that respondent is a business concern which controls, operates, or owns a factory in which said merchandise sold by respondent is manufactured, and that persons dealing with respondent are buying said merchandise directly from the manufacturer thereof, thereby eliminating the profits of middlemen and obtaining various advantages,

including advantages in price, service, delivery, and adjustment of account, that are not obtained by persons purchasing goods from middlemen. The truth and fact is that respondent neither owns, controls, nor operates any factory whatsoever, and does not manufacture any of the merchandise sold by him, but on the contrary purchases such merchandise from others.

PAR. 8. There are among the competitors of respondent, referred to in paragraph 1 hereof, many who manufacture the merchandise which they sell, and who rightfully represent that they are the manufacturers thereof. There are others of said competitors who purchase the merchandise in which they deal and resell the same at a profit to themselves, and who in no wise represent that they manufacture said merchandise. The above alleged acts and practices of respondent, as set out in paragraphs 6 and 7 hereof, tend to and do divert trade and business from and otherwise injure and prejudice said competitors.

PAR. 9. The aforementioned methods, acts, and practices of the respondent are all to the prejudice of the public and of respondent's competitors, as hereinabove alleged. Said methods, acts, and practices 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."

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 March 18, 1937, issued and served its complaint in this proceeding upon respondent, Albert J. Tarrson, individually and trading as the National Advertisers Company, the A. J. Sales & Manufacturing Company, The Tarrson Company, and the Pla-Pal Radio & Television Company, 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 Henry C. Lank, attorney for the Commission, and in opposition thereto by John A. Nash, attorney for the respondent, before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it. The said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this

Findings

26 F. T. C.

proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony, and other evidence, briefs in support of the complaint and in opposition thereto and the oral arguments of counsel aforesaid; and the Commission, having duly considered the matter and now 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 Albert J. Tarrson is an individual doing business under the trade names and styles, National Advertisers Company, A. J. Sales & Manufacturing Company, The Tarrson Company and the Pla-Pal Radio & Television Company, with his principal office and place of business located at 230 East Ohio Street in the city of Chicago, State of Illinois. Respondent is now, and for some time last past has been, engaged in the sale and distribution of various articles of merchandise including clocks, cameras, radio receiving sets, pen and pencil sets, safety razors, washing machines, food mixers, vacuum cleaners, roasters, toasters, automatic razors and electric dry shavers, in commerce between and among the various States of the United States and in the District of Columbia. He causes such merchandise, when sold, to be shipped or transported from his principal place of business in Chicago, Illinois, to purchasers thereof in the State of Illinois and in practically all of the other States of the United States, as well as in the District of Columbia, at their respective points of location. There is now, and has been for some time last past, a course of trade and commerce by said respondent in such merchandise between and among the various States of the United States and in the District of Columbia. In so carrying on said business respondent is, and has been, engaged in active competition with other individuals and with partnerships and corporations engaged in the manufacture of similar or like articles of merchandise and in the sale and distribution thereof 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 his business, as described in paragraph 1 above, respondent, in soliciting the sale of and selling his merchandise, has adopted and pursued and still continues the following methods and practices:

Respondent distributes to members of the general public in practically all States of the United States and in the District of Columbia through the United States mail certain literature, instruc-

534

Findings

tions, and sales outfits including paper push cards, order blanks, and advertisements containing illustrations of particular items of merchandise which he is offering for sale, and circulars explaining respondent's plan of selling said merchandise and of allotting it and other articles as premiums or prizes to the operators of said push cards.

All of the said push cards involve the same principle or sales plan or method, but vary to some extent in detail. One of the said push cards bears 24 feminine names with ruled columns on the reverse side thereof for writing in the name of the customer opposite the feminine name selected. Said push card has 24 small round partially perforated disks marked "PUSH," below each of which is printed one of the feminine names above referred to. Concealed within each disk is a number which is disclosed when the disk is pushed or separated from the card. The push card also has one large red seal and concealed within this seal is one of the feminine names above referred to. The numbers concealed within each of the partially perforated disks cannot be ascertained until a push or selection has been made, and the name concealed within the large red seal cannot be ascertained until the seal has been removed. The push cards contain printed legends or instructions as follows:

SELECT
YOUR
FAVORITE
GIRL'S NAME

Do not
remove seal
until entire
card is sold

And Receive
NEW MODERN
ROTARY CLOCK

(Picture of
Clock)

The
Latest
Clock
Sensation
\$5.00
Value

Numbers Under 29 Pay
What You Draw

Numbers over 29 Pay Only 29¢

— No Higher —

Write Your Name Opposite Name
You Select on Reverse Side

The reverse of said card bears the following legends, among others:

INSTRUCTIONS: There are 24 various mixed numbers in this card, printed from 1 upwards. Numbers under 29 pay what numbers call for. All numbers

over 29 only pay 29¢. When completed, open large seal at top and party who selected corresponding name receives a ROTARY CLOCK.

Sales of rotary clocks by means of said push cards are made in accordance with the above-described legends or instructions. Said prize or premium is allotted to the customer or purchaser in accordance with the above legends. The fact as to whether a customer pays a sum of money from 1 cent to 29 cents for a rotary clock and the fact as to whether a customer receives nothing for the amount paid, is determined wholly by lot or chance.

Respondent furnishes one rotary clock and generally an additional item of merchandise to his representative making sales by means of said push card. Respondent also furnishes his representatives with additional printed instructions or suggestions for using said push cards. One of said printed instructions bears the following legends, to wit:

HOW TO OBTAIN YOUR
MODERN ROTARY CLOCK AT NO COST
SUGGESTIONS FOR USING SALES CARD

The push card contains 24 girl's names—beneath each is a concealed number. These numbers range from one upwards. All numbers under 29 pay amount of number (one pays 1¢—19 pays 19¢, etc.). Any number over 29 only pays 29¢. NO HIGHER.

Your friends select any name they choose and push out the corresponding hole. You write down your friend's names opposite the names they select. When all have been pushed out, you will find that you have collected \$8.50. Then remove the large seal at the top. Under it is the fortunate name. The person who selected that name is entitled to a Modern Rotary Clock. NOW YOU CAN DESTROY THE CARD—THERE IS NO NEED TO RETURN IT TO US.

Fill out the order blank (see other side), specify the colors you wish—one for you and one for the person who selected the name under the seal. Send the order blank to us together with express money order or cashier's check for \$8.50. The two clocks will be shipped to you prepaid. Thus you will receive your clock at no cost to you and the fortunate person will receive his or her ROTARY CLOCK at hardly any cost.

You will have a lot of fun getting folks to push out names on the cards. Show it to your fellow employees, friends, relatives, and acquaintances. Whenever there is a party or gathering at your home or your friends' home, bring out your card. Everyone will find it as much fun as any other game or pastime. You will have the card pushed out in no time.

If you mail the order within ten days, we will include a Surprise Present for you FREE. It's worth getting.

As stated above, the other push cards which respondent furnishes are identical in principle but vary in detail. Some of said push cards are furnished by respondent and are used by the public in purchasing and distributing cameras, radio receiving sets, and other merchandise sold and distributed by respondent. The members of

the public to whom respondent furnishes his push cards and other literature use the same in the manner suggested by respondent, thereby distributing respondent's merchandise to others and procuring respondent's merchandise for themselves. The sale and distribution of respondent's merchandise through the use of or by means of the said push cards constitutes the operation of lotteries, games of chance, or gift enterprises, and the respondent, in furnishing said push cards, puts in the hands of others the means of conducting lotteries, games of chance, or gift enterprises in the distribution of his merchandise.

PAR. 3. The respondent, in furnishing said push cards, has knowledge that the same are, have been and will be, used in distributing his merchandise, and furnishes said push cards so that his merchandise may be sold or distributed to the public by lot or chance.

PAR. 4. There are in the United States many manufacturers and distributors selling and distributing similar or like merchandise to that distributed by the respondent, who do not furnish push cards similar to those furnished by respondent, and who do not furnish any device by which their merchandise can be distributed to the public by lot or chance. There are also many competitors of respondent who are opposed to use of push cards in the sale and distribution of their merchandise, and such competitors refrain from furnishing such devices. Competitors of respondent were called as witnesses and testified in this proceeding, and the Commission finds that the sale of merchandise by means of said push cards injuriously affects the sale of similar or like merchandise by such competitors, and that trade is diverted to respondent from his said competitors by reason of the furnishing of said push cards or like devices. The use of such methods by the respondent in the sale and distribution of his merchandise is prejudicial and injurious to the public and to respondent's competitors, and has resulted in the diversion of trade to respondent from his said competitors, and is a restraint upon, and a detriment to, the freedom of fair and legitimate competition.

PAR. 5. As stated previously in these findings, the respondent sells his merchandise in practically all of the States of the United States and in the District of Columbia, respondent having been called as a witness and having testified that he sells his merchandise throughout the entire United States. While the annual volume of respondent's business was not shown exactly, the respondent testified, and the Commission finds, that the respondent's annual volume of business is, and has been, substantial. The respondent testified that he distributed each week approximately 50,000 of his push cards offering rotary clocks for distribution, and that at the time of the

Order

26 F. T. C.

hearing, April 27, 1937, has sold between 3,000 and 4,000 of said clocks during 1937, and that his business for 1937 was considerably less than for a similar period during 1936. He also testified that prior to September 1936, he distributed between 100,000 and 150,000 push cards offering cameras, and that during 1936 he distributed approximately 100,000 push cards offering radio receiving sets and other articles of merchandise.

PAR. 6. The Commission finds that the sale and distribution in interstate commerce of merchandise as described above, by means of lot or chance, is contrary to public policy.

CONCLUSION

The aforesaid acts and practices of the respondent, Albert J. Tarrson, individually and trading as the National Advertisers Company, A. J. Sales & Manufacturing Company, The Tarrson Company, and the Pla-Pal Radio & Television Company, 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 the respondent, testimony, and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by Henry C. Lank, 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 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, Albert J. Tarrson, individually and trading as the National Advertisers Company, A. J. Sales & Manufacturing Company, The Tarrson Company, and the Pla-Pal Radio & Television Company, his agents, representatives, and employees, in connection with the offering for sale, sale and distribution of various articles of merchandise, including among others, clocks, cameras, radio receiving sets, pen and pencil sets, safety razors, wash-

534

Order

ing machines, food mixers, vacuum cleaners, roasters, toasters, automatic razors, and electric dry shavers, in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Supplying to or placing in the hands of others push cards or similar devices so as to enable such persons to dispose of or sell by the use thereof such articles of merchandise;

2. Mailing, shipping, or transporting to members of the public push cards or other similar devices so prepared or printed as to enable said persons to sell or distribute such merchandise by the use thereof;

3. Selling or otherwise disposing of merchandise by the use of push cards or other similar devices, or in any manner selling or otherwise disposing of such merchandise free of charge or at varying prices depending upon lot or chance.

It is further ordered, That the respondent shall, within 30 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 the order to cease and desist hereinabove set forth.

IN THE MATTER OF
C. J. O'CROWLEY, TRADING AS EXCEL PRODUCTS, AND
AS C. J. O'CROWLEY

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

Docket 3094. Complaint, Apr. 1, 1937—Decision, Jan. 25, 1938

Where an individual engaged in transportation, sale, and distribution of his "Excel" and "Excel Special" medicinal or pharmaceutical preparations, as competent and effective gland treatments, in substantial competition with others likewise engaged in sale and distribution or in manufacture, sale, and distribution in commerce among the various States, of medicinal or pharmaceutical preparations designed, distributed, and sold for use in connection with treatment of glandular disturbances and deficiencies, and who make use in compounding their respective products of varying amounts, or some, or all, of same ingredients contained in products of said individual and do not misrepresent quality, efficacy, or therapeutic value thereof; in advertising his said preparations in newspapers and periodicals of general circulation, and also in certain advertising literature circulated through the mails and otherwise to customers and prospective customers—

Represented that use thereof enabled one to be young again, and that they consisted of gland medicines and were gland stimulants and assisted glands of men and women, and constituted competent and effective aphrodisiacs and remedies or treatments for sexual deficiencies, and would bring about sexual rejuvenation, facts being formulas thereof had no such effects, glandular deficiencies may be due to any one of a number of debilitating diseases or psychic, and no prescription or specific medicine will be applicable in all cases, and it is impossible to prescribe for such conditions without thorough diagnosis as to cause by a competent physician, and claims and representations made by him as to qualities, nature, and effect of his said preparations were grossly exaggerated, false, and misleading;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that said preparations enabled one to be young again, and consisted of gland medicines and constituted competent aphrodisiacs, and had the effects and qualities claimed therefor as above set forth and indicated, and with result that a number of said public, as a consequence of such mistaken and erroneous beliefs, purchased his said preparations and trade was thereby unfairly diverted to him from competitors likewise engaged in distribution and sale, or manufacture and sale, of various medicinal or pharmaceutical preparations containing some of same ingredients and used and prescribed by physicians for same purpose for which his said preparations were advertised and sold, and who do not misrepresent character, efficacy, or therapeutic value of their respective products:

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

Before *Mr. William C. Reeves*, trial examiner.

Mr. T. H. Kennedy and *Mr. J. T. Welch* for the Commission.