

IN THE MATTER OF
THE ETA COMPANY, INC. AND WILLIS G. SHEEMAN
COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3243. Complaint, Oct. 13, 1937—Decision, June 30, 1938¹

Where a corporation and an individual, president thereof and stockholder therein and director of its activities and practices and responsible for its policies, engaged in (1) sale and distribution of a line of so-called dehydrated or concentrated foods for human consumption, identified by the words "Eta Food" and the name of the particular product, i. e., "Eta Food Sodium," "Eta Food Potassium," and a number of other similarly named "Eta Foods," to wit, the magnesium, iron, chlorin, phosphorous, silicon, fluorin, sulphur, calcium, iodine, and manganese, and also including "Etalax," "Eta Food No. 26," "Eta Food No. 2," "Eta Food No. 3," "Etagland Food Male," and "Etagland Food Female," and (2) sale and distribution of books, pamphlets, and other printed matter purportedly relating to health, hygiene, and physical and mental improvement of human beings—

- (a) Represented and implied, in form letters, pamphlets, leaflets, and dodgers, that each of said dehydrated or concentrated food products was compounded for the purpose of remedying, correcting, and treating ailments affecting human beings, and that absence of the mineral or other matter purportedly contained in such specific preparations thus offered would cause certain human ailments, i. e., that their "Eta Food Sodium" would improve digestion, increase will power, "alkalinize nerves and clear the brain," while lack of "Food Sodium" would cause acidity, rheumatic ailments, formation of acid in the nerves and brain, etc., with a great variety of other representations as to benefits accomplished through supplying assertedly needed elements to the body and thereby correcting the various ailments and malfunctioning ascribed to the lack of such elements, and represented in their book or pamphlet, sold and distributed under the name of "Mastery of Success," that "Eta Food #2," "Eta Food #3," and "Etagland Food Male" and "Etagland Food Female" would give food elements to the cell structures and give strength to the functions of generation, and that the said preparations would benefit cases of sexual debility;

Facts being said various representations were false, grossly exaggerated, misleading, and deceptive, usual diet for the vast majority of the people of the United States contains a sufficiency of minerals for the needs of the body, mineral deficiency in the diet, found in rare cases, can be determined only by examination and experimentation by one technically trained and skilled in medicine and kindred sciences, consumption of any minerals in excess of the needs of the body is of no benefit, and, in cases of certain minerals, highly dangerous, conditions attributed, as above indicated, to lack or absence of minerals in the diet would require absolute absence therefrom of such substances for an extended period of time and could occur only under unusual circumstances and in rare instances, and afore-

¹ Order published, as modified, as of November 5, 1938.

said various foods, taken as directed, do not contain a sufficient amount of minerals to remedy or correct such a deficiency of the diet, and many of the ailments and conditions for which they were offered are of such a nature that they cannot and do not respond to dietary or other oral treatment;

- (b) Falsely represented that their aforesaid books or pamphlets, known as "Mastery of Success" and "Brain Power Supreme," would enable persons to shape their own destiny and make a complete and satisfying success of their lives, assure anyone an immediate physical, mental, and financial success unattainable without them, and enable anyone to overcome all obstacles which retard success, and prevent or cure bodily ailments and diseases regardless of their cause and nature, through such statements, among many others, as "There are tens of thousands of people fishing around in the murky waters of so-called psychology, buying every baited book on magnetism and personal power offered, never waking up to the fact that they are the poor fish. Every one of them needs 'Brain Power Supreme.' Then they will grow new powerful brains. Then they will begin making money. Otherwise they will not be any better off forty years from now," and misled public, through use of word "Doctor" and abbreviation "Dr.," in advertising matter and in books and pamphlets, into the erroneous belief that said individual was a duly qualified medical practitioner, as above set forth, and falsely referred to him therein as "America's foremost authority on food chemistry and nutrition," as numbering "among his clients many of America's richest and most influential men and women," and as the man "who makes people rich";

Facts being said various representations were false and misleading, following instructions contained in said books or pamphlets would not enable one to overcome obstacles which retard success, or to prevent or cure bodily ailments and diseases or assure one of immediate success, physical, mental, or financial, eating of food there suggested would not cause one to have active brain and invincible will, etc., ordinary foods do not actually kill ambition, etc., following teachings of the book would not prevent one from wasting precious years going through hard knocks, sleepless nights, heart-breaks, to learn a few things taught by the author thereof, success was possible without use of the book or pamphlet, etc., and representations in various other respects, as thus indicated, were grossly false and misleading;

- (c) Represented that the price of their "Mastery of Success" was \$4.50, but that, for a limited time as a special offer, it might be purchased for \$2.00, and that the regular price of their "Brain Power Supreme" was \$25.00, but that as a special offer it might be purchased for \$8.00;

Facts being the regular prices of the two books, neither special nor limited, were \$2.00 and \$8.00, and not the higher figures; and

- (d) Represented, through use of word "Doctor" or abbreviation "Dr.," in their advertising matter and in books or pamphlets, and led public to believe, that aforesaid individual was a duly qualified and licensed medical practitioner;

Facts being he was not such a qualified and licensed practitioner;

With effect of inducing a substantial number of consumer purchasers to buy the product offered for sale, sold and distributed by them, and of diverting thereby trade to themselves from competitors engaged in like and similar businesses, including many who do not misrepresent their products in any

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respect and do not use such acts, practices and methods in connection with the sale and distribution thereof, and of causing substantial injury in competition in commerce between and among the various States of the United States and in the District of Columbia:

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

Mr. S. Brogdyne Teu, II for the Commission.

Mr. Ray E. Lane, of Chicago, Ill., for respondents.

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 The Eta Co., Inc., a corporation, and Willis G. Sheeman, an individual, hereinafter referred to as the respondents, have been and are 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 The Eta Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 227 West Huron Street, Chicago, Ill.

The respondent Willis G. Sheeman is president of and the principal stockholder in the respondent The Eta Co., Inc., and controls and directs its activities and practices and formulates its policies. His principal place of business is the same as that of the respondent The Eta Co., Inc.

In doing the acts and things and in using the practices and methods hereinafter set forth and described, the said respondents have acted in concert and in cooperation with each other.

PAR. 2. Said respondents are now and have been for the several years last past engaged in the sale and distribution of so-called dehydrated or concentrated foods for human consumption, and in the sale and distribution of books, pamphlets and other printed matter purportedly relating to health, hygiene, and the physical and mental improvement of the human race. Said respondents cause said dehydrated or concentrated food products, and said books, pamphlets and other printed matter, when sold, to be transported from their said place of business in the State of Illinois, into and across the several States of the United States, to the purchasers of said prod-

ucts located at various points in the said several States, other than the State of Illinois and in the District of Columbia.

In the course and conduct of their business, as aforesaid, respondents have been and are now in substantial competition in said commerce between and among the several States of the United States, and in the District of Columbia, with corporations, associations, partnerships, and individuals engaged in said commerce in the sale and distribution of dehydrated and concentrated food products, and other food products, and in the sale and distribution of books, pamphlets and other printed matter relating to health, hygiene, and the physical and mental improvement of the human race, and engaged in the sale and distribution of medicines, remedies, treatments, and correctives used and useful in the treatment of the ailments, afflictions, diseases, and conditions for which the respondents recommend the use of their said dehydrated or concentrated food products, and the following of the teachings expounded in said books, pamphlets and other printed matter, as hereinafter set out.

Among the competitors of the respondents in said commerce are many who do not misrepresent their said products in any respect and who do not use the acts, practices and methods used by the respondents, as hereinafter set out, in connection with the sale and distribution of their said products.

PAR. 3. The respondents' so-called dehydrated or concentrated foods are sold under the general name of "Eta Concentrated Food." Among the so-called dehydrated or concentrated food products sold by the respondents are the following:

Eta Food Sodium, Eta Food Potassium, Eta Food Magnesium, Eta Food Iron, Eta Food Chlorin, Eta Food Phosphorous, Eta Food Silicon, Eta Food Fluorin, Eta Food Sulphur, Eta Food Calcium, Eta Food Iodin, Eta Food Manganese, Etalax, Eta Food No. 26, Eta Food #2, Eta Food #3, Etagland Food Male, and Etagland Food Female.

Respondents' said books, pamphlets and other printed matter are sold under the names "Mastery of Success" and "Brain Power Supreme."

PAR. 4. In the course and conduct of their business in said commerce, as aforesaid, the respondents, in soliciting the sale of said so-called dehydrated or concentrated food products and said books, pamphlets, and other printed matter, solicit purchasers by mail through the media of form letters, pamphlets, leaflets, and dodgers, make many statements concerning the cause of the ailments, afflictions, diseases, and conditions which affect the human race, and many state-

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ments regarding the efficacy of various of said so-called dehydrated or concentrated food products in remedying, treating, and correcting virtually all of the ailments, afflictions, diseases, and conditions which affect the human race, and many statements concerning the efficacy of the teachings set forth in said books, pamphlets, and other printed matter in eliminating and correcting ailments, afflictions, diseases, and conditions which affect the human race, and in the improvement generally, from both a physical and mental standpoint, of the human race. In said form letters, pamphlets, leaflets, and dodgers respondents represent and imply that each of said so-called dehydrated or concentrated food products is compounded for the purpose of remedying, treating, and correcting certain ailments, afflictions, diseases, and conditions affecting the humans race, and that the absence of the mineral or other matter purportedly contained in said specific preparation will cause certain ailments, afflictions, diseases, and conditions affecting the human race.

PAR. 5. By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Sodium" will improve digestion, prevent fermentation of food, increase will power, eliminate carbon dioxides, remove acid and waste, "alkalinize" nerves, and clear the brain, and that a lack of "Food Sodium" in the diet will cause acidity, serious stomach disorders, rheumatic ailments, and acid to form in the nerves and brain.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Potassium" will build and reconstruct muscles, make motor nerves function properly, help to assimilate fat, cause gain in weight, multiplication of body cells, growth of muscles and tissues, alkalize the blood, increase power of resistance, and increase pep, courage and magnetism, and that a lack of "Food Potassium" in the diet will cause food to ferment, neuralgia, insomnia, tissue water to form, swollen ankles, moroseness, lack of ambition, hallucinations, a feeling of bruised muscles, and weak and sagging ligaments.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Magnesium" will convert acid into a neutral salt, calm the nerves, stimulate bowel action, aid in increasing weight, prevent acid stomach, catarrhal discharges, overheated blood, dry and torpid bowels, fainting spells, jerky nerves, backache, stringy mucus, greasy hair, acne pimples, itching blisters, noxious acids, gases and toxins, soothe the sexual instinct, and promote sleep.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Iron" will prevent trembling spells, shooting pains, distributed blood pressure, and will renew

strength, cause a youthful appearance, increase the popularity and fascination of women, make men strong and courageous, and promote enthusiasm and cheerfulness.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Chlorin" will promote the elimination of water from the body, remove impurities, germs, and pus, make tissues dense and elastic, exclude water, fat, and carbohydrates from tissues and increase the strength of the voice, and that a lack of "Food Chlorin" in the diet will cause puffiness under the eyes, between finger joints and around the ankles, skin to become dull and red, white spots to appear on the skin, dry throats, nervousness, heart trouble, noises in the ear, pale skin, and a heavy tongue, and limbs.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Phosphorous" will improve nutrition of nerves and tissues, strengthen bones and teeth and increase red corpuscles, and that a lack of "Food Phosphorous" in the diet will destroy self-confidence, lead to sterility, neuralgia and pus formation, cause children to be dumb, prevent children from controlling their fingers, cause irritation of nerves, lack of will power, destroy the ability to concentrate, destroy the appetite, cause nervousness and morbidity, pallid faces, waxy skin, night sweats, and twitching in the muscles of the eyelids.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Silicon" will make the blood warmer and muscles firmer, influence growth of hair, prevent and correct ovarian and menstrual trouble, increase endurance of elderly people, improve the appetite, eyesight, hair, and complexion, free the nasal canals permitting discharge of phlegm and mucus, and cause catarrh, headache, and disturbance of the brain and colds to disappear.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Fluorin" will provide material for feeding teeth enamel, work against tubercular, syphilitic, and vaccine pus formation, and will prevent spinal diseases and brain trouble, and that a lack of "Food Fluorin" in the diet will cause head, neck, skin, and lower abdomen to become puffed and swollen, the gums to become loose, tender, and spongy, development of ailments of the nails and eyelashes, brown and yellow spots to appear on the skin, and the eyesight to become poor and large veins to appear.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Sulphur" will prevent jerky nerves, fitful moods, fussy notions, panting for air in warm rooms, tired eyelids, flushes of heat, sudden indigestion, lame fingers, partial

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closure of the throat, tension in the neck with restlessness and headache, and dryness of the skin and that its use will maintain a more uniform temperature in the nerves, the brain centers, the sexual nerves, and the nerves of the kidneys, liver, and optic centers, the lymph, the cerebro-spinal fluid and the neurolin in nerve and brain matter.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Calcium" will improve the nerves, prevent tooth decay, and has a beneficial effect upon ulcers, infection, eczema, and psoriasis skin diseases, and that a lack of "Food Calcium" in the diet will cause brain softening, running ears, and pasty complexions.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Iodin" will neutralize toxins, cause skin eruptions, pimples, sores, ulcers, and unsightly blemishes to clear up quickly, disintegrate fat and reduce bodily weight, preserve the nail tint, complexion, hair, beauty of the eyes, eyelashes and brows, strengthen nerves, make the mind more alert, and users of this food will never suffer from goiter, scrofula, nervous ailments, defective bone metabolism, blood and skin diseases.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food Manganese" possesses antiseptic and germicidal properties, that it will counteract body acids and toxic products, increase the power of body purification, hinder the development of cancerous growths in the membranes, linings and organs, toughen and harden the linings of the heart, bones, cranium, membranes surrounding the viscera, the abdominal cavity and joint structures, and that a lack of "Food Manganese" in the diet will cause the linings of the human structures and conductors to become thin and lose their ductility, the organs, vessels, and their nerves will suffer, cause a state of fever in the nerves, result in congestive headaches, chronic neuralgia, nerve cramps, shrunk facial tissues, terrific cramps before menstruation, shrinkage of the brain, lack of ability to concentrate, absentmindedness, and optical illusions.

By the means and in the manner aforesaid, respondents represent that their said product "Etalax" corrects constipation, is one of the surest and safest and most effective means of flushing the intestinal tract of its impurities, strengthening the intestinal muscles, will give new power to and tone up the entire eliminative system.

By the means and in the manner aforesaid, respondents represent that their said product "Eta Food No. 26" nourishes and builds up the eye structure and possesses the positive power to improve eyesight,

and will enable one to "lay off" glasses for good, and the use of this food and certain exercises, distributed in connection with the sale thereof, will restore the natural shape of the eyeball.

In the book or pamphlet sold by the respondents under the name "Mastery of Success," respondents represent and imply that "Eta Food #2," "Eta Food #3," and "Etagland Food Male" and "Etagland Food Female" will give food elements to the cell structures and give strength to the functions of generation, and that said preparations are of benefit in case of sexual debility.

By the means and in the manner aforesaid, respondents, in connection with the sale and distribution of the book or pamphlet known as "Mastery of Success," make, among others of similar import and effect, the following representations in regard thereto:

This book shows you that you can actually shape your own destiny—that regardless of birth or environment, regardless of previous education, regardless of where you may be located at this moment in the scheme of things, you can achieve your aims and desires and make a complete and satisfying success of your life.

* * * * *

Another new single volume edition of America's most famous "Human Engineer," *the man who makes people rich*. * * *

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We are astounded to learn that the author numbers among his many thousand clients many of America's Richest and Most Influential Men and Women. Many of these were instructed personally—now he teaches all in his latest book.

* * * * *

The secrets of success of thousands of people.

Said respondents further represent that by following the instructions as to the mode or plan of living contained in said book or pamphlet "Mastery of Success," one can overcome all obstacles which retard success and prevent or cure bodily ailments and diseases, regardless of their cause or nature.

Respondents further represent that the regular price of the book or pamphlet "Mastery of Success" is \$4.50 but that as a special offer, and for a limited time only, it may be purchased for the sum of \$2.00.

By the means and in the manner aforesaid, respondents, in connection with the sale and distribution of the book or pamphlet known as "Brain Power Supreme," make, among others of similar import and effect, the following representations in regard thereto:

There are tens of thousands of people fishing around in the murky waters of so-called psychology, buying every baited book on magnetism and personal power offered, never waking up to the fact that they are the poor fish. Every

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one of them needs "Brain Power Supreme." Then they will grow new powerful brains. Then they will begin making money. Otherwise they will not be any better off forty years from now.

* * * * *

The path of the ruthless Go-Getter in commercial, industrial and love life is based upon certain laws entirely different from those applied to everyday life; yes, they are almost contrary to common belief. Once you know these fundamental laws, you can devise any number of ways and methods of aggression as good or better than operated by others, or you can even profitably imitate them. But, you can't do it without this knowledge. You cannot get away from facts, facts that all of the success-masters know. You must master the fundamental principles of brain activity and its response in people. You must know why and how people are made to do certain things without their knowledge.

Can you afford to waste precious years going through hard knocks, great disappointments, sleepless nights, and heartbreaks to learn these things when I can teach them to you in a few weeks? You can go on spending many thousands of dollars, guessing at things your competitor knows, trying vainly to corner a living existence, but you will never fully succeed, never easily succeed, if you don't know what my successful patrons know.

* * * * *

When you eat the foods suggested in "Brain Power Supreme" you will have an active brain, an invincible will, a knack of luck, so to speak, that makes things come your way.

* * * * *

Ordinary foods, foods that the average person eats, bring about this average world of average people. Ordinary foods actually kill ambition, courage, and will power, and they produce fear in people. I will tell you about foods that produce fearlessness, courage, spunk, pep, invincible will power, and brain activity.

* * * * *

Respondents further represent and imply that by following the teachings stated in the book or pamphlet "Brain Power Supreme," one is assured of immediate success, physical, mental, and financial, and that without said book or pamphlet such success is not obtainable.

Respondents further represent that the regular price of the book or pamphlet "Brain Power Supreme" is \$25.00 but that as a special offer it is offered for sale for the sum of \$8.00.

PAR. 6. The representations, so made and used by the respondents as aforesaid, are false, or grossly exaggerated, and are misleading and deceptive, both as to the efficacy of said "Eta Concentrated Foods" in remedying the ailments, afflictions, diseases, and conditions mentioned and as to the conditions resulting from a lack of said minerals purportedly contained in said foods. In truth and fact, the usual diet of the overwhelming majority of the people in the United States contains a sufficiency of said minerals for the needs

of the body. In the rare cases where the diet does not contain a sufficiency of one or more of said minerals, such a deficiency is difficult of determination, and cannot be determined by the average layman, but can only be determined after examination and experimentation by a technician trained and skilled in medicine and kindred sciences. The consumption by a person of a quantity of any of said minerals in excess of the needs of the body is, in no case, of benefit, but, on the contrary, in the case of some of said minerals is highly dangerous and will result, in many instances, in serious injury to the consumer thereof. To approach the conditions represented by the respondents as resulting from a lack or absence of some of said minerals in the diet, would require an absolute absence from the diet of such mineral for an extended period of time, which could occur only under unusual circumstances and in rare instances, since practically all foods and liquids consumed contain one or more of said minerals. In truth and fact, said "Eta Concentrated Foods," when taken as directed by respondents, do not contain a sufficient amount of the minerals purportedly contained therein to remedy or correct a deficiency of said minerals in the diet. Many of the ailments, afflictions, diseases and conditions which respondents claim their said "Eta Concentrated Foods" will remedy are of such a nature that they will not respond to dietary or other oral treatment.

Said representations, so made and used by the respondents in connection with the sale and distribution of said book or pamphlet "Mastery of Success," are false and misleading. In truth and fact, the following of the instructions in said publication as to the mode or plan of living will not enable one to overcome all, or any, of the obstacles which retard success, nor will it prevent or cure bodily ailments and diseases. Said publication will not enable one, "regardless of birth or environment, regardless of previous education, regardless of where * * * located at this moment in the scheme of things," to achieve one's aims and desires and make a complete and satisfying success of life. Nor does said publication disclose the secrets of success of thousands of people.

The regular price of said publication is not \$4.50 as represented by the respondents but is \$2.00, which respondents represent is a special price for a limited time only. The price of \$2.00 is not special, nor is it effective for a limited time only.

Said representations, so made and used by the respondents in connection with the sale and distribution of said book or pamphlet "Brain Power Supreme," are false and misleading. In truth and fact, the following of the instructions or teachings stated in said book or pam-

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phlet will not assure one of immediate success, physical, mental, or financial, and one may obtain success without the use of said book or pamphlet. Following the teachings stated in said book or pamphlet will not enable one to grow new, powerful brains, nor will eating the food suggested in said book or pamphlet cause one to have an active brain and invincible will, or make things come his way, nor will the food suggested produce fearlessness, courage, spunk, pep, invincible will power, and brain activity, nor do ordinary foods actually kill ambition, courage and will power, and produce fear in people. Purchasing said book or pamphlet and following the teachings stated therein will not prevent one from wasting precious years going through hard knocks, great disappointments, sleepless nights, and heartbreaks to learn things taught by the author of said book or pamphlet in a few weeks, and success is possible without knowing what the successful patrons of the author of said book or pamphlet know.

The regular price of said publication is not \$25.00 as represented by the respondents but is \$8.00, which respondents represent is a special price. The price of \$8.00 is not special, but is the regular price at which said publication is usually and ordinarily sold.

Many other representations and implications made and used by the respondents, in connection with the sale of said "Eta Concentrated Foods" and said books or pamphlets, are false and misleading and deceptive, and of the same character and effect as those hereinabove set out.

PAR. 7. Through the use of the word "Doctor," and the use of the abbreviation "Dr.," in said advertising matter and in said books or pamphlets, the respondents represent and imply, and the public is thereby led to believe, that the respondent Willis G. Sheeman is a duly qualified and licensed medical practitioner. In truth and in fact, the respondent Willis G. Sheeman is not a duly qualified and licensed medical practitioner. Respondents also represent in said advertising matter and in said books or pamphlets that the respondent Willis G. Sheeman is "America's foremost authority on food chemistry and nutrition"; that "he numbers among his many thousand clients many of America's richest and most influential men and women"; and that "he is the man who makes people rich." In truth and in fact, respondent Willis G. Sheeman is not America's foremost authority, or any authority at all, on food chemistry and nutrition; he does not make people rich; he does not have thousands of clients; nor does he number among his clients many of America's richest and most influential men and women.

PAR. 8. Among the purchasing public are many who desire to purchase or obtain a food, remedy, or treatment that will prevent or cure,

or be beneficial in the treatment of, the ailments, afflictions, diseases, and conditions about which the respondents make the representations and implications as hereinabove alleged, and who desire to purchase and obtain books or pamphlets which will produce the results claimed by the respondents.

PAR. 9. The acts, practices, and methods of the respondents, as hereinabove alleged, have had, and do have, the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public, and have caused, and do cause, many members of the purchasing public erroneously to believe that said exaggerated and false representations and implications so made and used by the respondents are true, and cause a substantial portion of the purchasing public, because of such erroneous beliefs, to purchase respondents' said products, thereby unfairly diverting trade in said commerce to the respondents from their competitors who do not use the acts, practices, and methods used by the respondents to the substantial injury of said competitors in said commerce, and to the injury of the public.

PAR. 10. The acts, practices, and methods of respondents, as hereinabove alleged, are all to the prejudice of the public and of the respondents' said competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on October 13, 1937, issued, and on October 15, 1937, served its complaint in this proceeding upon the respondents, The Eta Co., Inc., a corporation, and Willis G. Sheeman, an individual, charging them 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 respondents' answer thereto, a stipulation as to the facts was entered into by W. T. Kelley, chief counsel of the Commission, and Ray E. Lane, counsel for respondents, which said stipulation was thereafter approved by the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer thereto and the stipulation as to the facts, and the Commission having duly considered same and being now fully advised in the

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premises, finds that this proceeding is to the interest of the public and makes this its findings as to the facts and its conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, The Eta Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 227 West Huron Street, Chicago, Ill.

The respondent, Willis G. Sheeman, is president of and stockholder in the respondent, The Eta Co., Inc. He directs activities and practices and formulates its policies. His principal place of business is the same as that of respondent, The Eta Co., Inc.

In doing the acts and practices and using the practices and methods hereinafter set forth and described, the respondents have acted in concert and cooperation with each other.

PAR. 2. The respondents are now and have been for several years past engaged in the sale and distribution of so-called dehydrated or concentrated foods for human consumption and in the sale and distribution of books, pamphlets, and other printed matter purportedly relating to health, hygiene and physical and mental improvement of human beings. Respondents have caused the dehydrated or concentrated food products and the books and pamphlets and other printed matter to be sold and transported from their place of business in the State of Illinois to purchasers in the several States of the United States and in the District of Columbia.

In the conduct of their business, the respondents have been and are now in substantial competition in commerce between and among the various States of the United States and the District of Columbia, with individuals, partnerships, associations, and corporations engaged in commerce in the sale and distribution of dehydrated and concentrated foods and other food products and in the sale and distribution of books, pamphlets and other printed matter relating to health, hygiene, and the physical and mental improvement of human beings, and also engaged in the sale and distribution of foods and correctives used in the treatment of the ailments for which the respondents recommend their dehydrated or concentrated food products, and the following of the teachings expounded in said books, pamphlets, and other printed matter.

Among the competitors of respondents in commerce are many who do not misrepresent their products in any respect and who do not use the acts, practices and methods used by the respondents in connection with the sale and distribution of their products.

PAR. 3. The respondents' products are sold under the general name of "Eta Concentrated Foods." Among the dehydrated food products sold by respondents are the following:

Eta Food Sodium; Eta Food Potassium; Eta Food Magnesium; Eta Food Iron; Eta Food Chlorin; Eta Food Phosphorous; Eta Food Silicon; Eta Food Fluorin; Eta Food Sulphur; Eta Food Calcium; Eta Food Iodin; Eta Food Manganese; Etalax; Eta Food No. 26; Eta Food #2, Eta Food #3; Etagland Food Male; and Etagland Food Female.

The respondents' food products are made up of the following elements:

Eta Food Sodium contains dehydrated vegetables to which is added 1.23 percent of Food Sodium;

Eta Food Potassium contains dehydrated vegetables plus 1.64 percent Food Potassium;

Eta Food Magnesium contains dehydrated vegetables to which is added 0.429 percent Food Magnesium;

Eta Food Iron contains dehydrated vegetables to which is added 0.61 percent Food Iron;

Eta Food Chlorin contains dehydrated vegetables to which is added 2.34 percent Food Chlorin;

Eta Food Phosphorous contains dehydrated vegetables to which is added 0.327 percent Food Phosphorous;

Eta Food Silicon contains dehydrated vegetables to which is added 0.86 percent Food Silicon;

Eta Food Fluorin contains dehydrated vegetables to which is added 0.0035 percent Food Fluorin;

Eta Food Sulphur contains dehydrated vegetables to which is added 0.73 percent Food Sulphur;

Eta Food Calcium contains dehydrated vegetables to which is added 1.50 percent Food Calcium;

Eta Food Iodin contains dehydrated vegetables to which is added 0.038 percent Food Iodin;

Eta Food Manganese contains dehydrated vegetables to which is added 0.012 percent Food Manganese;

Etalax is a compound of dehydrated vegetables;

Eta Food No. 26 contains dehydrated vegetables.

Respondents' books, pamphlets and other printed matter are sold under the names "Mastery of Success" and "Brain Power Supreme."

PAR. 4. The respondents, in selling their dehydrated or concentrated food products and books, pamphlets and other printed matter, solicit purchasers by mail through the media of form letters, pamphlets, leaflets, and dodgers. The respondents make many statements

concerning the cause of the ailments which affect human beings and many statements regarding the efficacy of their various food products in remedying, treating, and correcting virtually all of the ailments which affect human beings. They also make many statements concerning the efficacy of the teachings set forth in the books, pamphlets, and other printed matter, in eliminating and correcting ailments which affect human beings, and in the improvement generally of the physical and mental conditions of human beings.

In form letters, pamphlets, leaflets, and dodgers, respondents have represented and implied that each of the dehydrated or concentrated food products is compounded for the purpose of remedying, correcting, and treating ailments affecting human beings, and that the absence of the mineral or other matter purportedly contained in specific preparations of the respondents will cause certain ailments affecting human beings.

PAR. 5. The respondents have represented that their product, "Eta Food Sodium" will improve digestion, prevent fermentation of food, increase will power, eliminate carbon dioxide, remove acid and waste, "alkalinize nerves and clear the brain." The respondents have further represented that a lack of "Food Sodium" will cause acidity, serious stomach disorders, rheumatic ailments, and the formation of acid in the nerves and brain.

PAR. 6. The respondents have represented that their product "Eta Food Potassium" will build and reconstruct muscles, make motor nerves function properly, help to assimilate fat, gain weight, multiply body cells, growth of muscles and tissues, alkalize the blood, increase power of resistance, increase pep, courage and magnetism, and that a lack of "Food Potassium" in the diet will cause fermentation of food, neuralgia, insomnia, tissue water to form, swollen ankles, moroseness, lack of ambition, hallucinations, a feeling of bruised muscles, and weak and sagging ligaments.

PAR. 7. Respondents have represented that their product "Eta Food Magnesium" will convert acid into a neutral salt, calm the nerves, stimulate bowel action, aid in increasing weight, prevent acid stomach, catarrhal discharges, overheated blood, dry and torpid bowels, fainting spells, jerky nerves, backache, stringy mucus, greasy hair, acne pimples, itching blisters, noxious acids, gases and toxins, soothe the sexual instinct, and promote sleep.

PAR. 8. The respondents have represented that their food product, "Eta Food Iron" will prevent trembling spells, shooting pains, disturbed blood pressure and will renew strength, cause a youthful appearance, increase the popularity and fascination of women, make

men strong and courageous, and promote enthusiasm and cheerfulness.

PAR. 9. The respondents have represented that their food product "Eta Food Chlorin" will promote the elimination of water from the body, remove impurities, germs, and pus, make tissues dense and elastic, exclude water, fat, and carbohydrates from tissues, and increase the strength of the voice. The respondents have further represented that a lack of Food Chlorin in the diet will cause puffiness under the eyes, between finger joints and around the ankles, skin to become dull and red, white spots to appear on the skin, dry throats, nervousness, heart troubles, noises in the ear, pale skin, and a heavy tongue and limbs.

PAR. 10. Respondents have represented that their product "Eta Food Phosphorous" will improve nutrition of nerves and tissues, strengthen bones and teeth and increase red corpuscles. They have also represented that a lack of Food Phosphorous will destroy self-confidence, lead to sterility, neuralgia and pus formation, cause children to be dumb and prevent them from controlling their fingers, cause irritation of nerves, lack of will power, destroy the ability to concentrate, destroy the appetite, cause nervousness, morbidity, pallid faces, waxy skin, night sweats, and twitching in the muscles of the eyelids.

PAR. 11. The respondents have represented that their product, "Eta Food Silicon" will make the blood warmer and muscles firmer, influence growth of hair, prevent and correct ovarian and menstrual trouble, increase endurance of elderly people, improve the appetite, eyesight, hair, and complexion, free the nasal canals permitting discharge of phlegm and mucus, and cause catarrh, headaches, and disturbance of the brain and colds to disappear.

PAR. 12. The respondents have represented that their product, "Eta Food Fluorin" will provide material for feeding teeth enamel, work against tubercular, syphilitic, and vaccine pus formation, and will prevent spinal diseases and brain trouble, and that a lack of "Food Fluorin" in the diet will cause head, neck, skin, and the lower abdomen to become puffed and swollen, the gums to become loose, tender, and spongy, development of ailments of the nails and eyelashes, brown and yellow spots to appear on the skin, and the eyesight to become poor and large veins to appear.

PAR. 13. The respondents have represented that their product, "Eta Food Sulphur" will prevent jerky nerves, fitful moods, fussy notions, panting for air in warm rooms, tired eyelids, flushes of heat, sudden indigestion, lame fingers, partial closure of the throat, tension

in the neck with restlessness and headache, and dryness of the skin, and that its use will maintain a more uniform temperature in the nerves, the brain centers, the sexual nerves, and the nerves of the kidneys, liver, and optic centers, the lymph, the cerebro-spinal fluid, and the neurolin in nerve and brain matter.

PAR. 14. Respondents have represented that their product, "Eta Food Calcium" will improve the nerves, prevent tooth decay, and has a beneficial effect upon ulcers, infection, eczema and psoriasis skin diseases, and that a lack of "Food Calcium" will cause brain softening, running ears, and pasty complexions.

PAR. 15. The respondents have represented that their product, "Eta Food Iodin" will neutralize toxins, cause skin eruptions, pimples, sores, ulcers and unsightly blemishes to clear up quickly, disintegrate fat, reduce bodily weight, preserve the nail tint, complexion, hair, beauty of the eyes, eyelashes and brows, strengthen nerves, make the mind more alert, and that the users of this food will never suffer from goiter, scrofula, nervous ailments, defective bone metabolism, blood, and skin diseases.

PAR. 16. The respondents have represented that their product, "Eta Food Manganese" possesses antiseptic and germicidal properties, that it will counteract body acids and toxic products, increase the power of body purification, hinder the development of cancerous growths in the membranes, linings and organs, toughen and harden the linings of the heart, bones, cranium, membranes surrounding the viscera, the abdominal cavity and joint structures, and that a lack of "Food Manganese" in the diet will cause the linings of the human structures and conductors to become thin and lose their ductility, the organs, vessels, and their nerves will suffer, cause a state of fever in the nerves, result in congested headaches, chronic neuralgia, nerve cramps, shrunken facial tissues, terrific cramps before menstruation, shrinkage of the brain, lack of ability to concentrate, absentmindedness, and optical illusions.

PAR. 17. The respondents have represented that their product, "Etalax" corrects constipation, is one of the surest and safest and most effective means of flushing the intestinal tract of its impurities, strengthening the intestinal muscles, will give new power to and tone up the entire eliminative system.

PAR. 18. The respondents have represented that their product, "Eta Food No. 26" nourishes and builds up the eye structure and possesses the positive power to improve eyesight, and will enable one to "lay off" glasses for good, and the use of this food and certain exercises, distributed in connection with the sale thereof, will restore the natural shape of the eyeball.

PAR. 19. The respondents have discontinued the manufacture, sale, and distribution of "Eta Food #2" and "Eta Food #3."

PAR. 20. In a book or pamphlet sold and distributed by respondents under the name of "Mastery of Success," respondents have represented and imply that "Eta Food #2," "Eta Food #3," and "Etagland Food Male" and "Etagland Food Female" will give food elements to the cell structures and give strength to the functions of generation, and that the said preparations benefit cases of sexual debility.

PAR. 21. The respondents have made many statements and representations in their book or pamphlet known as "Mastery of Success," of which the following is representative:

This book shows you that you can actually shape your own destiny—that regardless of birth or environment, regardless of previous education, regardless of where you may be located at this moment in the scheme of things, you can achieve your aims and desires and make a complete and satisfying success of your life.

* * * * *

Another new single volume edition of America's most famous "Human Engineer," *the man who makes people rich.* * * *

* * * * *

We are astounded to learn that the author numbers among his many thousand clients many of America's Richest and Most Influential Men and Women. Many of these were instructed personally—now he teaches all in his latest book.

* * * * *

The secrets of success of thousands of people.

PAR. 22. The respondents have further represented that by following the instructions as to the mode or plan of living contained in the book or pamphlet, "Mastery of Success," one can overcome all the obstacles which retard success and prevent or cure bodily ailments and diseases, regardless of their cause and nature.

PAR. 23. The price of their book or pamphlet, "Mastery of Success" has been represented by respondents to be \$4.50. They have further represented that as a special offer and for a limited time only the book or pamphlet may be purchased for the sum of \$2.00.

PAR. 24. In connection with the sale and distribution of the book or pamphlet known as "Brain Power Supreme," the respondents have made many statements and representations, of which the following is representative:

There are tens of thousands of people fishing around in the murky waters of so-called psychology, buying every baited book on magnetism and personal power offered, never waking up to the fact that they are the poor fish. Every one of them needs "Brain Power Supreme." Then they will grow new powerful brains. Then they will begin making money. Otherwise they will not be any better off forty years from now.

* * * * *

Findings

27 F. T. C.

The path of the ruthless Go-Getter in commercial, industrial and love life is based upon certain laws entirely different from those applied to everyday life; yes, they are almost contrary to common belief. Once you know these fundamental laws, you can devise any number of ways and methods of aggression as good or better than operated by others, or you can even profitably imitate them. But, you can't do it without this knowledge. You cannot get away from facts, facts that all of the success-masters know. You must master the fundamental principles of brain activity and its response in people. You must know why and how people are made to do certain things without their knowledge.

Can you afford to waste precious years going through hard knocks, great disappointments, sleepless nights and heartbreaks to learn these things when I can teach them to you in a few weeks? You can go on spending many thousands of dollars, guessing at things your competitor knows, trying vainly to corner a living existence, but you will never fully succeed, never easily succeed, if you don't know what my successful patrons know.

* * * * *

When you eat the foods suggested in "Brain Power Supreme" you will have an active brain, an invincible will, a knack of luck, so to speak, that makes things come your way.

* * * * *

Ordinary foods, foods that the average person eats, bring about this average world of average people. Ordinary foods actually kill ambition, courage, and will power, and they produce fear in people. I will tell you about foods that produce fearlessness, courage, spunk, pep, invincible will power and brain activity.

* * * * *

PAR. 25. The respondents have also represented and implied that by following the teachings stated in the book or pamphlet, "Brain Power Supreme" one is assured of immediate success, physical, mental, and financial, and that without the book or pamphlet, success is not obtainable.

PAR. 26. The respondents have represented that the regular price of the book or pamphlet, "Brain Power Supreme" is \$25.00, but that is a special offer. It is offered for sale for the sum of \$8.00.

PAR. 27. The representations made and used by the respondents as set out in paragraphs 4 to 26, inclusive supra, are false, grossly exaggerated, misleading, and deceptive both as to the efficacy of "Eta Concentrated Foods" to remedy the ailments for which the foods are prescribed and as to the conditions resulting from a lack of minerals purportedly contained in the foods.

The usual diet of a vast majority of the people of the United States contains a sufficiency of minerals for the needs of the body. In rare cases, a mineral deficiency in the diet is found. Such deficiency is difficult of determination and can not be determined by the average man but only by examination and experimentation by one technically trained and skilled in medicine and kindred sciences.

The consumption by a person of a quantity of any minerals in excess of the needs of the body is of no benefit but, on the contrary, in the case of some minerals is highly dangerous and will result in many instances in serious injury to the consumer.

To approach the conditions represented by the respondents as resulting from a lack or absence of some of the minerals in the diet would require an absolute absence from the diet of such minerals for an extended period of time. This could occur only under unusual circumstances and in rare instances, since practically all foods and liquids contain one or more mineral substance.

"Eta Concentrated Foods," when taken as directed by respondents do not contain a sufficient amount of minerals to remedy or correct a mineral deficiency in the diet. Many of the ailments, afflictions, diseases, and conditions which respondents claim their "Eta Foods" will remedy are of such a nature that they can not and do not respond to dietary or other oral treatment.

PAR. 28. The representations made and used by respondents in connection with the sale of the book or pamphlet "Mastery of Success" are false and misleading. The instructions contained therein as to the mode or plan of living will not enable one to overcome all or any of the obstacles which retard success, nor will it prevent or cure bodily ailments and diseases. The publication will not enable one "regardless of birth or environment, regardless of previous education, regardless of where * * * located at this moment in the scheme of things," to achieve one's aims and desires and make a complete and satisfying success of life. Nor does the publication disclose the secrets of success of thousands of people.

The regular price of the publication, "Mastery of Success" is not \$4.50 as represented by the respondents but is \$2.00, which the respondents represent as a special price for a limited time only. The price of \$2.00 is not special, nor is it effective for a limited time only.

The representations made and used by the respondents in connection with the sale and distribution of the book or pamphlet, "Brain Power Supreme" are false and misleading. Following the instructions or teachings stated in the book or pamphlet will not assure one of immediate success, physical, mental or financial. Any one may obtain success without the use of the book or pamphlet.

Following the teachings stated in the book or pamphlet will not enable one to grow new, powerful brains. The eating of the food suggested in the book or pamphlet will not cause one to have an active brain and invincible will. It does not make things come the reader's way, nor will the food suggested produce fearlessness, courage, spunk,

pep, invincible will power, and brain activity. Ordinary foods do not actually kill ambition, courage, and will power and produce fear in people.

Following the teachings stated in the book or pamphlet, "Brain Power Supreme" will not prevent one from wasting precious years going through hard knocks, great disappointments, sleepless nights, and heartbreaks to learn in a few weeks the things taught by the author of the book or pamphlet. Success is possible without knowing what the successful patrons of the author of the book or pamphlet know.

PAR. 29. The regular price of the publication, "Brain Power Supreme" is not \$25.00 as represented by the respondents but is \$8.00. The respondents have represented that the purchase price of \$8.00 of the book or pamphlet is a special price. The price \$8.00 is not special but is the regular price at which the publication is usually and ordinarily sold.

PAR. 30. The respondents have made many other representations and implications in connection with the sale of "Eta Concentrated Foods" and the books or pamphlets sold and distributed by them. The statements are false, misleading, and deceptive and of the same character and effect as those herein set out.

PAR. 31. Through the use of the word "Doctor" and the use of the abbreviation thereof, "Dr." in advertising matter and in books or pamphlets, the public is led to believe that the respondent, Willis G. Sheeman, is a duly qualified and licensed medical practitioner. The respondent, Willis G. Sheeman is not a qualified and licensed medical practitioner.

The respondents also represent, in their advertising matter and in their books and pamphlets, that the respondent, Willis G. Sheeman, is "America's foremost authority on food chemistry and nutrition"; "That he numbers among his clients many of America's richest and most influential men and women"; and that "he is the man who makes people rich." The respondent, Willis G. Sheeman, is not America's foremost authority on food chemistry and nutrition. He does not make people rich nor does he number among his clients many of America's richest and most influential men and women. There are among the purchasing public many who desire to purchase or obtain a food, remedy, or treatment that will prevent or cure ailments, afflictions, diseases, and conditions about which the respondents make the representations and implications herein set out, and who desire to purchase and obtain books and pamphlets which will produce the results claimed by the respondents.

PAR. 32. The acts and practices and methods of the respondents have a tendency and capacity to induce, and have induced, a substantial number of consuming purchasers of the commodities to buy the products offered for sale, sold and distributed by respondents. As a result thereof, trade has been diverted to respondents from those competitors engaged in those like and similar businesses and herein referred to. As a consequence thereof, substantial injury has been and is being done by respondents in competition in commerce between and among the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondents, The Eta Co., Inc., and Willis G. Sheeman, are to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

MODIFIED ORDER TO CEASE AND DESIST ¹

This proceeding having been heard by the Federal Trade Commission upon the motion to modify the order to cease and desist issued herein on June 30, 1938, and the Commission having duly considered said motion and the record herein, and being fully advised in the premises:

It is ordered, That the said order to cease and desist be, and the same is, hereby modified to provide as follows:

It is ordered, That the respondents, the Eta Co., Inc., its officers, representatives, agents, and employees, and Willis G. Sheeman, an individual, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of so-called food products now designated and described generally as "Eta Concentrated Foods," or any other so-called food products containing substantially the same ingredients or possessing substantially the same properties under whatever name sold, in or in connection with the offering for sale, sale, and distribution of the books or pamphlets now known as and sold under the name of "Mastery of Success" and "Brain Power Supreme," under whatever name sold, in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or indirectly representing:

1. That said "Eta Concentrated Foods" have any curative, remedial or therapeutic value or are in any way beneficial in the treat-

¹ Order published, as modified, as of November 5, 1938.

ment of any of the ailments, diseases, or conditions hereinafter named.

2. That any of said "Eta Concentrated Foods" contain sufficient minerals, when taken in the dosage directed by the respondents, to remedy or correct any mineral deficiency in the diet.

3. That the "Eta Concentrated Food" sold under the name of "Eta Food Sodium" will improve digestion, prevent fermentation of food, increase will power, eliminate carbon dioxide, remove acid and waste, "alkalinize nerves and clear the brain," and that a lack of "Food Sodium" will cause acidity, serious stomach disorders, rheumatic ailments, and the formation of acid in the nerves and brain.

4. That the "Eta Concentrated Food" sold under the name of "Eta Food Potassium" will build and reconstruct muscles, make motor nerves function properly, help to assimilate fat, gain weight, multiply body cells, cause the growth of muscles and tissues, alkalize the blood, increase power of resistance, increase pep, courage, and magnetism, and that a lack of "Food Potassium" in the diet will cause fermentation of food, neuralgia, insomnia, water to form in the tissues, swollen ankles, moroseness, lack of ambition, hallucinations, a feeling of bruised muscles, and weak and sagging ligaments.

5. That the "Eta Concentrated Food" sold under the name of "Eta Food Magnesium" will convert acid into a neutral salt, calm the nerves, stimulate bowel action, aid in increasing weight, prevent acid stomach, catarrhal discharges, overheated blood, dry and torpid bowels, fainting spells, jerky nerves, backache, stringy-mucus, greasy hair, acne pimples, itching blisters, noxious acids, gases and toxins, soothe the sexual instinct, and promote sleep.

6. That the "Eta Concentrated Food" sold under the name of "Eta Food Iron" will prevent trembling spells, shooting pains, disturbed blood pressure, will renew strength, cause a youthful appearance, increase popularity and fascination of women, make men strong and courageous, and promote enthusiasm and cheerfulness.

7. That the "Eta Concentrated Food" sold under the name of "Eta Food Chlorin" will promote the elimination of water from the body, remove impurities, germs, and pus, make tissues dense and elastic, exclude water, fat, and carbohydrates from tissues and increase the strength of the voice, and that a lack of "Food Chlorin" in the diet will cause puffiness under the eyes, between finger joints and around the ankles, skin to become dull and red, and white spots to appear on the skin, dry throats, nervousness, heart trouble, noises in the ear, pale skin, and a heavy tongue and limbs.

8. That the "Eta Concentrated Food" sold under the name of "Eta Food Phosphorous" will improve nutrition of nerves and tis-

sues, strengthen bones and teeth and increase red corpuscles, and that a lack of "Food Phosphorous" will destroy self-confidence, lead to sterility, neuralgia, and pus formation, cause children to be dumb and prevent them from controlling their fingers, cause irritation of nerves, lack of will power, destroy the ability to concentrate, destroy the appetite, cause nervousness, morbidity, pallid faces, waxy skin, night sweats, and twitching in the muscles of the eyelids.

9. That the "Eta Concentrated Food" sold under the name of "Eta Food Silicon" will make the blood warmer, muscles firmer, increase growth of hair, prevent ovarian and menstrual trouble, increase endurance of elderly people, improve eyesight, hair, and complexion, free the nasal canals permitting discharge of phlegm and mucus, and cause catarrh, headaches, and disturbance of the brain, and colds to disappear.

10. That the "Eta Concentrated Food" sold under the name of "Eta Food Fluorin" will provide material for feeding teeth enamel, work against tubercular, syphilitic and vaccine pus formation, prevent spinal diseases and brain trouble, and that a lack of "Food Fluorin" in the diet will cause head, neck, skin, and the lower abdomen to become puffed and swollen, the gums to become loose, tender, and spongy, development of ailments of the nails and eyelashes, brown and yellow spots to appear on the skin, and the eyesight to become poor and large veins to appear.

11. That the "Eta Concentrated Food" sold under the name of "Eta Food Sulphur" will prevent jerky nerves, fitful moods, fussy notions, panting for air in warm rooms, tired eyelids, flushes of heat, sudden indigestion, lame fingers, partial closure of the throat, tension in the neck with restlessness and headache, and dryness of the skin, and that by the use of "Food Sulphur" there will be maintained a more uniform temperature in the nerves, the brain centers, the sexual nerves, nerves of the kidneys, liver and optic centers, the lymph, the cerebrospinal fluid and the neurolin in nerve and brain matter.

12. That the "Eta Concentrated Food" sold under the name of "Eta Food Calcium" will improve the nerves, prevent tooth decay, has a beneficial effect upon ulcers, infection, eczema and psoriasis skin diseases, and that a lack of "Food Calcium" will cause brain softening, running ears, and pasty complexions.

13. That the "Eta Concentrated Food" sold under the name of "Eta Food Iodin" will neutralize toxins, cause skin eruptions, pimples, sores, ulcers, and unsightly blemishes to clear up quickly, disintegrate fat, reduce bodily weight, preserve the tint of nails, complexion, hair, beauty of the eyes, eyelashes and brows, strengthen nerves, make the mind more alert, and that the users of "Food Iodin" will never

suffer from goiter, scrofula, nervous ailments, defective bone metabolism, and blood and skin diseases.

14. That the "Eta Concentrated Food" sold under the name of "Eta Food Manganese" possesses antiseptic and germicidal properties, that it will counteract body acids and toxic products, increase power of body purification, hinder the development of cancerous growths in the membranes, linings, and organs, toughen and harden the linings of the heart, bone, cranium, membranes surrounding the viscera, the abdominal cavity and joint structures, and that a lack of "Food Manganese" will cause the linings of the human structures and conductors to become thin and lose their ductility, the organs, vessels, and their nerves to suffer, cause a state of fever in the nerves, result in congested headaches, chronic neuralgia, nerve cramps, shrunk facial tissues, terrific cramps before menstruation, shrinkage of the brain, lack of ability to concentrate, absentmindedness, and optical illusions.

15. That the "Eta Concentrated Food" sold under the name of "Etalax" corrects constipation, is one of the surest, safest, and most effective means of flushing the intestinal tract of impurities, strengthening the intestinal muscles, will give new power to and tone up the entire eliminative system.

16. That the "Eta Concentrated Food" sold under the name of "Eta Food No. 26" nourishes and builds up eye structure and possesses the positive power to improve eyesight, will enable one to "lay off" glasses for good, and the use of this product and certain exercises, distributed in connection with the sale thereof, will restore the natural shape of the eyeball.

17. That the "Eta Concentrated Foods" sold under the names of "Eta Food #2," "Eta Food #3," "Etagland Food Male," and "Etagland Food Female" will give food elements to the cell structures and give strength to the functions of generation, and that the said preparations will be of benefit in cases of sexual debility.

18. That respondents' books or pamphlets known as "Mastery of Success" and "Brain Power Supreme" will enable persons to shape their own destiny and make a complete and satisfying success of their lives, or will assure anyone of immediate physical, mental, and financial success, unattainable without these books or pamphlets; or that these books or pamphlets will enable anyone to overcome all obstacles which retard success, and prevent or cure bodily ailments and diseases regardless of their cause and nature.

19. That the prices at which said books or pamphlets "Mastery of Success" and "Brain Power Supreme" are offered for sale and sold are special, when in fact the prices at which said books or pamphlets

are offered for sale and sold are the usual and customary prices therefor.

20. Through the use of the term Medical Doctor, or Doctor of Medicine, or any abbreviation thereof, or any other professional designation of like or similar import, that Willis G. Sheeman is a duly qualified physician and licensed medical practitioner.

It is further ordered, That the respondents shall within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
THE LUMINO COMPANY, INC.

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

Docket, 3222. Complaint, Sept. 2, 1937—Decision, July 2, 1938

Where a corporation engaged in the manufacture, sale, and distribution of a material or compound for structural waterproofing and dampness prevention, under the name "Lumino," in competition with others similarly engaged in sale and distribution of materials or compounds for waterproofing and dampness prevention in interstate commerce and in the District of Columbia—

Represented, in circulars and pamphlets supplied dealers for distribution among prospective users and in advertising mats for dealers' use in advertising in local papers, that its said product was a true waterproofing material or compound and, applied as directed, as a coating to brick, concrete, cement, stucco, or other surfaces, caused such construction to become impervious to water and dampness, through such statements, among many others, as "Once properly applied, you need have no further fear of dampness seeping through," " * * * will waterproof your damp, wet cellar from the inside," " * * * will waterproof exterior masonry walls permanently!," "Positively waterproof," and on labels of the containers thereof represented the same as a transparent waterproofing for interior or exterior use, and that it "Positively waterproofs concrete, concrete blocks, cement, brick, stucco";

The facts being that said product, applied as directed, acted only as a water repellant and dampness resisting material, and, while better than some so-called waterproofings analyzed, was less permanent than some of the nontransparent metallic base products, and, as disclosed by Government analyses of such product, in common with and as one of a large number of so-called waterproofing and dampness resisting materials or compounds, of varying degrees of partial efficacy only, and of uncertain and varying duration as water repellants and dampness resisters, it did not make either the walls or surfaces of concrete, cement, brick, or stucco structures impervious to water or dampness or totally prevent water or dampness from entering the same or make the interiors dry or free therefrom, and to designate and describe such products, notwithstanding the desirability and great need thereof in construction as "waterproofing" or "dampness preventive," was misnomer;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that said representations and implications were true, and of causing a substantial portion thereof, by reason of such belief, to buy its said product, and thereby unfairly divert trade in said commerce to it from competitors who do not promote or attempt to promote the sale of their products by the use of such false and misleading representations; to the substantial injury of competition among and between the various States and in the District of Columbia;