

Complaint

IN THE MATTER OF

HARRY POLITIS, TRADING AS POLITIS LABORATORY

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

Docket 3227. Complaint, Sept. 15, 1937—Decision, June 20, 1939

Where an individual engaged in manufacture of preparation called "Politis," for use by members of public afflicted with eczema, athlete's foot, poison oak, and various other ailments and conditions, and in sale and distribution thereof through wholesalers and direct to consumer, to purchasers in various States other than that of origin—

(a) Represented, in advertising said product among members of the consuming public of the United States, through various forms of printed matter, through radio broadcasts, and in other ways, that such preparation was a competent, adequate, and effective treatment and cure for infections, eczema, athlete's foot, poison oak, impetigo, burns, skin diseases, skin ailments, pimples, rashes, boils, skin infections, running sores, ringworm, hives, varicose ulcers, skin eruptions, and abscessed conditions, facts being said product was neither medicinal preparation nor scientific ointment, contained no active therapeutic agent used by medical profession in treatment of eczema, and did not constitute remedy or cure, or competent treatment, therefor or for other ailments and conditions above mentioned, and would not prevent infection or cure it, once started; and

(b) Represented, through use of word "laboratory" in trade name employed by said individual, that he conducted, operated, or maintained a laboratory for purpose of manufacturing, testing, or experimenting with preparations sold by him, facts being he neither owned nor operated laboratory in connection with his business, and was neither druggist, doctor, nor chemist;

With tendency and capacity to mislead and deceive substantial portion of purchasing public into belief that all said representations were true, and with result, as direct consequence of such mistaken and erroneous belief induced by such advertising and representations, that consuming public was caused to purchase substantial volume of his said preparation and trade was unfairly diverted to him from others engaged in sale in commerce among the various States of products intended for like and similar purpose, and who truthfully advertise the same:

Held, That such representations, acts, and practices, as above set-out, were to the prejudice and injury of competitors aforesaid and of the public, and constituted unfair methods of competition.

Before *Mr. Henry M. White*, trial examiner.

Mr. Karl Stecher and *Mr. Reuben J. Martin* for the Commission.

Mr. George W. Mead, of Portland, Oreg., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commis-

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sion, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that Harry Politis, an individual trading and doing business as Politis Laboratory, hereinafter referred to as respondent, has been and is now using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Harry Politis, is an individual trading and doing business as Politis Laboratory, having his office and principal place of business located at 4504 North Vancouver Avenue, Portland, Oreg. He is now, and for more than 1 year last past has been, engaged in advertising, selling, and distributing 'a certain medicinal preparation designated Politis. Respondent causes, and for more than 1 year last past has caused, said preparation, when sold by him, to be shipped from his place of business in Portland, Oreg., to the purchasers thereof located in various States of the United States other than the State of origin of such shipments, and in the District of Columbia. There is now, and has been for more than 1 year last past, a constant current of trade and commerce in said preparation sold by the respondent between and among the various States of the United States and in the District of Columbia. Respondent is now and for more than 1 year last past has been in substantial competition with other individuals, and with corporations, partnerships, and firms engaged in the sale of like medicinal preparations and preparations designed for the treatment of the same ills, maladies, and conditions of the human body 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 respondent adopted as and for a trade name under which to carry on his said business the words "Politis Laboratory" and has used said trade name and featured the same in advertisements and advertising matter, letter-heads, circulars, and other media widely circulated in and among the several States of the United States. In truth and in fact respondent does not own, control, or operate any place devoted to experimental study in any branch of natural science or to the application of scientific principles in testing and analyzing or in the preparation of medicines, drugs, or chemicals and has never owned, controlled, or operated any such place so devoted to such uses. The use by respondent of the word "Laboratory" in his trade name and in his advertising matter is false and misleading.

PAR. 3. In the course and conduct of his business as described in paragraph 1 hereof, in soliciting the sale of and selling said prepara-

tion, "Politis," respondent represents, and for more than 1 year last past has represented, in and by radio broadcasts and advertisements having an interstate circulation, letters, pamphlets, and other forms of advertising media as follows:

One of the leading specialists and surgeons of Europe devoted years of his life for the benefit of humanity which resulted in his having discovered a formula that will prevent infections * * *. This same is invaluable in alleviating suffering and gives permanent relief from eczema, athlete's foot, poison oak, impetigo, burns, sunburn and many other skin diseases * * *. It is called Politis.

Infections in America in 1934, according to reliable statistics, cost the lives of 60,000 people.

Politis prevents infection * * * it also does away with the infection, after it has once started. It is needless to suffer from eczema, athlete's foot, poison oak, sunburn, or many other skin ailments, when you can get Politis, a herb preparation which is absolutely harmless, and cures.

It will keep your children and your family safe from infection and it is invaluable as an aid to all skin ailments.

Erase the disfigurement and ease the pain of pimples, rashes or boils. Follow the advice of countless satisfied users and apply Politis at the first trace of skin infections.

For dangerous burns, rashes, running sores and other infections.

Politis kills the parasite that causes Athlete's Foot—prevents infection—soothes and brings about healing effect.

One application of Politis promotes healing and soothes the irritation.

Politis is especially recommended for Impetigo, Ringworm and other forms of skin infections. Soothing, healing, antiseptic.

For BOILS and PILES.

I am introducing Mr. Harry Politis who has a remedy which cures piles and skin eruptions.

All of said representations and statements, together with other statements not herein detailed, purport to be descriptive of respondent's preparation and of the beneficial results that may reasonably be expected to be obtained by the use of said preparation. In and by such representations, hereinbefore set-out, respondent represents that said preparation is a competent, adequate, and effective treatment and cure for infections, eczema, athlete's foot, poison oak, impetigo, burns, skin diseases, skin ailments, pimples, rashes, boils, skin infections, running sores, ringworm, hives, varicose ulcers, skin eruptions, and abscessed conditions.

PAR. 4. In truth and in fact the representations made by the respondent in aid of the sale of his preparation are grossly exaggerated, false, misleading, and incorrect in that said preparation is not a competent, adequate, or effective treatment and cure for infections, eczema, athlete's foot, poison oak, impetigo, burns, skin diseases, skin ailments, pimples, rashes, boils, skin infections, running sores, ring-

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worm, hives, varicose ulcers, skin eruptions, and abscessed conditions or for any other ailment of the human body.

PAR. 5. There are among the competitors of respondent as mentioned in paragraph 1 hereof many who sell and distribute in commerce similar medicinal preparations and preparations designed for the same general purposes who do not misrepresent the properties or qualities or therapeutic virtues, functions, uses, or effects of their said competing products.

PAR. 6. The representations made by respondent, as hereinabove set forth, and other similar representations made by respondent have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous belief that said preparation is a competent, adequate, and effective treatment and cure for infections, eczema, athlete's foot, poison oak, impetigo, burns, skin diseases, skin ailments, pimples, rashes, boils, skin infections, running sores, ringworm, hives, varicose ulcers, skin eruptions, and abscessed conditions. The said representations of respondent have had and do have the tendency and capacity to induce members of the public to buy and use said preparation because of the erroneous beliefs engendered as above set forth, and to unfairly divert trade to respondent from competitors engaged in the sale of similar preparations in commerce among and between the various States of the United States. Thereby, substantial injury has been done and is being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The above-alleged acts and practices of the respondent are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 15, 1937, issued and served its complaint in this proceeding upon the respondent, Harry Politis, an individual, trading as Politis Laboratory, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondent, Harry Politis, filed no answer to the complaint.

After the issuance of said complaint, testimony and other evidence in support of the allegations of said complaint were introduced by

Reuben J. Martin, attorney for the Commission, before Henry M. White, an examiner of the Commission, theretofore duly designated by it, and in opposition to the allegations of the complaint by George W. Mead, attorney for the respondent; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on said complaint, testimony and other evidence and brief in support of the complaint (no answer or brief in opposition thereto having been filed), and the Commission having duly considered the matter and being fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Harry G. Politis, is an individual trading and doing business under the name "Politis Remedy Company," with offices and principal place of business located at 4504 North Vancouver Avenue, Portland, Oreg. Prior to September 29, 1937, respondent transacted this business under the trade name "Politis Laboratory." Respondent is now, and has been for more than three years last past, engaged in the manufacture and sale of a preparation under the designation "Politis," for use by the members of the consuming public who are afflicted with eczema, athlete's foot, poison oak, sunburn, impetigo, ringworm, boils, piles, skin eruptions, running sores, pimples, rashes, hives, varicose ulcers, and abscessed conditions of the body. Respondent distributes his product through the medium of wholesalers and also by mail direct to the consumer.

PAR. 2. The respondent causes said product, "Politis," when sold, to be transported from his place of business in Portland, Oreg., to the purchasers thereof located in the various States of the United States other than the State of origin of such shipment.

PAR. 3. Respondent is now, and for more than 3 years last past has been, engaged in substantial competition with other individuals, corporations, partnerships, and firms engaged in the sale of medicinal preparations designed for use in the treatment of the same ills, maladies, and conditions of the human body in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. Respondent, in soliciting the sale of and in selling his said product and for the purpose of creating a demand therefor, now causes and for more than 3 years last past has caused advertisements to be issued, published, and circulated to and among the members of

the consuming public of the United States in various forms of printed matter, by radio broadcasts, and in other ways.

PAR. 5. Respondent makes, and has made to the general consuming public, statements with reference to the alleged value and merit of said product; some of which statements so made and circulated by the respondent are as follows:

Politis prevents infection—it also does away with the infection, after it has once started. It is needless to suffer from eczema, athlete's foot, poison oak, sunburn or many other skin ailments, when you can get Politis, a herb preparation which is absolutely harmless, and cures * * *. It will keep your children and your family safe from infection, and it is invaluable as an aid to all skin ailments.

One of the leading specialists and surgeons of Europe devoted years of his life for the benefit of humanity which resulted in his having discovered a formula that will prevent infections—infections that kill approximately 60,000 people annually. This same is invaluable in alleviating suffering and gives permanent relief from eczema, athlete's foot, poison oak, impetigo, burns, sunburn and many other skin diseases—it is called Politis.

A Natural Remedy From the Formula of a Famous Physician Politis is not an ordinary remedy. Behind the formula lies a lifetime of medical skill and training which few men have ever attained. Dr. James Politis, the creator of the remedy which bears his name, was a citizen of Athens, Greece. He attained his first medical degree from Athens University. But that was only a start. Dr. Politis spent four years in medical study and research at the University of Berlin, four more years at the University of Vienna, and finally finished his advanced studies with another four years' work at the University of Paris * * *.

Creates a New Type of Remedy.

* * * It won instant recognition throughout the world—physicians everywhere acclaiming it as a remedy which has brought a forward step in medicine.

Erase the disfigurement and ease the pain of pimples, rashes or boils. Follow the advice of countless satisfied users and apply Politis at the first trace of skin infections.

For dangerous burns, rashes, running sores and other infections.

Politis kills the parasite that causes athlete's foot—prevents infection—soothes and brings about healing effect.

One application of Politis promotes healing and soothes the irritation.

Politis is especially recommended for impetigo, ringworm, and other forms of skin infections. Soothing, healing, antiseptic.

For BOILS and PILES.

I am introducing Mr. Harry Politis who has a remedy which cures piles and skin eruptions.

Through the use of the statements hereinabove set forth and others similar thereto, not specifically set-out herein, respondent represents that said preparation is a competent, adequate, and effective treatment and cure for infections, eczema, athlete's foot, poison oak, impetigo, burns, skin diseases, skin ailments, pimples, rashes, boils,

skin infections, running sores, ringworm, hives, varicose ulcers, skin eruptions, and abscessed conditions.

PAR. 6. Respondent is not a druggist, doctor, or chemist and he does not own or operate nor has he ever owned or operated a laboratory in connection with his business.

PAR. 7. The preparation "Politis" is alleged by respondent to be composed of the following ingredients: Olive oil, pine pitch, petrolatum, beeswax, and a small quantity of extract of amaranto herb.

A qualitative analysis of the preparation disclosed no odor or taste of menthol, phenol, flavoring material, or essential oils. The residue from petroleum ether extracts showed traces of sodium and calcium only on spectographic examination. No starch or microscopically identifiable vegetable material was found. No salicylates or benzoates were identified. The material is grossly and microscopically homogeneous, and there were no foreign bodies or insoluble materials present. It has a definite odor of mutton grease, and the lack of odor of certain essential oils and organic compounds rule out this group. The steam distillation of the product did not contain phenol, menthol, resorcinol, or any apparent essential oils. The beeswax used is not a chemically pure grade of beeswax. It contained no olive oil or any grease or oil that has a significant iodide number. There was no odor of pine, pine oil, or pine pitch, and the analysis disclosed the presence of no vegetable matter, either of amaranto or other particular herb. No narcotics were present.

PAR. 8. There is no mention of an herb "amaranto" in the United States Pharmacopoeia, 11th Edition, nor in the National Formulary, 6th Edition, 1936.

PAR. 9. Respondent's preparation "Politis" is not a medicinal preparation and is not a scientific ointment. It contains no active therapeutic agent which is used by the medical profession in the treatment of eczema, nor does it constitute a remedy or cure or competent treatment for eczema, athlete's foot, poison oak, impetigo, pimples and skin infections, rashes, boils, running sores, varicose ulcers, abscesses, ringworm, hives, or burns. It will not prevent infection, nor will it cure infection which has once started.

PAR. 10. Each and all of the false and misleading claims and representations made by respondent, as aforesaid, by means of advertisements, radio broadcasts, and in other ways, in offering for sale and selling "Politis," were and are calculated to, and have had and now have the tendency and capacity to, mislead and deceive a substantial portion of the purchasing public into the belief that all of said representations are true.

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PAR. 11. Respondent, as a direct consequence of such mistaken and erroneous belief induced by said advertising and representations, causes the consuming public to purchase a substantial volume of said preparation known as "Politis," with the result that trade has been unfairly diverted to respondent from other individuals, corporations, partnerships, and firms engaged in the sale in commerce among and between the various States of the United States of products intended to be used for like and similar purposes, who truthfully advertise their products.

CONCLUSION

The aforesaid representations, acts, and practices of the respondent, as hereinabove found, are to the prejudice and injury of respondent's aforesaid competitors and of the public and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, testimony and other evidence taken before Henry M. White, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, and brief filed herein on behalf of the Commission (no answer or brief having been filed on behalf of the respondent), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Harry Politis, individually and trading as Politis Laboratory, or trading under any other name, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of "Politis" in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that the preparation now designated as "Politis" or any other preparation composed of the same or similar ingredients and possessing similar properties under whatever name sold, is a cure or remedy for eczema, athlete's foot, poison oak, impetigo, pimples, rashes, boils, running sores, varicose ulcers, abscesses, ringworm, hives, burns, or any other skin infections or diseases, or constitutes a competent or adequate treatment therefor.

2. Representing, through the use of the word "Laboratory" or any other term of similar meaning or like import as a part of any

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trade name, or in any other manner, or through any other means or device, that respondent conducts, operates, or maintains a laboratory for the purpose of manufacturing, testing, or experimenting with the preparation sold by respondent.

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

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IN THE MATTER OF
PHILIP F. RUBENSTEIN, TRADING AS ASSOCIATED
SALES COMPANY

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

Docket 3496. Complaint, July 16, 1938—Decision, June 20, 1939

Where an individual engaged, as partner and through corporation, of which he was president and principal stockholder, in sale of various articles of merchandise, including clothing, clocks, glassware, and other items—

Furnished to his customers various devices and plans for selling his said merchandise, which involved operation of games of chance, for distribution thereof to ultimate consumer wholly by lot or chance, and the furnishing to customers of push cards, order blanks, and circulars explaining his plan of selling same and allotting premiums or prizes to patrons of said push cards, in accordance with plan by which amount paid for chance was determined by number pushed by chance, and person securing certain number received "Solid Copper Nip Cup," and person selecting from list of feminine names on card name corresponding to that concealed under card's master seal received choice of man's or woman's "Elkskein" jacket or "Roxboro" pendulum clock, and operator of card received from said individual, when pushes had all been sold, one of jackets aforesaid; and

Supplied thereby to and placed in the hands of others means of conducting lotteries in the sale of his said merchandise through sale thereof by cards substantially similar to those above described, contrary to the established public policy of the United States Government, and in violation of the criminal law, and in competition with many who do not use same or similar methods of distribution as contrary to public policy;

With result that many persons were attracted by his said plan or method of distribution of his merchandise, by element of chance involved therein, and were thereby induced to buy and sell same in preference to that offered by his competitors aforesaid, and trade was thereby diverted unfairly to him from such competitors:

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

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

Mr. D. C. Daniel and *Mr. P. C. Kolinski* for the Commission.

Nash & Donnelly, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Philip F. Rubenstein, individually and trading as Associated Sales Co., has violated the provisions of said act, and it appearing to said Commission that