

IN THE MATTER OF
ZO-RO-LO, INC.

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

Docket #030. Complaint, Jan. 8, 1937—Decision, Aug. 12, 1939

Where a corporation engaged in manufacture of its "Zo-Ro-Lo" liquid medicinal preparation, for use, as represented by it, by members of consuming public afflicted with diabetes, arthritis and various other ailments and conditions, and in sale thereof to purchasers at wholesale, authorized to use said name "Zo-Ro-Lo" in their trade names, and by mail direct to consumers; in advertisements in booklets, blotters and other printed matter distributed to members of purchasing public in various States and in broadcasts from radio stations of extrastate audience, and through authorized use by distributors of trade name as aforesaid, and in other ways—

- (a) Represented that said preparation was a cure or remedy for arthritis, asthma, brain disease, Bright's Disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney or prostate gland trouble;
- (b) Represented that said "Zo-Ro-Lo" neutralized toxic poison, relieved all pain, or had therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication; and
- (c) Represented that said preparation was beneficial in starting one on the road to health, and in building up resistance to combat the cause of disease;

Facts being said "Zo-Ro-Lo" was no more than a mild laxative, taken in small doses, or purgative, if concentration of salts was high and dose large, had, aside from foregoing, no therapeutic value, and did not tend to neutralize toxic poisons or eliminate cause of majority of diseases, had no therapeutic value in treatment of ailments which were due to intestinal auto-intoxication other than as laxative or purgative, 90 percent of all human ailments are not, as represented by it, traceable to toxins formed in colon by auto-intoxication caused by putrefaction of uneliminated waste products, it was not a cure or remedy for rheumatism or rheumatic fever, caused by infection and defective alimentation, nor for arthritis, for which no cure or remedy is known, nor for various other ailments and conditions above specified, other than as aforesaid noted, nor for general paresis or other mental conditions associated with organic or functional disturbances in the nervous system;

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 through such advertising and representations, of causing consuming public to purchase substantial volume of said "Zo-Ro-Lo," and of thereby diverting trade unfairly to it from others engaged in sale, in commerce among the various States, of products intended to be used for like and similar purposes, and who truthfully advertise the same:

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

Before *Mr. Miles J. Furnas*, *Mr. Robert S. Hall* and *Mr. Arthur F. Thomas*, trial examiners.

Mr. William L. Pencke, *Mr. George Foulkes* and *Mr. Robert Mathis, Jr.* for the Commission.

Lippincott & Lippincott, of Lima, Ohio, for respondent.

COMPLAINT

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Zo-Ro-Lo, Inc., a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act of Congress, 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. Respondent, Zo-Ro-Lo, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located in the city of Ada, State of Ohio. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling a medicinal preparation under the trade name of "Zo-Ro-Lo", which respondent distributes to purchasers, many of whom reside in states other than the State of Ohio, and when orders are received therefor, they are filled by respondent by shipping said medicinal preparation to purchasers, from the said city of Ada, Ohio, into and through other States of the United States and in the District of Columbia. There is now, and has been during the time herein before mentioned, a constant current of trade in commerce in said medicinal preparation, so distributed and sold by respondent, between and among the various States of the United States and in the District of Columbia.

In the course and conduct of its said business, said respondent was and is in substantial competition with other corporations, firms, partnerships, and individuals, likewise engaged in the sale and distribution of medicinal preparations, designed and intended for treatment of the same ailments for which respondent advertises Zo-Ro-Lo

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to be a remedy, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course of the operation of said business and for the purposes of inducing individuals to purchase Zo-Ro-Lo, respondent has caused advertisements to be inserted in pamphlets and circulars, and has caused statements to be made over radio broadcasts, which pamphlets, circulars, and statements respondent has circulated in States other than the State of Ohio. In said pamphlets, circulars, and over said radio broadcasts, respondent has represented that its medicinal preparation is a competent and effective treatment or cure for various ailments. Among the representations made through such media are the following:

Inflammation of the muscles is called Rheumatism, nerve inflammation is called Neuritis, and when the sciatic nerve is attacked, it is called Sciatica. But whether you have Rheumatism, Neuritis, or Sciatica, the cause is the same—Toxemia. Why not get rid of those aches and pains? Why not enjoy life again? Through the wonderful Zo-Ro-Lo health Treatment. You can start on the Zo-Ro-Lo road to health for only \$1.50.

Zo-Ro-Lo means renewed health—renewed health means happiness—health and happiness make the gift supreme.

If you have asthma, don't dope yourself with drugs. Let Zo-Ro-Lo remove the cause.

Zo-Ro-Lo is nature's preventative, as well as nature's curative medicine.

Zo-Ro-Lo tends to eliminate the cause of the majority of all diseases.

All of the said statements, together with many similar statements appearing in respondent's advertising literature, purport to be descriptive of the remedial and curative quality of Zo-Ro-Lo. In all of its advertising pamphlets, circulars, and over radio broadcasts, respondent represents through statements and representations herein set out, and others similar thereto, that Zo-Ro-Lo is an effective cure and remedy for (a) arthritis, (b) asthma, (c) brain disease, (d) Bright's disease, (e) diabetes, (f) epileptic convulsions, (g) gall stones, (h) inward goiter, (i) kidney trouble, (j) prostate gland trouble, (k) sinus trouble.

Respondent further represents that Zo-Ro-Lo (a) starts one on the road to health, (b) is a cure for rheumatism, neuritis, and sciatica, (c) relieves all pain, (d) builds up a resistance to combat the cause of a majority of all diseases, (e) neutralizes toxic poisons, (f) overcomes acidity, (g) is a scientific preparation designed to aid nature in the treatment of many ailments which are traceable to intestinal auto intoxication.

PAR. 3. Representations made by said respondent with respect to the curative and remedial qualities of Zo-Ro-Lo when used, are grossly exaggerated, false, misleading, and untrue. In truth and in fact,

Zo-Ro-Lo is not an effective cure and remedy for arthritis, asthma, brain disease, Bright's disease, diabetes, or epileptic convulsions. Zo-Ro-Lo is not an effective cure and remedy for gall stones, inward goiter, kidney trouble, prostate gland or sinus trouble. In truth and in fact, Zo-Ro-Lo does not start one on the road to health, and it is not a cure for rheumatism, neuritis, and sciatica. Zo-Ro-Lo does not relieve all pain or build up a resistance to combat the cause of a majority of all diseases. Zo-Ro-Lo does not neutralize toxic poisons or overcome acidity. In truth and in fact, Zo-Ro-Lo is not a scientific preparation designed to aid nature in the treatment of many ailments which are traceable to intestinal auto intoxication.

PAR. 4. Each and all of the false and misleading statements and misrepresentations made by respondent, as herein above set forth, in its advertising matter and over the radio in offering for sale and selling Zo-Ro-Lo, had, and now has, the tendency and capacity to mislead and deceive a large portion of the purchasing public into the erroneous belief that all of the said representations are true. Further, as a direct consequence of the stated mistaken and erroneous beliefs, induced by the misleading advertisements, representations and statements of respondent, as herein above enumerated, a number of the purchasing public purchased a substantial volume of the respondent's product with the result that trade has been unfairly diverted to respondent from corporations, firms, partnerships, and individuals, likewise engaged in the selling of medicinal preparations, designed and intended for the treatment of the same diseases and conditions of the human body for which respondent's product is represented to be an effective cure and remedy, who truthfully advertise their respective products. As a result thereof, substantial injury has been done, and is being done, by the respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 5. The above and foregoing acts, practices, and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors, as aforesaid, and are unfair methods of competition in interstate 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 January 8, 1937, issued and served its complaint in this proceeding upon the respondent, Zo-Ro-Lo, Inc.,

charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondent, said Zo-Ro-Lo, Inc., filed its answer to the complaint.

After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by William L. Pencke and George Foulkes, attorneys for the Federal Trade Commission, and in opposition to the allegations of the complaint by Eugene T. Lippincott, attorney for the respondent, before Miles J. Furnas, Robert S. Hall, and Arthur F. Thomas, examiners of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto, oral argument not having been requested; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Zo-Ro-Lo, Inc., is a corporation organized, existing and doing business under the laws of the State of Ohio, with its office and principal place of business located at Ada, Ohio. It is now, and has been for several years last past, engaged in the manufacture and sale of a liquid medicinal preparation under the designation "Zo-Ro-Lo," which respondent represents to be for use by the members of the consuming public who are afflicted with diabetes, arthritis, rheumatism, sciatica, neuritis, neuralgia, acidosis, dyspepsia, some forms of headaches, colds, constipation, indigestion, sour stomach, gas condition and many other ailments. Respondent distributes its product at wholesale to purchasers who are authorized to use the name "Zo-Ro-Lo" in their trade names and also by mail direct to the consumers.

PAR. 2. Respondent causes said product, "Zo-Ro-Lo," when sold, to be transported from its place of business in Ada, Ohio, to purchasers thereof located in Kentucky, West Virginia, and in other States of the United States. There is now and has been during the time hereinabove mentioned a course of trade in commerce in said medicinal preparation so described and sold by respondent between and among the various States of the United States.

PAR. 3. Respondent is now, and has been, at all times mentioned herein, engaged in substantial competition with other corporations and with firms, partnerships and individuals also engaged in the sale and distribution in commerce between and among the various States of the United States of medicinal preparations designed for the treatment of the ills, maladies, and conditions of the human body, for which respondent represents "Zo-Ro-Lo" to be a cure and remedy.

PAR. 4. Respondent, in soliciting the sale of and in selling its said product and for the purpose of creating a demand therefor, has caused, during the times mentioned herein, advertisements, relative to said preparation, to be inserted in booklets, blotters and other printed matter distributed to members of the purchasing public situated in various States of the United States and in radio broadcasts from radio stations which convey the programs emanating therefrom to listeners thereto situated in States other than that from which the broadcasts originate and by authorizing distributors to use the trade name embracing the term "Zo-Ro-Lo" and in other ways.

PAR. 5. Among and typical of the statements disseminated as aforesaid by respondent relative to alleged curative and remedial qualities of said preparation are the following:

Zo-Ro-Lo of Columbus.

Zo-Ro-Lo has aided in the relief of many cases of asthma of long years standing. It attacked the Cause of many types of asthma.

* * * There is no other medicine like Zo-Ro-Lo. It is different and years ahead. Zo-Ro-Lo neutralizes toxic poisons—overcomes acidity—and gently washes away the poisonous wastes. In order words—Zo-Ro-Lo tends to eliminate the cause of the majority of all disease. * * *

* * * If you have Diabetes—doubtless you have experimented with many remedies—you have spent a great deal of money—and probably—you have secured very little relief. We want you to know there is relief for you in the Zo-Ro-Lo health treatment. Thousands of Diabetics have been made sugar free—have stopped taking Insulin—by Zo-Ro-Lo. You can do the same. Zo-Ro-Lo is a scientific remedy, made from nature's finest ingredients. Zo-Ro-Lo has stood the test of time. Zo-Ro-Lo is not an expensive remedy. Why don't you get sugar free? Why don't you stop taking Insulin? Why don't you enjoy health and happiness again? There are over one thousand druggists in Ohio authorized to sell Zo-Ro-Lo. * * *

* * * Zo-Ro-Lo is a happy combination of ingredients well known to medical science, and through years of experimentation the proper proportions of each has been discovered. It is this fixed proportion of each that is the key to the great success of this medicine. * * *

ARTHRITIS

* * * In scores of cases, after all other remedies had failed, and the victims had given up hope, Zo-Ro-Lo has been amazingly beneficial. Former helpless cripples are today well and happy.

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RHEUMATISM

* * * Zo-Ro-Lo attacks Rheumatism at its source. Results secured by hundreds of sufferers are so exceptional as to be almost incredible in some instances.

ACIDOSIS

* * * Zo-Ro-Lo contains the proper ingredients to aid in the re-establishment of acid balance and has been found to be a wonderful relief in Acidosis.

HEALTH

* * * Physicians agree that about 90 per cent of our common ailments are caused through intestinal auto-intoxication. Among these are Arthritis, Rheumatism, Sciatica, Neuritis, Neuralgia, Acidosis, Dyspepsia, some forms of Headaches, Colds, Constipation, Indigestion, Sour Stomach, Gas Condition and many others.

Then nature needs scientific assistance to free the system of the accumulated poisons and to restore a balanced process of metabolism. A mere laxative will not do it. It must be an agent that will stimulate naturally organs and glands, such as the pancreas, liver, gall bladder, intestines, etc. Zo-Ro-Lo is that ideal agent. It contains valuable ingredients nature needs in correct proportion. It contains no alcohol nor narcotic drugs. Its action is gentle, never violent, yet thorough. It aims at permanent relief by aiding Nature in attacking the cause of disease, whence the Zo-Ro-Lo slogan:

"REMOVE THE CAUSE—NATURE WILL DO THE REST."

Nervousness and Arthritis conquered by Zo-Ro-Lo.

Given up to die from brain disease—lost fifty-five pounds—now restored to glorious health.

Epileptic convulsions have not returned since taking the Zo-Ro-Lo treatment.

Was told he could not live—suffered with gall stones—now relieved.

Zo-Ro-Lo relieved me of inward goitre and other ailments.

Kidney trouble of eight years' duration responds to Zo-Ro-Lo.

Relieved of diabetes and prostate gland trouble.

Suffered with sinus infection for twenty-five years—gets relief through Zo-Ro-Lo.

Zo-Ro-Lo—A valuable medicine designed to assist nature in the relief of arthritis, rheumatism, sciatica, neuritis, constipation, high blood pressure, fatigue, indigestion, bloating, headaches, dizziness, biliousness, shortness of breath, sluggishness, jaundice, goitre, asthma, hay fever, acidosis, eczema, and many other ailments arising from faulty elimination.

All of said statements, together with many similar statements appearing in respondent's advertising literature, purport to be descriptive of the remedial and curative qualities of "Zo-Ro-Lo." In its advertising pamphlets, circulars and over radio broadcasts, respondent represents through statements and representations herein set out, and others similar thereto, that "Zo-Ro-Lo" is an effective cure and remedy for (a) arthritis, (b) asthma, (c) brain disease, (d) Bright's disease, (e) diabetes, (f) epileptic convulsion, (g) gall stones, (h) inward goitre, (i) kidney trouble, (j) prostate gland trouble, (k) sinus

trouble, and (l) is a scientific preparation designed to aid nature in the treatment of many ailments which are traceable to intestinal auto-intoxication.

Respondent further represents that "Zo-Ro-Lo" (a) starts one on the road to health, (b) is a cure for rheumatism, neuritis, and sciatica, (c) relieves all pain; (d) builds up a resistance to combat the cause of a majority of all diseases, (e) neutralizes toxic poisons, and (f) overcomes acidity.

PAR. 6. It appears from the testimony herein that "Zo-Ro-Lo" contains natural mineral salts, magnesium citrate, a substitute for sugar and menthol. "Zo-Ro-Lo" is no more than a mild laxative if taken in small doses, or a purgative if the concentrate of the salts is high and the dose is large. Beyond that, it has no therapeutic value and does not tend to neutralize toxic poisons or eliminate the cause of the majority of diseases. Said preparation has no therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication other than as a laxative or purgative. In truth and in fact 90 percent of all human ailments are not traceable to toxins formed in the colon by auto-intoxication caused by putrefaction of the uneliminated waste products.

There is no known cure or remedy for arthritis. A laxative is not a cure or a remedy for arthritis, regardless of the cause. Rheumatism is rheumatic fever, caused by infection and defective alimentation. There is no constituent in "Zo-Ro-Lo" that has any effect on the micro-organisms responsible for rheumatic fever, nor is "Zo-Ro-Lo" a competent cure, remedy, or treatment for rheumatic fever. "Zo-Ro-Lo" is not a cure or remedy for Bright's disease, diabetes, sciatica, neuritis, asthma, epileptic convulsions or sinus, kidney or prostate gland trouble. There is no disease that can be described as "brain disease" but general paresis is a brain disease or mental condition due to syphilis, and "Zo-Ro-Lo" is not a cure, remedy or treatment for general paresis, or any other mental conditions which are associated with organic or functional disturbances in the nervous system.

There is no constituent in "Zo-Ro-Lo" that will remove the cause of, or cure, goitre or gall stones. In the treatment of acidity, "Zo-Ro-Lo" has no beneficial effect.

PAR. 7. Each and all of the false and misleading claims and representations made by the respondent, as aforesaid, by means of advertisements, radio broadcasts and in other ways in offering for sale and selling "Zo-Ro-Lo," 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 said representations are true.

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PAR. 8. 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 "Zo-Ro-Lo," with the result that trade has been diverted unfairly to respondent from other corporations and from firms, partnerships, and individuals 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, and who truthfully advertise their products.

CONCLUSION

The aforesaid representations, acts and practices of the respondent, as hereinbefore 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 upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Miles J. Furnas, Robert S. Hall, and Arthur F. Thomas, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein (oral argument not having been requested), 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, Zo-Ro-Lo, Inc., its officers, representatives, agents, and employees directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its medical preparation now designated "Zo-Ro-Lo," or any other medical preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under that name or any other name, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from—

1. Representing that said preparation is a cure or remedy for arthritis, asthma, brain disease, Bright's disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney, or prostate gland trouble.

2. Representing that said preparation neutralizes toxic poisons, relieves all pain, or has any therapeutic value in the treatment of ailments

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which are due to intestinal auto-intoxication other than as a laxative or purgative.

3. Representing that said preparation is beneficial in starting one on the road to health, or in building up resistance to combat the cause of disease, or has any therapeutic value in the treatment of disease other than as a laxative or purgative.

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

IN THE MATTER OF

K & S SALES COMPANY AND MRS. FANNYE COHN

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

Docket 3497. Complaint, July 16, 1938—Decision, Aug. 12, 1939

Where an individual engaged in sale and distribution of premium certificates, coupons, or cards redeemable in chinaware, and in the chinaware with which the same were redeemed, to purchasers in various States and in the District of Columbia, in substantial competition, in commerce as aforesaid, with others engaged in sale and distribution of certificates, coupons, and cards redeemable in chinaware or other merchandise, and with those engaged in sale and distribution of the chinaware or other merchandise with which the sales-stimulator devices are redeemed, and including those who do not falsely represent that the chinaware or merchandise redeemed is procurable by merchants or their customers at cost sufficient merely to cover that of handling, packing, and shipping, and do not cause cost of transportation to be paid by recipient of such products after previously receiving amount sufficient to include same, and also including those who do not falsely represent to contracting merchants that circulars, pamphlets, and other matter advertising terms and conditions for procuring their said products will be sent to those whose names appear upon mailing lists submitted by contracting merchants, and do not falsely represent to such merchants that sum or sums of money to be deposited upon delivery of such certificates, etc., constitute merely temporary deposit, to be returned to merchants as part of such plan:

In selling her said certificates, etc., through agents or salesmen whom she employed personally to solicit retail merchants, and who, acting in the scope of their employment and under her direction and supervision in offering and selling her certificates, etc., in connection with and as part of so-called sales-stimulator plan under which, as represented, merchant was to pay certain amount as deposit on receiving certificates, coupons or cards, to be issued to customers of the contracting merchant, and to be redeemed upon the purchase by the particular customer from the merchant of goods, wares, or merchandise of any kind or nature of a value of \$5 or multiples thereof, upon being sent to said individual, through shipment to merchant or directly to customer by her of 10-piece set of chinaware, as more particularly below set forth—

- (a) Represented that such certificates, coupons, or cards could be redeemed in chinaware or other merchandise, and at cost to customer of amount sufficient only to cover cost of packing, handling, and transportation, facts being contracting merchant or customer receiving sets was required to pay, in advance of shipment, sum of 89 cents as such purported cost of handling, packing, and transporting same, cost of transportation was required to be paid by merchant or customer to transporting carrier unless units of 100 or more sets were ordered in each shipment, merchant was not apprised of such requirement until such certificates had been presented for redemption, and majority of customers of merchants participating who procured