

successfully with them was lessened and injured by methods aforesaid:
Held, That such acts and practices, under the circumstances set forth, were all
to the injury and prejudice of the public and competitors, and constituted
unfair methods of competition.

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

Mr. William L. Pencke for the Commission.

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 Ward M. Jones
and John H. Jones, doing business as Ward Manufacturing Co.,

hereinafter referred to as respondents, have violated the provisions of 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. Respondents, Ward M. Jones and John H. Jones, are individuals trading and doing business as copartners under the firm name and style of Ward Manufacturing Co., with their principal office and place of business at 111 East Milwaukee Avenue, in the city of Detroit, State of Michigan.

PAR. 2. Said respondents are now and for several years last past have been engaged in the manufacture, sale, and distribution of a device designed to be attached to gas ranges in commerce between and among the various States of the United States and the District of Columbia. Said device, known as Hydro-Flue, is a flue attachment for replacing stove pipes on gas ranges.

Respondents cause said product, when sold, to be shipped from their place of business in the State of Michigan to purchasers thereof located in a State or States of the United States other than the State of Michigan and in the District of Columbia.

There is now, and has been at all times herein mentioned, a course of trade in said product so sold and distributed by the respondents in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, respondents are now and for more than 2 years last past have been, in substantial competition with other partnerships and with individuals, firms, and corporations, engaged in the sale and distribution of similar products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. Said device, Hydro-Flue, consists of an oval-shaped aluminum flue and water container, about 7 inches in length, with a porcelain top which forms a lip or cup around the edge of the flue and is about 4 inches in diameter. The device is constructed to fit the exhaust vent of any standard gas range. The fumes from the stove are forced to circulate over the top of the water container and out through the porcelain top.

PAR. 5. Said respondents, in connection with the sale and distribution of said Hydro-Flue and for the purpose of inducing and purchase thereof, make, and circulate among the purchasing public, certain statements as to efficiency of said product in pamphlets, circulars, and otherwise, as follows:

Hydro Flue for Gas Ranges * * * For Seven Years The only completely satisfactory Flue Attachment for replacing stove pipe, with patented water wash.

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There is absolutely no hazard with the use of the Hydro Flue to replace the stove pipe on a gas range.

PAR. 6. Said statements together with similar statements appearing in respondents' advertising literature purport to be descriptive of respondents' product and represent (1) that said flue attachment is the only satisfactory appliance on the market at the present time and therefore superior to all other competitive products which are offered and sold to the purchasing public for the purpose of cleansing and deodorizing the fumes which emanate from gas ranges, (2) is a safe substitute for stove pipes of gas ranges, implying thereby that said device will remove carbon monoxide gas which may develop during the use of the gas range and will thereby insure freedom from the danger of poisoning by carbon monoxide gas.

PAR. 7. In truth and in fact said representations are false and misleading in that said Hydro-Flue is not the only satisfactory flue attachment on the market but is sold in competition with other similar attachments and devices which are designed for the same purpose of cleansing and purifying cooking vapors and fumes and possess substantially the same efficiency. In truth and in fact there is no device known to science which will effectively remove carbon monoxide fumes from the products of combustion emitted by gas burning appliances and respondents' flue attachment is therefore not a safe substitute for stove pipes and does not constitute a safeguard against the danger of carbon monoxide when said device is used on gas-burning appliances.

PAR. 8. In the course and conduct of their business as hereinbefore described, respondents are and have been in competition with corporations, partnerships, firms, and individuals engaged in the sale and shipment in commerce among and between the several States of the United States and in the District of Columbia of similar appliances who truthfully represent their products in their advertising and otherwise.

PAR. 9. The false and misleading representations made by respondents as set forth in paragraph 5 hereof, have the capacity and tendency to, and do mislead and deceive the purchasing public into buying said Hydro-Flues in the erroneous belief that said representations are true and that there are no other devices on the market which are satisfactory and will serve the same purposes for which respondents' device is offered and that said attachment constitutes a safeguard against the danger of carbon monoxide and that no hazards are encountered with respect thereto if respondents' appliance is used and that it constitutes a safe substitute for stove pipes on gas ranges. As a result thereof trade has been diverted unfairly to

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them from their said competitors whose ability to compete successfully with respondents has been and is lessened and injured by the methods of respondents hereinbefore set forth.

PAR. 10. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 26th day of July 1938, issued, and, on the 28th day of July 1938, served its complaint upon the respondents, Ward M. Jones and John H. Jones, doing business as Ward Manufacturing Co., charging them with the use of unfair methods of competition in commerce as "commerce" is defined in said act. After the issuance of said complaint, testimony and other evidence in support of the allegations of said complaint were introduced by William L. Pencke, attorney for the Commission, before Miles J. Furnas, examiner of the Commission theretofore duly designated by it. The respondents offered no testimony or other evidence. Said testimony and other evidence introduced have been duly recorded and filed in the office of the Commission. Thereafter the proceedings regularly came on for final hearing before the Commission on said complaint, the testimony and other evidence, and brief of counsel for the Commission in support of the complaint. (The respondents filed no brief.) And the Commission, having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Ward M. Jones and John H. Jones are individuals trading and doing business as copartners under the firm name and style of Ward Manufacturing Co., with their office and principal place of business at 109 East Milwaukee Avenue, in the city of Detroit, State of Michigan.

PAR. 2. Said respondents are now, and for more than 1 year last past have been, engaged in the manufacture, sale, and distribution in commerce between and among the various States of the United States and in the District of Columbia, of a device designed to be attached to gas ranges. Said device, known as a "Hydro-Flue," is a

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flue attachment to be used in lieu of stove pipes in gas ranges. Respondents cause said product, when sold, to be shipped from their place of business in the State of Michigan to purchasers thereof located in a State or States other than the State of Michigan and in the District of Columbia. There is now, and has been at all times herein mentioned, a course of trade in said product so sold and distributed by respondents in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. Respondents, in the course and conduct of their business as described in paragraph 2 hereof, in soliciting the sale of and selling their product, furnished certain advertising circulars or letters containing the following statements:

HYDRO-FLUE FOR GAS RANGES FOR SEVEN YEARS

The only completely satisfactory flue attachment for replacing stove pipe, with
patented water wash * * *

Also:

There is absolutely no hazard with the use of Hydro-Flue to replace the stove
pipe on a gas range

PAR. 4. The Commission finds that said representations, as described in paragraph 3 hereof, are false and misleading, in that said Hydro-Flue attachment is not the only satisfactory flue attachment on the market, but it is sold in competition with similar attachments and devices sold in interstate commerce, and which are designed, sold, and used for the same purpose. The Commission also finds that there is no device which will effectively remove carbon monoxide fumes from the products of combustion emitted by gas-burning appliances, and respondents' flue attachment is therefore not a safe substitute for stove pipes and does not constitute a safeguard against the danger of carbon monoxide when said device is used on gas-burning appliances.

PAR. 5. In the course and conduct of their business as hereinbefore described, respondents are and have been in competition with corporations, partnerships, firms, and individuals engaged in the sale and shipment in interstate commerce of similar appliances, and who truthfully represent their products in their advertising and otherwise.

PAR. 6. The Commission finds that the false and misleading representations made by said respondents, as set forth in the foregoing paragraphs hereof, have the capacity and tendency to, and do, mislead and deceive the purchasing public into buying said Hydro-Flues, in the erroneous belief that said representations are true and that there are no other devices on the market which are satisfactory

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and will serve the same purpose for which respondents' device is offered, and that said attachment constitutes a safeguard against the danger of carbon monoxide and no hazards are encountered with respect thereto if respondents' appliance is used, and that it constitutes a safe substitute for stove pipes on gas ranges. As a result thereof, trade has been diverted unfairly to said respondents from said competitors, whose ability to compete successfully with said respondents has been and is lessened and injured by the methods of respondent hereinbefore set forth.

CONCLUSION

The acts and practices of respondents, as hereinbefore found, are all to the injury and prejudice of the public and of competitors of respondents, and constitute unfair methods of competition in commerce within the intent and meaning of the provisions 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 respondents, testimony, and other evidence taken before Miles J. Furnas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, respondents having offered no testimony or other evidence, brief filed in support of the allegations of the complaint by William L. Pencke, counsel for the Commission (respondents not having filed brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Ward M. Jones and John H. Jones, individually and doing business as Ward Manufacturing Co., or under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of a mechanical device for use on gas ranges, now designated as Hydro-Flue, or any other device or devices of substantially similar construction and design, whether sold under said name or any other name or names, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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1. Representing in any manner that said device is the only device or attachment which is a satisfactory substitution for stove pipes on gas ranges.

2. Representing in any manner that the use of said device on gas ranges is safe or harmless or that the use of said device eliminates or removes the carbon monoxide gas emitted by gas ranges.

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 complied with this order.

IN THE MATTER OF
CUBAN HEALTH PRODUCTS, INC.

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

Docket 3733. Complaint, Mar. 7, 1939—Decision, Oct. 10, 1939

Where a corporation engaged in importing, selling, and distributing its "El Aguinaldo Cuban Honey" food product to purchasers in various States and in the District of Columbia; in advertisements which it disseminated through the mails, through insertion in newspapers and periodicals of general circulation, and through circulars and other printed or written matter, and which were intended and likely to induce purchase of its said product—

- (a) Represented that said "El Aguinaldo Cuban Honey" was a cure or remedy for coughs, colds, asthma, and bronchitis, and constituted a competent treatment therefor, facts being it was not an effective remedy or cure for such ailments or similar respiratory disorders, excepting as it might be a palliative for coughs due to local irritations of throat and, applied locally, might have soothing effect in case of local irritations of nose;
- (b) Represented that its said product was a cure or remedy for stomach ulcers and digestive disorders, and would reduce free acid content of intestines and would reduce mucous and favorably affect colitis and act as bowel antiseptic, facts being said product contained no alkaloids, consisted principally of water, levulose, and dextrose, differed little in composition from domestic honeys, and would not reduce such acid content or mucous, or have such colitis result, or act as such antiseptic, and was not such a cure or remedy or competent treatment for ulcers or for digestive disorders, other than as a bland food or, as such a food, where bland diet would be prescribed;
- (c) Represented that said honey was a tonic, which would tone the system and restore the body, and that it constituted a tissue builder, and use thereof would normalize blood count, facts being it would not have such normalizing result and was not such a tonic, and would not accomplish other results above set forth, other than as supplying easily assimilated food value; and
- (d) Represented that its said product would heal and cure cuts, bruises, and varicose ulcers, and constituted a competent treatment therefor, facts being it would not accomplish such results and did not constitute such a treatment, other than as local applications thereof might serve as an adjunct to other forms of treatment;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true, and into purchase of its said product as result of such belief, and with result of placing in hands of unscrupulous or uninformed retailers means and instrumentality whereby they might deceive or mislead members of said public into erroneous belief that such representations were true and into purchase of its said product by reason of such belief: