

Syllabus

IN THE MATTER OF
H. P. CLEARWATERCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3777. Complaint, Apr. 29, 1939—Decision, Oct. 18, 1939*

Where an individual engaged in manufacture, and in sale and distribution of certain preparations referred to as "Rheumatic Arthritis Treatment," and consisting originally of two, and later of three, tablets, to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of other preparations used in treatment of ailments and conditions for which he recommended his said products, and including many who do not misrepresent their preparations or therapeutic properties thereof; in advertisements which he disseminated through the mails, through insertions in newspapers and periodicals of general circulation, and through circulars, folders, letters, and other printed or written matter, including excerpts or purported excerpts from testimonials, and which were distributed in commerce among the various States and were intended and likely to induce purchase of his said products—

- (a) Represented that his training, education, and experience had been such as to enable him to determine causes of, and correct treatment of, and cure for, arthritis or rheumatism, and that said ailments were caused by poor physical condition due to faulty habits of eating and living, fatigue, excesses or faulty metabolism, and were principally due to constipation, with its resulting generation and accumulation of poisons absorbed into the blood stream, and with remedy lying in the elimination of current and accumulated poisons and irritants, and through influencing metabolic processes of the body, and that his statements and representations as to causes and method of treatment of said ailments were sound and based upon known and true scientific facts, and reflected consensus of the best and most advanced prevailing professional and scientific thought;
- (b) Represented that his treatment acted through dissolving and throwing out such poisons through the bowels and kidneys, and through preventing others from entering, and through distributing to the body tissues substances which would increase resistance to circulating poisons, improving condition of the blood and favorably influencing nutritional and metabolic processes, and rendering body normal and relieving pains; and
- (c) Represented that his treatment was a marvelous achievement which made possible cure for rheumatism and arthritis hitherto regarded as impossible, and constituted an adequate and competent treatment for cure of said ailments and conditions and sciatica and lumbago, which would, in all cases, relieve pain incident thereto;

Facts being his education and experience had not been such as to render him capable of determining causes of rheumatism and arthritis of competent and effective treatments or remedies therefor, no consensus or majority of professional or scientific opinion supported his said statements as to causes, treatments, and cure, and such statements were not based upon

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known and true scientific facts, consensus of present-day medical opinion is that conditions in question are not due to circulating poisons as aforesaid, and will not be cured or in all cases relieved by tonic-reconstructive, laxative, carminative, and analgesic actions constituting therapeutically significant effects of his said products, constipation does not in all cases result in generation of poison as aforesaid, no drugs or substances known to medical science will eliminate, etc., irritants assertedly causative, as above, of said condition and as claimed, or accomplish other results set forth, and his said products do not, either singly or in combination, constitute competent and adequate treatment or cure for disease complexes commonly known as arthritis, rheumatism, sciatica, or lumbago, but effect thereof is limited, as above indicated, and to relief from pain equivalent to that afforded by aspirin, and with analgesics not present in sufficient quantity in recommended doses to assure such relief in all cases;

With effect of engendering in minds of substantial portion of purchasing public belief that such statements, representations, and claims were true, and that his treatment possessed properties claimed and would accomplish results indicated, and of causing substantial portion thereof, by reason of such erroneous and mistaken belief, to purchase substantial quantities of said products, and of thereby diverting trade unfairly to him from competitors engaged as hereinbefore set forth, and who truthfully advertise effectiveness and therapeutic value of their respective preparations:

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

Mr. Randolph W. Branch 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 H. P. Clearwater, an individual, hereinafter referred to as respondent, has violated the provisions of the 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, H. P. Clearwater, is an individual having his offices and principal place of business at 145 Walter Street, Hallowell, Maine.

PAR. 2. Respondent is now, and for more than 4 years last past, has been engaged in the business of manufacturing, selling, and distributing certain preparations which together constitute what is referred to by respondent as his "Rheumatic Arthritis Treatment," and are intended for use in the mitigation or treatment of diseases in man. Respondent sells such preparations to members of the purchasing public situated in the various States of the United States

and in the District of Columbia, and causes said preparations, when sold by him, to be transported from his aforesaid place of business in the State of Maine to purchasers thereof located in various States of the United States other than the State of Maine and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in commerce in said preparations among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent is engaged in substantial competition in commerce among and between various States of the United States and in the District of Columbia, with other individuals and with firms, corporations, and partnerships selling and distributing preparations and products designed and intended for and used in the treatment, relief, and remedy of the conditions of the human body for which respondent recommends the use of his said preparations. Among such competitors in said commerce are many who do not in any manner misrepresent their said preparations and products or the therapeutic properties thereof, and who do not make any false statements in connection with the sale and distribution of their said preparations and products.

PAR. 4. In the course and conduct of his aforesaid business the respondent has disseminated, and is now disseminating, and has caused and is now causing, the dissemination of false advertisements concerning his said preparations by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars, folders, letters, and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States, and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said preparations; and has disseminated, and is now disseminating, and has caused, and is now causing the dissemination of, false advertisements concerning his preparations by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid, are the following:

My association with medicine began early in life * * * a position was offered me in a Pharmacy owned and operated by J. Q. A. Hawes, M. D. * * *. It was really a rare opportunity * * *. Under his careful instruction I gained much valuable information * * *. Following this I had a further helpful experience as Hospital Steward * * *. Later on * * *

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I pursued my studies for a time with Dr. A. C. Howland * * *. Much of my time was devoted to reading and studying along this line * * *.

* * * the observer occupying a position of advantage like mine may determine with a substantial degree of accuracy what is best in current professional thought regarding some particular disease condition and its treatment.

In attempting to arrive at a fair consensus of prevailing opinion on Rheumatism-Arthritis I have perhaps enjoyed advantages over the average member of the medical profession * * *.

* * * my treatment is based upon the best and most advanced thought in professional and scientific circles.

* * * in an honest and conscientious effort to place before you * * * these scientific facts about Arthritis and Rheumatism which are well known to be absolutely true.

We become * * * rheumatic because we have permitted our physical condition to be depleted through neglect, faulty habits of living and eating, fatigue, excesses or other indiscretions.

* * * the excess circulating poisons created through faulty metabolism * * *.

But this much is known: Arthritis * * * results mainly from absorption of certain mixed body poisons into the blood stream arising from one or more sources of infection. * * * That it is only when they accumulate in excess and the natural resistive forces of the body have become depleted so that the poisons are not properly eliminated or thrown out of the system that Rheumatism-Arthritis conditions finally result.

* * * those circulating poisons are in your blood and system in excess and that unless you thoroughly eliminate those excess poisons you may sooner or later suffer from an attack * * *.

And so my treatment represents a combination of remedial agents designed to enable the life-blood stream to distribute to the various tissues of the body substances which tend to increase its resistance against these invading circulating poisons.

The whole secret * * * of the beneficial results of my treatment lies in its power to assist Mother Nature * * * to eliminate these poisonous elements as described within the blood and system and to influence nutritional and Metabolic processes of the body, thus tuning up and establishing normal conditions and at the same time relieving the distressing, torturing pains * * *.

Among its several ingredients is one of much importance because it facilitates the elimination of harmful substances as formed by faults of daily metabolism and moreover another * * * acts by one of the best constitutional means known to dissolve and throw out long accumulated irritants which by their presence in different localities of the body induce the aches, pains, and irritations from which the suffering comes. Another ingredient tends further to normalize body metabolism and revitalize all tissues by replenishing existing deficiencies.

And that this process of systematic purification is not accomplished altogether by putting something into the body but by taking the poison and impurities out and preventing others from gaining entrance.

I am free from Rheumatism. * * *

* * * now is a time of marvelous achievements when the seeming impossibilities of yesterday become the demonstrated, proven facts of today * * * grasp this opportunity that is now within your reach!

* * * It was this book and treatment that set me free from this terrible disease and suffering.

and took the medicine 90 days and have been free from Rheumatism for twelve years now.

It is indeed a remarkable remedy * * *.

Your medicine relieved me of Rheumatism when everything else failed.

I had a most severe attack of Lumbago and Sciatica, * * * I am now free.

After months of pain and suffering learns of my treatment—gets blessed relief * * *.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not herein set out, all of which purport to be descriptive of the causes of the ailments and conditions of the human body for which respondent recommends his treatment, the treatment itself and its effectiveness in the treatment and cure of the said ailments and conditions, respondent directly and by implication among other things has represented: that his training, education and experience have been such as to enable him to determine the causes of, and the correct treatment of and cure for, arthritis and rheumatism; that the causes of arthritis and rheumatism as set forth in his advertising and his method of treatment are sound, are based upon known and true scientific facts and reflect a consensus of the best and most advanced prevailing professional and scientific thought; that arthritis and rheumatism are caused by poor physical condition due to faulty habits of eating and living, fatigue, excesses, or faulty metabolism and are principally due to constipation; that constipation results in the generation and accumulation of poisons which are absorbed in the blood stream, and cause rheumatism and arthritis; that so long as an excess of these poisons remains in the blood the person is liable to be afflicted with rheumatic or arthritic pains; that the remedy is by the elimination of current and accumulated poisons and irritants from the blood and system and by influencing the metabolic processes of the body; that respondent's treatment acts by dissolving and throwing out these poisons through the bowels and kidneys, preventing other poisons from entering, distributing to the body tissues substances which will increase the resistance of the body to the circulating poisons, improving the condition of the blood, favorably influencing the nutritional and metabolic process rendering the body normal and relieving pains; that respondent's treatment is a marvelous achievement and makes possible the cure for rheumatism and arthritis hitherto regarded as impossible; that it is an adequate and competent treatment for and will cure arthritis, rheumatism, sciatica and lumbago, and will in all cases relieve the pain incident thereto.

PAR. 6. The aforesaid representations used and disseminated by the respondent in the matter above described are grossly exaggerated,

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misleading and untrue and constitute false advertising. In truth and in fact respondent's training, education, and experience have not been such as to render him capable of determining the causes of rheumatism and arthritis or devising an adequate or competent treatment or cure therefor. There is no consensus or majority of professional or scientific opinion which supports respondent's statements as to the causes of these ailments or the means by which they should be treated or cured, nor are such statements based upon known and true scientific facts. The consensus of present-day medical opinion is that they are not due to circulating poisons in the blood stream due to constipation, faulty metabolism, or poor physical condition, and will not be cured or in all cases relieved by the purging, tonic, laxative, cathartic, carminative, and analgesic actions which are the therapeutically significant effects of respondent's preparations. Constipation does not in all cases result in the generation of poisons in the digestive tract. There are no drugs or substances known to medical science which will eliminate dissolve or throw out irritants from the blood stream or tissues, or increase resistance to rheumatic disease, or revitalize cell tissues by replenishing existing deficiencies or prevent poisons from entering the system. None of the ingredients of respondent's treatment singly or in combination will render the body normal. Respondent's preparations are not singly or in combination a competent and adequate treatment for, nor will they cure, arthritis, rheumatism, sciatica, or lumbago. Their effect is limited to a laxative, tonic and mildly carminative action and to a relief from pain equivalent to that afforded by aspirin. In the recommended dosage the treatment does not contain analgesics in sufficient quantity to assure relief from pain in all cases.

PAR. 7. The use by respondent of the foregoing false, deceptive, and misleading statements, representations, and claims disseminated as aforesaid with respect to the said preparations, has had, and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations and claims are true; that respondent's preparations possess the properties claimed and represented and will accomplish the results indicated, and causes a substantial portion of the purchasing public, situated in various States of the United States, because of such erroneous and mistaken beliefs, to purchase substantial quantities of respondent's preparations.

As a result, trade has been diverted unfairly to the respondent from its competitors in said commerce who truthfully advertise the effectiveness and use of their said preparations and products as described in paragraph 3 hereof. In consequence thereof, injury has been

and is now 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. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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 April 29, 1939, issued and thereafter served its complaint in this proceeding upon said respondent, H. P. Clearwater, charging him with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On June 6, 1939, the respondent filed his answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent and Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved, accepted and filed 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, H. P. Clearwater, is an individual having his offices and principal place of business at 145 Water Street, Hallowell, Maine. Respondent is now, and for more than four years last past, has been, engaged in the business of manufacturing, selling, and distributing certain preparations referred to by the respondent as a "Rheumatic Arthritis Treatment," and intended for use in the mitigation or treatment of diseases in man.

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In the course and conduct of his business respondent causes, and has caused, said preparations when sold to be transported from his aforesaid place of business in Maine to purchasers thereof located in various States of the United States other than Maine and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Prior to 1938, the said treatment consisted of two tablets. One of these tablets was made according to the following formula:

Sodium Salicylate.....	5 gr.
Potassium Iodide.....	1 gr.
Cascarin.....	$\frac{1}{2}$ gr.
Oleoresin Ginger.....	$\frac{1}{100}$ gr.
Oil Nutmeg	
Oil of Cinnamon	
Oil of Cloves	

in each pink sugar-coated tablet.

The other tablet was made according to the following formula:

Cascarin.....	$\frac{1}{4}$ gr.
Resin Podophyllum.....	$\frac{1}{8}$ gr.
Powd. Capsicum.....	$\frac{1}{64}$ gr.
Powd. Nux Vomica.....	$\frac{1}{16}$ gr.
Blaud's Mass.....	1 gr.
Powd. Gentian.....	1 gr.

in each white sugar-coated tablet.

During the year 1938, the formula for the first tablet was changed, and thereafter the said tablet was made according to the following formula:

Blaud's Mass.....	3 gr.
Manganese Dioxide.....	$\frac{1}{4}$ gr.
Arsenic Trioxide.....	$\frac{1}{100}$ gr.
Mercuric Chloride.....	$\frac{1}{80}$ gr.
Potassium Iodide.....	1 gr.
Sulphur Colloidal.....	$\frac{1}{6}$ gr.
Calcium Glycerophosphate.....	$\frac{1}{2}$ gr.
Zinc Phosphide.....	$\frac{1}{16}$ gr.
Ext. Nux Vomica.....	$\frac{1}{16}$ gr.
Cascarin.....	$\frac{1}{2}$ gr.
Oleoresin Ginger.....	$\frac{1}{100}$ gr.
Oil Nutmeg	
Oil Cinnamon	
Oil Cloves	

The formula for the white tablet was not changed, but the treatment was enlarged so as to include a third tablet containing 5 grains acetylsalicylic acid, oil of eucalyptus, and inert coloring.

PAR. 3. In the course and conduct of his business as aforesaid, respondent is now and has been for more than 4 years last past in substantial competition in commerce among and between the various States of the United States with other individuals and with firms, partnerships, and corporations engaged in the sale and distribution of other preparations used in the treatment of the ailments and conditions of the human body for which respondent recommends the use of his said preparations.

Among such competitors in said commerce are many who do not misrepresent their said preparations or the therapeutic properties thereof.

PAR. 4. In the course and conduct of his aforesaid business, the respondent has disseminated, and is now disseminating, and has caused and is now causing, the dissemination of advertisements concerning his said preparations by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars, folders, letters, and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States, and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said preparations; and has disseminated, and is now disseminating, and has caused, and is now causing the dissemination of, advertisements concerning his preparations by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid, are the following:

My association with medicine began early in life * * * a position was offered me in a Pharmacy owned and operated by J. Q. A. Hawes, M. D. * * *. It was really a rare opportunity * * *. Under his careful instruction I gained much valuable information * * *. Following this I had a further helpful experience as Hospital Steward * * *. Later on * * * I pursued my studies for a time with Dr. A. C. Howland * * *. Much of my time was devoted to reading and studying along this line * * *.

* * * the observer occupying a position of advantage like mine may determine with a substantial degree of accuracy what is best in current professional thought regarding some particular disease condition and its treatment.

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In attempting to arrive at a fair consensus of prevailing opinion on Rheumatism-Arthritis I have perhaps enjoyed advantages over the average member of the medical profession * * *.

* * * my treatment is based upon the best and most advanced thought in professional and scientific circles.

* * * in an honest and conscientious effort to place before you * * * these scientific facts about Arthritis and Rheumatism which are well known to be absolutely true.

We become * * * rheumatic because we have permitted our physical condition to be depleted through neglect, faulty habits of living and eating, fatigue, excesses or other indiscretions.

* * * the excess circulating poisons created through faulty metabolism * * *.

But this much is known: Arthritis * * * results mainly * * * from absorption of certain mixed body poisons into the blood stream arising from one or more sources of infection. * * * That it is only when they accumulate in excess and the natural resistive forces of the body have become depleted so that the poisons are not properly eliminated or thrown out of the systems that Rheumatism-Arthritis conditions finally result.

* * * those circulating poisons are in your blood and system in excess, and that unless you thoroughly eliminate those excess poisons you may sooner or later suffer from an attack * * *.

And so my treatment represents a combination of remedial agents designed to enable the life-blood stream to distribute to the various tissues of the body substances which tend to increase its resistance against these invading circulating poisons.

The whole secret * * * of the beneficial results of my treatment lies in its power to assist Mother Nature * * * to eliminate these poisonous elements as described within the blood and system and to influence nutritional and Metabolic processes of the body, thus tuning up and establishing normal conditions and at the same time relieving the distressing, torturing pains * * *.

Among its several ingredients is one of much importance because it facilitates the elimination of harmful substances as formed by faults of daily metabolism and moreover another—acts by one of the best constitutional means known to dissolve and throw out long accumulated irritants which by their presence in different localities of the body induce the aches, pains, and irritations from which the suffering comes. Another ingredient tends further to normalize body metabolism and revitalize all tissues by replenishing existing deficiencies.

And that this process of systematic purification is not accomplished altogether by putting something into the body but by taking the poison and impurities out and preventing others from gaining entrance.

I am free from rheumatism. * * *

* * * now is a time of marvelous achievements when the seeming impossibilities of yesterday become the demonstrated, proven facts of today—grasp this opportunity that is now within your reach!

* * * it was this book and treatment that set me free from this terrible disease and suffering.

and took the medicine 90 days and have been free from Rheumatism for twelve years now.

It is indeed a remarkable remedy * * *

Your medicine relieved me of Rheumatism when everything else failed.

I had a most severe attack of Lumbago and Sciatica, * * * I am now free.

After months of pain and suffering learns of my treatment * * * gets blessed relief * * *.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not herein set out, all of which purport to be descriptive of the causes of the ailments and conditions of the human body for which respondent recommends his treatments, the treatments themselves and their effectiveness in the treatment and cure of the said ailments and conditions, respondent directly and by implication among other things has represented: that his training, education, and experience have been such as to enable him to determine the causes of, and the correct treatment of and cure for, arthritis and rheumatism; that respondent's statements and representations as to the causes of arthritis and rheumatism set forth in his advertising and his method of treatment for arthritis and rheumatism are sound, are based upon known and true scientific facts and reflect a consensus of the best and most advanced prevailing professional and scientific thought; that arthritis and rheumatism are caused by poor physical condition due to faulty habits of eating and living, fatigue, excesses, or faulty metabolism and are principally due to constipation; that constipation results in the generation and accumulation of poisons which are absorbed into the blood stream, and cause rheumatism and arthritis; that so long as an excess of these poisons remains in the blood the person is liable to be afflicted with rheumatic or arthritic pains; that the remedy for arthritis and rheumatism is by the elimination of current and accumulated poisons and irritants from the blood and system and by influencing the metabolic processes of the body; that respondent's treatment acts by dissolving and throwing out these poisons through the bowels and kidneys, preventing other poisons from entering, distributing to the body tissues substances which will increase the resistance of the body to the circulating poisons, improving the condition of the blood, favorably influencing the nutritional and metabolic process, rendering the body normal and relieving pain; that respondent's treatment is a marvelous achievement and makes possible the cure for rheumatism and arthritis hitherto regarded as impossible; that it is an adequate and competent treatment for and will cure arthritis, rheumatism, sciatica, and lumbago, and will in all cases relieve the pain incident thereto.

PAR. 6. The representations made by respondent directly and by implication and used and disseminated by respondent in the manner described with respect to his said treatment are exaggerated, misleading, and untrue, and constitute false advertising. In truth and in fact respondent's training, education, and experience have not been such as to render him capable of determining the causes of rheumatism and arthritis or the competent and effective treatments or remedies therefor. There is no consensus or majority of professional or scientific opinion which supports respondent's statements as to the causes of these ailments or the means by which they should be treated or cured, nor are such statements based upon known and true scientific facts. The consensus of present-day medical opinion is that such conditions are not due to circulating poisons in the blood stream due to constipation, faulty metabolism, or poor physical condition, and will not be cured or in all cases relieved by the tonic-reconstructive, laxative, carminative, and analgesic actions which are the therapeutically significant effects of respondent's preparations. Constipation does not in all cases result in the generation of poisons in the digestive tract. There are no drugs or substances known to medical science which will eliminate, dissolve or throw out irritants alleged by the respondent to be causative of rheumatism and arthritis from the blood stream or tissues, revitalize all tissues by replenishing existing deficiencies or prevent poisons from entering the system. None of the ingredients of respondent's treatment singly or in combination will render the body normal. Respondent's preparations are not singly or in combination a competent and adequate treatment for, nor will they cure, the disease complexes commonly known as arthritis, rheumatism, sciatica, or lumbago. Their effect is limited to a laxative, tonic-reconstructive, and mildly carminative action and to a relief from pain equivalent to that afforded by aspirin. In the recommended dosage the treatment does not contain analgesics in sufficient quantity to assure relief from pain in all cases.

PAR. 7. The use by respondent of the foregoing statements, representations, and claims disseminated as aforesaid with respect to the said treatments has had, and now has, the capacity and tendency to and does engender in the minds of a substantial portion of the purchasing public the belief that the said statements, representations, and claims are true; that respondent's treatments possess the properties claimed and will accomplish the results indicated, and has caused and causes a substantial portion of the purchasing public situated in various States of the United States, because of such erroneous and mistaken belief, to purchase substantial quan-

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tities of said treatments. As a result, trade has been diverted unfairly to the respondent from his competitors, who are likewise engaged in the sale and distribution in commerce among and between the various States of the United States and in the District of Columbia, of similar medicinal preparations or other preparations intended for similar usage who truthfully advertise the effectiveness and therapeutic value of their respective preparations.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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, and the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon, and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, H. P. Clearwater, his representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement, by means of the United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of certain medicinal preparations now designated as the respondent's "Rheumatic Arthritis Treatment," or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties when sold under the same name or under any other name or names, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade

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Commission Act, of said medicinal preparations, which advertisements represent, directly or through implication, that:

1. Respondent's training, education, and experience have been such as to enable him to determine the causes of and the correct treatment of and cure for arthritis or rheumatism.

2. Any theories promulgated by the respondent as to the causes of or method of treatment or cure of rheumatism or arthritis are based upon known and true scientific facts, or reflect a consensus or majority of medical opinion, unless and until such is the fact.

3. Respondent's preparations, singly or in combination, constitute a cure or remedy for arthritis, rheumatism, sciatica, or lumbago, or constitute an adequate treatment therefor, or have any therapeutic value in the treatment thereof in excess of providing a laxative, tonic-reconstructive, and mildly carminative action and providing relief from the pain incident to such diseases, conditions, and ailments in some cases.

4. The use of respondent's preparations will render the body normal, revitalize tissues, or prevent poisons from entering the system.

5. Rheumatism or arthritis are caused by circulating poisons in the blood, due to constipation, faulty metabolism, or poor physical condition, or that the use of respondent's preparations will eliminate such poisons.

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

A. LASKEY, J. SAMUELS AND J. P. SHEEHAN, TRADING
AS INLAND SALES CORPORATIONCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3846. Complaint, July 13, 1939—Decision, Oct. 18, 1939*

Where three partners engaged in sale and distribution of sport jackets, pens, pencils, and other articles of merchandise to purchasers in various other States and in the District of Columbia; in soliciting and in selling and distributing their said products—

Furnished various devices and plans of merchandising which involved operation of games of chance, gift enterprises, or lottery schemes for sale and distribution of said merchandise to ultimate consumers wholly by lot or chance, and involved distribution by them to purchasing public of certain literature and instructions, including push cards, order blanks, illustrations of their products, and circulars explaining their plan of selling their said merchandise, and allotting it as premiums or prizes to operators of said push cards, under plan in accordance with which person selecting by chance, from list of feminine names displayed on card, name corresponding to that concealed under card's master seal received sport jacket or article of merchandise being thus disposed of, and person pushing by chance certain number secured "De Luxe Pen and Pencil," and amount paid was dependent upon number pushed by chance; and

Supplied thereby to and placed in the hands of others means of conducting lotteries in the sale of their merchandise in accordance with aforesaid, or similar, sales plan involving various push cards for sale and distribution of products in question by means of game of chance, gift enterprise, or lottery scheme, and varying in detail only from that described, under which fact as to whether purchaser received article of merchandise or nothing for amount of money paid and which of articles, if any, purchaser was to receive, was determined wholly by lot or chance, and involving game of chance or sale of a chance to procure an article of merchandise at price much lower than normal retail price thereof, contrary to an established public policy of the United States Government, and in violation of the criminal laws, and in competition with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win something by chance, or any other method contrary to public policy, and who refrain therefrom;

With result that many persons were attracted by said sales plan or method employed by them in sale and distribution of their merchandise and by element of chance involved therein, and were thereby induced to buy and sell their products in preference to merchandise offered and sold by competitors aforesaid who do not use same or equivalent method, and with effect, through use of such method and because of said game of chance, of diverting unfairly trade in commerce among the various States and in