

Syllabus

IN THE MATTER OF

AMERICAN CLINICAL LABORATORIES, INC., OFFICIAL
RESEARCH BUREAU OF NEW YORK, INC., FEDERAL
RESEARCH CORPORATION, AND SHELLEY BRAVER-
MANCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 3415. Complaint, May 10, 1938—Decision, Nov. 16, 1939*

Where two corporations respectively engaged, as American Clinical Laboratories, Inc., and Federal Research Corporation, in sale and distribution of medicinal preparation designated "Retardo" for reduction of weight, and acting under direction and control of an individual who owned majority of the stock thereof; in advertising said preparation through newspapers, periodicals, bulletins and publications of general circulation among the various States, and through radio continuities broadcast from stations of extra-state audience—

- (a) Represented that said preparation afforded safe, competent, effective and reliable method of treatment for losing weight, which would accomplish such result without dieting or exercise, and constituted newest discovery for such purpose and contained no dangerous drugs, facts being it was not a safe method for losing substantial amount of weight, but contained, in substantial amount, boric acid, which had potential toxic properties and was cumulative in action if taken in daily or frequent doses, and would result, if taken according to their directions, in manifest toxic effects to large number of users, it was not newest discovery for treatment of excess weight, only competent, reliable, safe and effective method for treating which is proper exercise and diet, and it did contain a harmful or dangerous drug in boric acid content thereof as aforesaid, and had no substantial therapeutic value as remedy or cure for, or treatment of, obesity, and said statements and representations made relative thereto were grossly inaccurate, incorrect and exaggerated, and not true statements of therapeutic value of product in question; and

Where said corporation first referred to—

- (b) Represented to members of purchasing public, through use of word "Laboratories" as part of its corporate name, that it was manufacturer or compounder of said "Retardo," facts being it purchased said preparation from the manufacturer or compounder thereof and acted as middleman in distributing said product in commerce as aforesaid, and was not manufacturer, for the purchase of the products of which direct there is preference on part of substantial number of members of purchasing public as eliminating, in their belief, profit of so-called middleman and securing substantial financial saving and various other advantages; and

Where said corporation last referred to, and third corporation, name of which was "Official Research Bureau of New York, Inc.," and stock of which was owned entirely by individual aforesaid, who directed and controlled its

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activities and policies, along with those of other two, with respect to acts and practices here in question—

- (c) Represented, in various of the advertisements aforesaid of said "Retardo," that such product had been "Approved by the Official Research Bureau of New York," and reproduced or caused to be reproduced, in various of their advertisements, seal on which was inserted words "Seal of Approval, Official Research Bureau of New York," and thus that product in question had been approved by research bureau having an official connection with city or State of New York, facts being it had not been thus approved and corporation in question and last referred to had no official connection with said city or State;

With effect of confusing, misleading and deceiving members of purchasing public into erroneous and mistaken beliefs, through such statements and representations, that product in question was remedy or competent, safe and adequate treatment for ailments for which recommended and advertised as aforesaid and had been approved by research bureau with official connection with said city or State, and that corporation aforesaid was manufacturer or compounder thereof, and into purchase of said preparation because of erroneous and mistaken beliefs thus engendered, and of thereby unfairly diverting trade to said corporations first referred to from competitors engaged in sale and distribution of similar products or preparations designed and intended for similar use in treating ailments for which said "Retardo" was recommended, and who truthfully represent ingredients, safety and effectiveness of their respective products and their own business status with respect to being manufacturers or having any official connection with any State or local governmental bureaus, and with result that injury was thereby done by three corporations aforesaid and by individual in question, who directed and controlled them in such acts and practices, to competition in commerce among the various States:

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

Before *Mr. John J. Keenan*, trial examiner.

Mr. John R. Phillips, Jr. 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 American Clinical Laboratories, Inc., Official Research Bureau of New York, Inc., and Federal Research Corporation, corporations, and Shelley Braverman, an individual, hereinafter referred to as respondents, have 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. The respondents American Clinical Laboratories, Inc., Official Research Bureau of New York, Inc., and Federal Research Corporation are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, and having their respective offices and principal places of business at 149-50 Roosevelt Avenue, in the Borough of Queens, in the city and State of New York. The respondent Shelley Braverman is an individual, and has his office and place of business at 149-50 Roosevelt Avenue, in the Borough of Queens, in the city and State of New York. Respondent Shelley Braverman owns the majority of the stock in respondent American Clinical Laboratories, Inc., and respondent Federal Research Corporation, and owns all the stock in respondent Official Research Bureau of New York, Inc., and directs and controls the sales activities and policies of said respondents with respect to the acts and practices herein set forth.

PAR. 2. The respondents American Clinical Laboratories, Inc., and Federal Research Corporation are now, and have been for more than 3 years last past, engaged in the business of selling and distributing a medicinal preparation designated "Retardo." The respondents American Clinical Laboratories, Inc., and Federal Research Corporation cause said preparation, when sold, to be shipped and transported from their aforesaid places of business in the State of New York to the purchasers thereof at their respective points of location in States of the United States other than the State of New York, and also in the District of Columbia. The said respondents maintain a course of trade and commerce in said preparation among and between the various States of the United States and in the District of Columbia.

PAR. 3. In course of the operation of their businesses as aforesaid, the respondents American Clinical Laboratories, Inc., and Federal Research Corporation are engaged in substantial competition with other corporations and with partnerships, firms, and individuals distributing and selling, or manufacturing, distributing, and selling similar medicinal preparations, or other preparations designed and intended for similar usage or for treatment of similar ailments and conditions of the human body, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business of selling the preparation "Retardo" in commerce as herein described, and in furtherance of the sale thereof, the respondents American Clinical Laboratories, Inc., and Federal Research Corporation, during the times mentioned herein, caused statements and representations to appear in newspapers, bulletins, and publications having an inter-

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state circulation, and the respondent American Clinical Laboratories, Inc., caused statements and representations to be made in radio broadcasts having an interstate circulation, purporting to be descriptive of said preparation and of its effectiveness in use.

In furtherance of the sale of such preparation, and to create a public demand therefor, the respondent American Clinical Laboratories, Inc., during the times mentioned herein, made, or caused to be made, the following statements and representations in various newspapers, periodicals, bulletins, publications, and radio broadcasts having an interstate circulation:

Retardo is absolutely free of all harmful ingredients and furthermore requires no dieting.

Weight reduction with Retardo is safe.

Retardo is the newest discovery for the reduction of excess weight.

You take one little, tasteless Retardo tablet followed by a glass of water thirty minutes later. This method is so simple, so satisfying, so effective and so economical, that thousands of happy men and women use Retardo each and every day throughout the civilized world.

Every day people are reporting losses of from eight to twenty pounds a month.

I'll tell you a secret. I haven't dieted. I have been using the Retardo method. You can eat what you want and you don't have to diet or exercise.

Take one Retardo tablet after each meal.

In furtherance of the sale of such preparation, and to create a public demand therefor, the respondent Federal Research Corporation, during the times mentioned herein, made, or caused to be made, the following statements and representations in newspapers, bulletins, and publications having an interstate circulation:

Retardo is helping thousands of users all over the United States to rid themselves of excessive, unwanted fat—and these people are eating three solid, full meals a day. They are not dieting and are not undertaking strenuous and boring exercises. They do, however, take one little Retardo tablet after each meal, and follow the simple directions.

Retardo is reliable in treatments of obesity.

This safe way of aiding your body in reducing its excess fat. Without dieting.

Retardo tablets * * * contain no dangerous drugs.

The aforesaid statements, together with many others similar thereto, not set out herein, but of the same tenor and meaning, serve as representations on the part of the respondents American Clinical Laboratories, Inc., and Federal Research Corporation to members of the purchasing public: (1) That the use of said preparation is a safe method for losing a substantial amount of weight; (2) that the use of such preparation is a competent, effective, and reliable method for losing a substantial amount of weight; (3) that the use of said preparation will reduce weight without dieting or exercise; (4) that

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such preparation contains no harmful or dangerous drugs. The respondent American Clinical Laboratories, Inc., makes the additional representation in the aforesaid statements that "Retardo" is the newest discovery for the treatment of excess weight.

The use of the word "laboratories" by respondent American Clinical Laboratories, Inc., as a part of its name or designation in the aforesaid statements and representations serves as a representation by the said respondent to members of the purchasing public that said respondent is the manufacturer or compounder of the preparation "Retardo."

The respondent American Clinical Laboratories, Inc., and the respondent Official Research Bureau of New York, Inc., have made, or caused to be made, in various of the aforesaid advertisements, the statement that the preparation "Retardo" has been "Approved by the Official Research Bureau of New York" and have reproduced, or caused to be reproduced, a seal on the various other of said advertisements, and to be inserted on such seal the words "Seal of Approval, Official Research Bureau of New York." Such use of the words "Official Research Bureau of New York" and particularly the use of the word "Official" and such use of a seal and the words "Seal of Approval, Official Research Bureau of New York" serves as a representation by the said respondent to members of the purchasing public that such preparation has been approved by a research bureau having an official connection with the city or State of New York.

PAR. 5. In truth and in fact the use of such preparation is not a safe method for losing a substantial amount of weight. The preparation contains a substantial amount of boric acid, which has a potential toxic property and is cumulative in action if taken in daily or frequent doses. The purchaser of such preparation is instructed by the respondents American Clinical Laboratories, Inc., and Federal Research Corporation, in the advertising above referred to, to take a Retardo tablet after each meal for a period of weeks. If such preparation is taken according to such directions of the said respondents, a large number of such users of the preparation will manifest toxic effects because of such use. Such preparation is not the newest discovery for the treatment of excess weight. The use of such preparation is not a competent, effective, or reliable method for losing a substantial amount of weight. The only competent, reliable, safe, and effective method for losing a substantial amount of weight is proper exercise and diet. Such preparation does contain a harmful or dangerous drug in that the boric acid contained in such preparation is a harmful drug when such preparation is taken in the amounts and over the period of time as directed by the said respondents. Such

preparation has not been approved by a research bureau having an official connection with the city or State of New York. The respondent Official Research Bureau of New York, Inc., has no official connection with the city or the State of New York.

In truth and in fact, the said preparation has no substantial therapeutic value as a remedy or cure for, or as a treatment for, obesity. All the aforesaid statements and representations of respondents American Clinical Laboratories, Inc., and Federal Research Corporation relative to the therapeutic value of the preparation "Retardo" are grossly inaccurate, incorrect, and exaggerated and are not true statements of the therapeutic value of the preparation "Retardo."

The respondent American Clinical Laboratories, Inc., is not the manufacturer or compounder of the preparation "Retardo." The said respondent purchases said preparation from the manufacturer or compounder thereof and acts as a middleman in distributing such preparation in commerce as herein described. There are a substantial number of members of the purchasing public who prefer to purchase merchandise direct from the manufacturer in the belief that by eliminating the profit of the so-called "middleman" in such merchandise that they will procure a substantial financial saving and various other advantages.

PAR. 6. The aforesaid statements and representations (1) by respondent American Clinical Laboratories, Inc., and by respondent Federal Research Corporation relative to the efficacy of the preparation "Retardo"; (2) by respondent American Clinical Laboratories, Inc., and by respondent Official Research Bureau of New York, Inc., relative to the preparation "Retardo" being approved by a research bureau having an official connection with the city or State of New York; (3) by the respondent American Clinical Laboratories, Inc., relative to the said respondent being the manufacturer or compounder of such preparation; have a tendency and capacity to and do confuse, mislead, and deceive members of the purchasing public into the erroneous and mistaken beliefs respectively that (1) the preparation "Retardo" is a remedy or a competent, safe, and adequate treatment for the ailments of the human body for which said preparation is recommended and advertised as aforesaid; (2) such preparation has been approved by a research bureau having an official connection with the city or State of New York; and (3) the respondent American Clinical Laboratories, Inc., is the manufacturer or compounder of such preparation and into the purchase of such preparation because of said erroneous and mistaken beliefs so engendered. Trade is thereby diverted unfairly to the respondents American Clinical Laboratories, Inc., and Federal Research Corporation from their said

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competitors who are engaged in the sale and distribution of similar preparations, or other preparations, designed and intended for similar usage in treating the ailments of the human body for which said preparation "Retardo" is recommended, and who truthfully represent the ingredients, safety, and effectiveness of their respective preparations and their own business status with respect to being manufacturers or having any official connection with any state or local governmental bureaus. In consequence thereof injury has been done and is being done by respondents American Clinical Laboratories, Inc., Federal Research Corporation, and Official Research Bureau of New York, Inc., and by respondent Shelley Braverman who directs and controls said respondents in the aforesaid acts and practices, to competition in commerce among and between the various States of the United States.

PAR. 7. 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 May 10, 1938, issued, and on May 13, 1938, served, its complaint in this proceeding upon the respondents, American Clinical Laboratories, Inc., Official Research Bureau of New York, Inc., Federal Research Corporation, and Shelley Braverman, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of the complaint were introduced by John R. Phillips, Jr., attorney for the Commission, before John J. Keenan, an examiner 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. Subsequently the Commission, by order entered herein, granted respondents' motion for permission to withdraw the answer previously filed and to substitute therefor an answer read into the record on June 16, 1939, which answer admitted all of the material allegations of fact set forth in the complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, the substitute answer and testimony and

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other evidence, 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. The corporate respondents American Clinical Laboratories, Inc., Official Research Bureau of New York, Inc., and Federal Research Corporation are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, and having their respective offices and principal places of business at 149-50 Roosevelt Avenue, in the Borough of Queens, in the city and State of New York. The respondent Shelley Braverman is an individual, and has his office and place of business at 149-50 Roosevelt Avenue, in the Borough of Queens, in the city and State of New York. Respondent Shelley Braverman owns the majority of the stock of American Clinical Laboratories, Inc., and Federal Research Corporation, and owns all the stock of Official Research Bureau of New York, Inc., and directs and controls the sales activities and policies of said respondents with respect to the acts and practices herein set forth.

PAR. 2. The respondents American Clinical Laboratories, Inc., and Federal Research Corporation are not, and have been for more than 3 years last past, engaged in the business of selling and distributing a medicinal preparation designated "Retardo." The respondents American Clinical Laboratories, Inc., and Federal Research Corporation cause said preparation, when sold, to be shipped and transported from their aforesaid places of business in the State of New York to the purchasers thereof at their respective points of location in States of the United States other than the State of New York, and also in the District of Columbia. The said respondents maintain a course of trade and commerce in said preparation among and between the various States of the United States and in the District of Columbia.

PAR. 3. In course of the operation of their businesses as aforesaid, the respondents American Clinical Laboratories, Inc. and Federal Research Corporation are engaged in substantial competition with other corporations and with partnerships, firms, and individuals distributing and selling, or manufacturing, distributing, and selling similar medicinal preparations, or other preparations designed and intended for similar usage or for treatment of similar ailments and conditions of the human body, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In furtherance of the sale of such preparation, Retardo, and to create a public demand therefor, the respondent American Clinical Laboratories, Inc., during the times mentioned herein, made, or caused to be made, the following statements and representations in various newspapers, periodicals, bulletins, publications, all having a general circulation among and between the various States of the United States, and in radio continuities, broadcast from stations having sufficient power to convey their programs to persons located in States other than those wherein said broadcasts originate.

Retardo is absolutely free of all harmful ingredients and furthermore requires no dieting.

Weight reduction with Retardo is safe.

Retardo is the newest discovery for the reduction of excess weight.

You take one little, tasteless Retardo tablet followed by a glass of water thirty minutes later. This method is so simple, so satisfying, so effective and so economical, that thousands of happy men and women use Retardo each and every day throughout the civilized world.

Every day people are reporting losses of from eight to twenty pounds a month.

I'll tell you a secret. I haven't dieted. I have been using the Retardo method. You can eat what you want and you don't have to diet or exercise.

Take one Retardo tablet after each meal.

In furtherance of the sale of such preparation, Retardo, and to create a public demand therefor, the respondent Federal Research Corporation, during the times mentioned herein, made, or caused to be made, the following statements and representations in newspapers, bulletins, and publications, all having a general circulation among and between the various States of the United States.

Retardo is helping thousands of users all over the United States to rid themselves of excessive, unwanted fat—and these people are eating three solid, full meals a day. They are not dieting and are not undertaking strenuous and boring exercises. They do, however, take one little Retardo tablet after each meal, and follow the simple directions.

Retardo is reliable in treatments of obesity.

This safe way of aiding your body in reducing its excess fat. Without dieting.

Retardo tablets * * * contain no dangerous drugs.

The aforesaid statements, together with many others similar thereto, not set out herein, but of the same tenor and meaning, serve as representations on the part of the respondents American Clinical Laboratories, Inc., and Federal Research Corporation to members of the purchasing public: (1) That the use of said preparation is a safe method for losing a substantial amount of weight; (2) that the use of such preparation is a competent, effective and reliable method for losing a substantial amount of weight; (3) that the use of said

preparation will reduce weight without diet or exercise; (4) that such preparation contains no harmful or dangerous drugs. The respondent American Clinical Laboratories, Inc., makes the additional representation in the aforesaid statements that "Retardo" is the newest discovery for the treatment of excess weight.

The use of the word "laboratories" by respondent American Clinical Laboratories, Inc., as a part of its corporate name serves as a representation by the said respondent to members of the purchasing public that said respondent is the manufacturer or compounder of the preparation "Retardo."

The respondent American Clinical Laboratories, Inc., and the respondent Official Research Bureau of New York, Inc., have made, and caused to be made, in various of the aforesaid advertisements, the statement that the preparation "Retardo" has been "Approved by the Official Research Bureau of New York" and have reproduced, or caused to be reproduced, a seal on the various other of said advertisements, and to be inserted on such seal the words "Seal of Approval, Official Research Bureau of New York." Such use of the words "Official Research Bureau of New York" and particularly the use of the word "Official" and such use of a seal and the words "Seal of Approval, Official Research Bureau of New York" serves as a representation by the said respondents to members of the purchasing public that such preparation has been approved by a research bureau having an official connection with the city or State of New York.

PAR. 5. In truth and in fact the use of such preparation is not a safe method for losing a substantial amount of weight. The preparation contains a substantial amount of boric acid, which has a potential toxic property and is cumulative in action if taken in daily or frequent doses. The purchaser of such preparation is instructed by the respondents American Clinical Laboratories, Inc., and Federal Research Corporation, in the advertising above referred to, to take a Retardo tablet after each meal for a period of weeks. If such preparation is taken according to such directions of the said respondents, a large number of such users of the preparation will manifest toxic effects because of such use. Such preparation is not the newest discovery for the treatment of excess weight. The use of such preparation is not a competent, effective, or reliable method for losing a substantial amount of weight. The only competent, reliable, safe, and effective method for losing a substantial amount of weight is proper exercise and diet. Such preparation does contain a harmful or dangerous drug in that the boric acid contained in such preparation is a harmful drug when such preparation is taken in the amounts and over the period of time as directed by the said respondents.

Such preparation has not been approved by a research bureau having an official connection with the city or State of New York. The respondent Official Research Bureau of New York, Inc., has no official connection with the city or the State of New York.

In truth and in fact, the said preparation has no substantial therapeutic value as a remedy or cure for, or as a treatment for, obesity. All the aforesaid statements and representations of respondents American Clinical Laboratories, Inc., and Federal Research Corporation relative to the therapeutic value of the preparation "Retardo" are grossly inaccurate, incorrect, and exaggerated and are not true statements of the therapeutic value of the preparation "Retardo."

The respondent American Clinical Laboratories, Inc., is not the manufacturer or compounder of the preparation "Retardo." The said respondent purchases said preparation from the manufacturer or compounder thereof and acts as a middleman in distributing such preparation in commerce as herein described. There are a substantial number of members of the purchasing public who prefer to purchase merchandise direct from the manufacturer in the belief that by eliminating the profit of the so-called "middleman" in such merchandise that they will procure a substantial financial saving and various other advantages.

PAR. 6. The aforesaid statements and representations (1) by respondent American Clinical Laboratories, Inc., and by respondent Federal Research Corporation relative to the efficacy of the preparation "Retardo"; (2) by respondent American Clinical Laboratories, Inc., and by respondent Official Research Bureau of New York, Inc., relative to the preparation "Retardo" being approved by a research bureau having an official connection with the city or State of New York; (3) by the respondent American Clinical Laboratories, Inc., relative to the said respondent being the manufacturer or compounder of such preparation; have a tendency and capacity to and do confuse, mislead, and deceive members of the purchasing public into the erroneous and mistaken beliefs respectively that (1) the preparation "Retardo" is a remedy or a competent, safe, and adequate treatment for the ailments of the human body for which said preparation is recommended and advertised as aforesaid; (2) such preparation has been approved by a research bureau having an official connection with the city or State of New York; and (3) the respondent American Clinical Laboratories, Inc., is the manufacturer or compounder of such preparation and into the purchase of such preparation because of said erroneous and mistaken beliefs so engendered. Trade is thereby diverted unfairly to the respondents American Clinical Laboratories, Inc., and Federal Research Corporation from their said

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competitors who are engaged in the sale and distribution of similar preparations or other preparations, designed, and intended for similar usage in treating the ailments of the human body for which said preparation "Retardo" is recommended, and who truthfully represent the ingredients, safety, and effectiveness of their respective preparations and their own business status with respect to being manufacturers or having any official connection with any state or local governmental bureaus. In consequence thereof injury has been done and is being done by respondents American Clinical Laboratories, Inc., Federal Research Corporation, and Official Research Bureau of New York, Inc., and by respondent Shelley Braverman who directs and controls said respondents in the aforesaid acts and practices, to competition in commerce among and between the various States of the United States.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, testimony, and other evidence, and the respondents' answer read into the record herein on June 16, 1939, in which answer respondents admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, American Clinical Laboratories, Inc., and Federal Research Corporation and their officers, and respondent Shelley Braverman, an individual, and their respective agents, servants, representatives, and employees, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a medicinal preparation for the treatment of obesity, now known as "Retardo," whether sold under that name or under any other name, or of any other medicinal preparation containing substantially similar ingredients or possessing substantially similar therapeutic effect, do forthwith cease and desist from:

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1. Representing that the use of said preparation "Retardo" is a safe, competent, effective or reliable method of treatment for losing weight.

2. Representing that the use of said preparation "Retardo" will reduce weight without dieting or exercise.

3. Representing that said preparation "Retardo" is the newest discovery for the reduction of excess weight.

4. Representing, through failure to reveal that said preparation is not wholly safe for use in self-medication or through any other means or device, or in any other manner, that said preparation "Retardo" contains no harmful or dangerous drugs, and that the use of said preparation will have no ill effects upon the human body.

It is further ordered, That respondents, American Clinical Laboratories, Inc., and Official Research Bureau of New York, Inc., corporations, and Shelley Braverman, an individual, and their respective agents, servants, representatives, and employees, in connection with the offering for sale, sale, and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of a medicinal preparation for the treatment of obesity, now known as "Retardo," whether sold under that name or under any other name, or of any other medicinal preparation containing substantially similar ingredients or possessing substantially similar therapeutic effect, do forthwith cease and desist from:

Representing, through the use of the terms "Approved by the Official Research Bureau of New York" or "Seal of Approval, Official Research Bureau of New York" or through the use of the corporate name "Official Research Bureau of New York, Inc.," to designate, describe, or refer, in any way, to said preparation "Retardo," or through any other means or device or in any other manner, that said preparation has been approved by any research bureau having an official connection with the city or State of New York, or has been approved by any municipal, State, or Governmental agency or bureau whatsoever, until and unless said preparation has in fact received such approval.

It is further ordered, That respondents, American Clinical Laboratories, Inc., a corporation, and Shelley Braverman, an individual, and their respective agents, servants, representatives, and employees, in connection with the offering for sale, sale, and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of a medicinal preparation for the treatment of obesity, now known as "Retardo," whether sold under that name or under any other name, or of any other medicinal preparation containing substantially simi-

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lar ingredients or possessing substantially similar therapeutic effect, do forthwith cease and desist from:

Representing, through the use of the term "Laboratories" in the corporate name of respondent, American Clinical Laboratories, Inc., or in any other manner, or through the use of any other term of similar meaning, or through any other means or device, that the respondent, American Clinical Laboratories, Inc., conducts, operates, or maintains a laboratory, or is the manufacturer or compounder of the preparation "Retardo," unless and until said corporate respondent actually owns and operates, or directly or absolutely controls, a laboratory for the purpose of manufacturing, testing, and experimenting with such preparation.

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

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IN THE MATTER OF
THE PERMA-MAID COMPANY, INC.

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

Docket 3268. Complaint, Nov. 20, 1937—Decision, Nov. 18, 1939

Where a corporation engaged, as wholly owned subsidiary of manufacturer of stainless steel cooking utensils, in selling, as agent and distributor of said manufacturer, such products to purchasers in other States, in substantial competition with others engaged in manufacture and in sale and distribution among the various States and in the District of Columbia of cooking utensils made from steel or other materials or metals, including distributors of like and similar commodities made from aluminum metal and distributors of like and similar commodities made from steel and other metals, who do not falsely represent their products or make false and disparaging statements concerning those of their competitors;

In selling from its district offices its said steel cooking utensils through some 300 sales representatives, and who obtained orders from members of the public for such products through house-to-house canvass, and certain of whom, acting on their own initiative in obtaining and paying for pamphlets, leaflets and circulars from persons having no connection with or interest in it or its business, and which, containing false and misleading statements and representations with respect to value and effect of aluminum materials used in kitchen utensils, were made use of by said agents and representatives, contrary to its instructions—but in scope of their employment,

Represented through statements and representations in pamphlets, leaflets, and circulars, as aforesaid and in sales talks to prospective purchasers by such agents and representatives, that food prepared and kept in aluminum utensils was detrimental to user thereof, and that preparation thereof in such utensils caused formation of poisons, and consumption of food thus prepared or kept in such utensils would cause ulcers, cancers, cancerous growths, and various other ailments, afflictions, and diseases, facts being aluminum had been used in manufacture of cooking utensils for many years and been found, during such period to be satisfactory material for such use, consumption of food prepared or kept therein would not cause ulcers or other ailments, conditions, or afflictions, and foods so prepared or kept were not detrimental to health of users, and preparation of food in such utensils did not cause formation of poisons;

With effect of misleading and deceiving substantial number of persons to whom such false, misleading and unfairly disparaging representations were made by its agents and representatives, as above set forth, into false and erroneous belief that cooking utensils made from aluminum were harmful and dangerous to the consumers of food prepared therein, and that all the statements and representations made by such agents and representatives with respect to aluminum utensils were true, and of thus inducing such persons, in reliance upon such belief or beliefs, to purchase its cooking utensils instead of those of competitors, and of thereby unfairly diverting trade in commerce to it from its competitors aforesaid: