

Syllabus

IN THE MATTER OF
RETONGA MEDICINE COMPANY

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

Docket 3949. Complaint, Nov. 14, 1939—Decision, June 25, 1940

Where a corporation engaged in sale and distribution of its "Retonga" medicinal preparation as treatment for stomach disorders and various other ailments, to purchasers in various other States and in the District of Columbia; in advertisements of its said product which it disseminated and caused to be disseminated through the mails, by insertion in newspapers and periodicals of general circulation, and in circulars and other printed or written matter distributed in commerce among the States, and by other means in commerce, and which were intended or likely to induce purchase of said preparation, and in false advertisements which it also disseminated through the same means and through use of purported testimonial letters published in local newspapers in form of news items reciting various beneficial results claimed to have been obtained by parties in such testimonial letters, and through which it represented that its said product would cure, eliminate or alleviate various symptoms which were, in fact, indicative of diseases and disorders for which its preparation had no curative or therapeutic value—

- (a) Represented, through use of statements in such advertisements that its said "Retonga" was an alterative medicine and powerful stomachic, and cure or remedy for, or competent treatment of, nervousness, night rising, indigestion, headaches, sluggishness, pains, toxic poisoning, constipation, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, weak kidneys, and other long standing disorders, and was beneficial and effective in treatment of various diseases of which aforesaid disorders were symptoms, and relieved body of toxic poisons and cleansed system and renewed, restored and built up strength and appetite and body, and restored health and increased weight;

Facts being it was not a remedy or cure for nervousness and various other ailments or conditions above set forth, and would be of benefit in treatment of such conditions or symptoms only insofar as certain of them might be due to constipation or lack of appetite, it did not possess any therapeutic or beneficial value in treatment of diseases or disorders of which foregoing conditions might be symptoms, in excess of extent to which use of a mild laxative and gastric tonic might temporarily relieve symptoms due to constipation or lack of appetite, had no therapeutic value in treatment of former in excess of providing temporary relief therefrom, therapeutic properties thereof did not exceed those of a mild laxative and gastric tonic or stomachic, and it had no therapeutic value in healing, curing, or relieving functional or organic systemic disorders in excess of providing such relief as might be accomplished by administration of such a preparation as above indicated, and would not accomplish, except as aforesaid noted, various results claimed therefor as above set forth;

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With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that foregoing false, deceptive and misleading statements, representations and advertisements were true, and that said preparation was a cure or remedy for various disorders for which it had little or no therapeutic value, and of inducing purchase by such public of its said drug containing medicinal preparation:

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

Mr. J. W. Brookfield, 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 Retonga Medicine Co., a corporation, 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, Retonga Medicine Co., is a corporation organized and existing under and by virtue of the laws of the State of Georgia, with its main office located at 161 Spring Street NW., in the city of Atlanta, State of Georgia. Respondent, during the year last past, has been and still is engaged in the sale and distribution of a certain medicinal preparation containing drugs known as "Retonga," which is offered for sale and sold as a treatment for stomach disorders and various ailments of the human body. In the course and conduct of its business, respondent causes said medicinal preparation when sold to be transported from its place of business in the State of Georgia to the purchasers thereof located in various other States of the United States other than the State of Georgia, and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused, and is now causing the dissemination of false advertisements concerning its said products, by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars 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 its said product, and has disseminated and is now disseminating, and has caused and is now causing, the dissemination of false advertisements concerning its said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said product 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:

The theory upon which Retonga was founded was first thought of by a German pharmaceutical chemist of many year's experience who was employed by one of the largest medicine companies in America * * * It took several years for these experiments but finally Retonga reached the stage of perfection sought by its originator.

Retonga contains seven different herbs, each one of which has a different effect on the human system.

It is a powerful stomachic and alterative medicine. Retonga gives you a keen appetite for good, wholesome, nourishing food and stimulates natural digestive processes.

Farmers, mechanics, merchants and men and women in every walk of life tell how Retonga relieved them of long suffering from nervousness, night risings, sour indigestion, headaches, sluggishness, and pains from toxic poisons with constipation.

Reports from men and women who were weakened and tired, suffering from food fermentation, headaches, dizziness, and muscular pains from sluggish bowels, say this new roots, herbs, and barks medicine has brought them rapid and lasting relief.

Retonga is inexpensive and brings lasting results.

Nearly all users of Retonga who send in statements of their experiences say that their troubles have been stubborn and of long standing, ranging from a few months' duration to many years, and although they have tried many medicines, Retonga is the only one that has brought them real relief.

Great Up-Building Herb Preparation, RETONGA, overcomes Weakened Condition, Strengthens Digestion, Corrects Toxic Aches and Pains of Sluggish Elimination, and Builds Up Your Strength.

Retonga, the remarkable new strengthening and up-building herbal medicine which is sweeping the country with sensational success, * * *

The very first bottle of Retonga is guaranteed to bring a decided improvement in your poor, weakened, tired-out ailing condition or every cent of the small cost will be refunded without question.

Unlimited Guarantee

No matter how long-standing and stubborn your weakened, worn-out condition may be, or how many times you have tried and failed to find relief from stubborn nervous, indigestion, muscular pains and achy joints, loss of weight from under-nourishment, lack of strength, and similar harassing complaints due to a let-

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down fagged-out condition, RETONGA is guaranteed to bring you gratifying improvement or you can return your very first bottle and get your money back without question.

Retonga has established a remarkable record everywhere for quickly overcoming long-standing cases of nervous indigestion, sluggish bowels, lack of strength and other distressing disorders.

Every day Retonga is thanked by scores of grateful men and women for ridding them of acid indigestion, weakened, worn-out condition and building up their strength.

In addition to the foregoing advertisements, the respondent disseminates false advertisements in the same manner as set out above by means of purported testimonial letters which the respondent publishes in local newspapers in the form of news items reciting the various beneficial results claimed to have been obtained by the parties in such testimonial letters. In this manner the respondent represents that its preparation will cure, eliminate or alleviate various symptoms which are in fact indicative of diseases and disorders for which respondent's preparation has no curative or therapeutic value. Typical of such advertising disseminated as aforesaid is the following:

I Didn't Dare Eat Such Things as Meat or Beans Before I Got Retonga.

"It's the Finest Medicine I Ever Saw", Declares Link Belt Employee. Eats anything He wants Now; Other Troubles Disappeared, Too. Tells Experience.

Colds are often dangerous and the changeable weather of spring is a season of colds. Keep yourself strengthened and built up. A weakened, run-down condition, sluggish elimination, poor digestion and acid wastes in the system lower resistance, make colds easier to catch and hang on longer. Every day Retonga is thanked by scores of grateful men and women for ridding them of acid indigestion, weakened, worn-out condition and building up their strength. Mr. William D. Brunner, 38 North Bell View Place, Indianapolis, a member of Waverly Masonic Lodge, and for 14 years a popular and valued employee of the Link Belt Company, one of the world's best-known concerns, gave Retonga a thorough test in his own case and says:

"I was in such bad shape I was afraid to eat for I almost smothered from sour indigestion and gas after every meal. I didn't dare touch meat, beans or greasy foods for they seemed like poison to my system. At night I had to get up practically every hour to relieve my kidneys and my passages burned and were cloudy and had a strong odor. Stubborn constipation added to my troubles and for years I had to take a laxative as regularly as I went to bed. My feet would swell and burn like coals of fire and I had pains between my shoulders and in my arms that felt as sharp as a knife. I felt so tired out and draggy it was an effort to move, and I hardly know what I would have done if I hadn't got hold of Retonga when I did.

"Retonga fixed me up so fine I now eat anything without a sign of indigestion; I don't need laxatives any more and every pain and ache is gone. Instead of getting up seven or eight times every night, I seldom get up at all, and the burning and cloudiness and odor have disappeared. I feel sure being built up again

helps me avoid the colds so many are suffering from. I hope everybody sees my statement and tries Retonga. It's the finest upbuilding medicine I ever saw."

Try Retonga. The Retonga representative at Hook's Dependable Drug Store, S. E. corner Illinois and Washington Sts., will gladly tell you all about it without obligation. Retonga may be obtained at all Hook's Dependable Drug Stores, \$1.25 size 98¢.

PAR. 3. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, or therapeutic properties of respondent's preparation, respondent has represented and does now represent, directly and indirectly, that its preparation Retonga: (a) is an alterative medicine and powerful stomachic; (b) is a cure or remedy for, or a competent treatment of, nervousness, night rising, indigestion, headaches, sluggishness, pains, toxic poisoning, constipation, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, weak kidneys, and other long-standing disorders, and that said preparation is beneficial and effective in the treatment of the various diseases of which these disorders are symptoms; (c) relieves the body of toxic poisons and cleanses the system; (d) renews, restores, and builds up the strength and appetite, restores the health, builds up the body, and increases weight.

The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading and untrue. In truth and in fact Retonga is not an alterative medicine or powerful stomachic, and its therapeutic properties are limited to little more than those of a laxative. It is not a remedy or cure for nervousness, night risings, indigestions, headaches, sluggishness, pains, toxic poisoning, constipation, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, weak kidneys, or other long-standing disorders or a competent treatment therefor, and is not beneficial or effective in the treatment of various diseases of which such disorders are symptoms. Its use does not relieve the body of toxic poisons or cleanse the system. It does not renew, restore or build up the strength, appetite or health. It does not build up the body or increase weight.

PAR. 4. The use by the respondent of the foregoing false, deceptive and misleading statements, representations and advertisements disseminated as aforesaid with respect to said medicinal preparation has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the errone-

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ous and mistaken belief that such false statements, representations and advertisements are true, and that said preparation is a cure or remedy for various disorders for which it has little or no therapeutic value, and induces the purchase by the public of respondent's medicinal preparation containing drugs.

PAR. 5. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute 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 November 14, 1939, issued and served its complaint in this proceeding upon said respondent, Retonga Medicine Co., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On November 29, 1939, the respondent filed its 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 W. T. Kelley, 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 said 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, Retonga Medicine Co., is a corporation organized and existing under and by virtue of the laws of the State of Georgia, with its main office located at 161 Spring Street, NW., in the city of Atlanta, State of Georgia. Respondent is now and during the year last past has been engaged in the sale and distribution of a certain medicinal preparation, composed of drugs and known as "Retonga," which is offered for sale and sold as a treatment for stomach disorders

and various ailments of the human body. In the course and conduct of its business, respondent causes said medicinal preparation when sold to be transported from its place of business in the State of Georgia to the purchasers thereof located in various other States of the United States other than the State of Georgia, and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused, and is now causing the dissemination of false advertisements concerning its said product, by United States mail, by insertion in newspapers and periodicals having a general circulation and also in circulars 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 its said product, and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning its said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said product 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:

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Retonga is inexpensive and brings lasting results.

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Nearly all users of Retonga who send in statements of their experiences say that their troubles have been stubborn and of long standing, ranging from a few months' duration to many years, and although they have tried many medicines, Retonga is the only one that has brought them real relief.

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In addition to the foregoing advertisements, the respondent disseminates false advertisements in the same manner as set out above by means of purported testimonial letters which the respondent publishes in local newspapers in the form of news items reciting the various beneficial results claimed to have been obtained by the parties in such testimonial letters. In this manner the respondent represents that its preparation will cure, eliminate or alleviate various symptoms which are in fact indicative of diseases and disorders for which respondent's preparation has no curative or therapeutic value. Typical of such advertising disseminated as aforesaid is the following:

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"Retonga fixed me up so fine I now eat anything without a sign of indigestion; I don't need laxatives any more and every pain and ache is gone. Instead of getting up seven or eight times every night, I seldom get up at all, and the burning and cloudiness and odor have disappeared. I feel sure being built up again helps me avoid the colds so many are suffering from. I hope everybody sees my statement and tries Retonga. It's the finest upbuilding medicine I ever saw."

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PAR. 3. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, or therapeutic properties of respondent's preparation, respondent has represented and does now represent, directly and indirectly, that its preparation Retonga is an alterative medicine and powerful stomachic; is a cure or remedy for, or a competent treatment of, nervousness, night rising, indigestion, headaches, sluggishness, pains, toxic poisoning, constipation, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, weak kidneys, and other long-standing disorders, and that said preparation is beneficial and effective in the treatment of the various diseases of which these disorders are symptoms; relieves the body of toxic poisons and cleanses the system; renews, restores, and builds up the strength and appetite, restores the health, builds up the body and increases weight.

The therapeutic properties of "Retonga" do not exceed those of a mild laxative and gastric tonic or stomachic. The preparation "Retonga" is not a remedy or cure for nervousness, night rising, indigestion, headaches, sluggishness, pains, toxic poisoning, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, or weak kidneys, and such preparation would be of benefit in the treatment of such conditions or symptoms only insofar as certain of them might be due to constipation or lack of appetite. Such preparation does not possess any therapeutic or beneficial value in the treatment of the diseases and disorders of which the foregoing conditions may be symptoms in excess of the extent to which

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the use of a mild laxative and gastric tonic may temporarily relieve symptoms due to constipation or lack of appetite. Said preparation has no therapeutic value in the treatment of constipation in excess of providing temporary relief therefrom. It does not relieve the body of toxic poisons or cleanse the system or have any beneficial effect on kidney or bladder disorders. The use of such preparation does not renew or restore the strength or health of the user and its therapeutic properties with respect to building health or strength are limited to supplying a stomachic or gastric tonic which stimulates the appetite and may indirectly increase weight by reason of an increase in food intake. Said preparation has no therapeutic value in healing, curing or relieving functional or organic systemic disorders in excess of providing such relief as may be accomplished by the administration of a mild laxative or stomachic.

The use by the respondent of the foregoing false, deceptive and misleading statements, representations and advertisements disseminated as aforesaid with respect to said medicinal preparation 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 advertisements are true, and that said preparation is a cure or remedy for various disorders for which it has little or no therapeutic value, and induces the purchase by the public of respondent's medicinal preparation containing drugs.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice of the public and constitute 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, the answer of the respondent, and the stipulation as to the facts entered into between the respondent herein and W. T. Kelley, 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 Retonga Medicine Co., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of its medicinal preparation advertised as "Retonga" or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or under any other names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent directly or through inference, (1) that said preparation is a cure or remedy for diseases or disorders characterized by such symptoms or conditions as nervousness, indigestion, headaches, sluggishness, pains, toxic poisoning, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, or lack of strength, or possesses any remedial or curative value in connection with the treatment of such diseases, disorders, symptoms or conditions; (2) that said preparation possesses any value in the treatment of such symptoms and conditions as nervousness, indigestion, headaches, sluggishness, pains, toxic poisoning, dizziness, muscular aches, and pains, insomnia, biliousness, undernourishment, loss of weight, or lack of strength in excess of the temporary relief furnished by a mild laxative or gastric tonic when such symptoms or conditions are due to or caused by constipation or lack of appetite; (3) that said preparation has therapeutic value in the treatment of constipation in excess of providing temporary relief therefrom; (4) that said preparation relieves the body of toxic poisons or cleanses the system; (5) that said preparation has any beneficial effect or therapeutic value in the treatment of kidney or bladder disorders; (6) that said preparation renews or restores the strength or health or has any therapeutic properties with respect to building health or strength in excess of stimulating the appetite.

2. 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 Commission Act of said preparation which said advertisements contain any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF
MICHAEL S. CHIOLAK, TRADING AS TONE COMPANY
COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4003. Complaint, Jan. 30, 1940—Decision, June 25, 1940

Where an individual engaged in sale and distribution of his Silver Label Formula No. 6 and Gold Label Formula No. 8 medicinal preparations, or Tone Periodic Compound, to purchasers in other States and in the District of Columbia; in advertisements of his said preparations which he disseminated and caused to be disseminated through the mails, insertions in periodicals of general circulation and in circulars and other printed or written matter distributed in commerce among the States, and by other means in commerce and otherwise, and which were intended and likely to induce purchase of his said products—

(a) Represented that said preparations were cures or remedies for delayed menstruation and competent and effective treatments therefor, and that they were safe and harmless, facts being they were not such cures or remedies and did not constitute competent or effective treatments for said condition, and were not safe and harmless in that they contained ergotin, aloes, extract black hellebore, and extract cotton root bark, which were present in quantities sufficient to cause serious and irreparable injury to health if used under conditions prescribed in said advertisements or under such conditions as are customary or usual, and might result in gastro-intestinal disturbances such as catharsis, nausea and vomiting, with pelvic congestion, inflammation and congestion of the uterus and adnexa, leading to excessive uterine hemorrhage, and, in those cases where used to interfere with normal course of pregnancy, might result in uterine infection, causing condition known as septicemia or blood poisoning, and use thereof, as aforesaid, might also produce very severe circulatory condition tending to produce abortion in some instances, often with violent poisonous effects upon human system, and severe toxic conditions and, in some instances, a gangrenous condition in lower limbs or other serious or irreparable injury to health; and

(b) Failed to reveal in said advertisements that use of said preparations under the conditions prescribed therein or under such conditions as are customary or usual, might result in serious or irreparable injury to health;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false, deceptive and misleading statements, representations and advertisements were true, and of inducing substantial portion of said public, because of such belief, to purchase his said medicinal preparations:

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

Before *Mr. Arthur F. Thomas*, trial examiner.
Mr. William L. Taggart for the Commission.