

IN THE MATTER OF

JEFFERSON R. BREWSTER, TRADING AS BREWSTER
LABORATORIES AND DR. REECE BREWSTER

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

Docket 3566. Complaint, Aug. 30, 1938—Decision, July 11, 1940

Where an individual engaged in manufacture of various medicinal preparations which he designated as his "Brewster's G-D" and, similarly, as his "T-Z," "Tonic," "Throat Wash," "Thoax-Eaz," "Sinine," "Pain Kill," "Ready Relief," and "Pile Ointment," and of a combination of four preparations referred to above as "G-D," "T-Z," "Tonic," and "Throat Wash," and also of other preparations, and in sale and distribution of his said various products from his Tennessee place of business to purchasers in Kentucky, North and South Carolina, Arkansas, Texas, and other States, in substantial competition with others engaged in sale and distribution among the various States of medicinal preparations for treatment of same ailments as those for which his said products were recommended; in advertising same in circulars distributed among prospective purchasers in several States—

- (a) Represented, directly and by inference, that his said "G-D" was a remedy for constipation and for running sores, a means of relieving pain in any part of the body, and, in combination with the "Tonic" hereinafter mentioned, a preventive of tuberculosis, and that his "T-Z" would prevent and alleviate coughing spells, would cure hemorrhages, keep the nerves quiet, and women's menstruation regular;
- (b) Represented that his said "Tonic" and "Throat Wash," respectively, would make the blood circulate properly if there was any disease or other condition of the circulatory system existing, would remedy stomach conditions and keep stomach in good condition, and would produce a good appetite, and constituted a means of preventing colds and would relieve tonsillitis and other throat troubles;
- (c) Represented that his "Thoax-Eaz" and "Sinine," respectively, constituted a means of relieving and curing croup, diphtheria, whooping cough, common cough, and scarlet fever and of preventing whooping cough or diphtheria in small and delicate children, and treatment and remedy for sinus, mastoid, antrum and nose and ear troubles;
- (d) Represented that his "Pain Kill" and "Ready Relief" constituted, respectively, a competent and effective germicide and treatment for rheumatism, neuritis, and neuralgia, and a cure for pneumonia, slow fever, and typhoid fever, and that his "Pile Ointment" was a cure for hemorrhoids; and
- (e) Represented that a combination of the four preparations "G-D," "T-Z," "Tonic," and "Throat Wash" constituted a cure for tuberculosis of the lungs or bone and for asthma, and that he had other preparations which constituted cures for kidney trouble, cancer, female trouble, measles, stomach trouble, gallstones, goiter, sciatica, head troubles, fistula troubles, piles, and nerve disorders;

Facts being that all of his said preparations were combinations in varying proportions of turpentine, kerosene, and edible oil, with traces of water, iron salts, iodides, ammonia, iodine, cresols, and oil of cinnamon, none of said preparations, whether used singly or in combination with others, constituted a cure or remedy or competent or effective treatment for any of the ailments, diseases, or conditions of the human body for which they were recommended by him, nor did said preparations, or any of them, constitute preventives of whooping cough or diphtheria, or constitute competent or effective germicides, and they were wholly without therapeutic value; and

(f) Represented that he owned or operated a laboratory in connection with his business, and that his preparations were compounded and tested therein, through such typical representations as "Prepared and guaranteed by Brewster Laboratories" and "Manufactured and guaranteed by Brewster Laboratories," facts being he did not own or operate, and had not at any time owned or operated, a laboratory, but mixed his preparations in his own home, and his equipment consisted only of jugs and bottles, a funnel, and certain measuring cans or vessels;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true, and into purchase of substantial quantities of his said preparations, and with result that trade was diverted unfairly to him from his competitors; to the substantial injury of competition in commerce:

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.

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

Mr. Randolph W. Branch and *Mr. DeWitt T. Puckett* 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 Jefferson R. Brewster, an individual, trading and doing business in his own name, and also under the names of "Brewster Laboratories" and "Dr. Reece Brewster," 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. The said respondent, Jefferson R. Brewster, is an individual trading and doing business under his own name and also under the names of "Brewster Laboratories" and "Dr. Reece Brewster," with his principal place of business at 2609 Latimer Avenue, in the city of Dallas, State of Texas, to which it has recently been moved from 903 Lischey Avenue, in the city of Nashville, State of Tennessee.

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PAR. 2. Respondent is now, and for more than 3 years last past has been, engaged in the business of manufacturing and selling certain medicinal preparations, intended for use in the relief, remedy, and treatment of or protection against certain diseases, symptoms, and conditions, as follows:

1. Brewster's G-D
2. Brewster's T-Z
3. Brewster's Tonic
4. Brewster's Throat Wash
5. Brewster's Thoax-Eaz, also known as Brewster's Throat Eaz
6. Brewster's Sinine
7. Brewster's Pain Kill
8. Brewster's Ready Relief
9. Brewster's Pyle Ointment
10. A combination of the four preparations referred to above as G-D, T-Z, Tonic, and Throat Wash
11. Other preparations.

Respondent causes and has caused the said preparations, when sold, to be transported from the place where his business is carried on in the State of Tennessee or the State of Texas, to purchasers thereof located in States of the United States other than the States of Tennessee or Texas and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, respondent is now, and has been for more than 3 years last past, in competition with other individuals and with partnerships, firms, and corporations engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of various drugs and medicinal preparations intended for use and application in the relief, remedy, and treatment of the various diseases, symptoms, and conditions hereinafter mentioned, and the building up of bodily resistance against the ravages thereof and the alleviation of the pains incident thereto.

PAR. 4. In the course and conduct of his said business, and for the purpose of inducing the purchase of his said preparations, the respondent has caused circulars containing certain claims with respect to the therapeutic value of the said preparations to be distributed between and among the various States of the United States and in the District of Columbia.

Included among and typical of such claims are the following:

(With respect to "Brewster's G-D.")

There is practically no danger of one contracting it (tuberculosis) if he will observe the following rules: Take Brewster's liver tonic regularly and take two treatments of Brewster's G-D each week while you are being constantly exposed to the disease.

For constipation rub G-D on the bowels three times a day.

If you have a pain anywhere about your body, rub G-D on and get relief.

Directions for treatment of cancer and tuberculosis of the bone or any kind of sore on the body no matter how long it has been running.

Directions for using Brewster's G-D for asthma.

Kills stray germs.

(With respect to "Brewster's T-Z.")

If you have a hemorrhage or symptoms of one, just begin rubbing T-Z right where the blood is coming from or feels like it might come and rub on gently until the symptoms disappear. However, it is not often that one of our patients have a hemorrhage after starting our treatment.

Rub T-Z on the spine all the way up and down every night. It will keep your nerves quiet so that you can sleep.

If patient is a woman * * * rub T-Z * * *. That will keep her periods regular * * *.

(With respect to "Brewster's Tonic.")

Give Brewster's Liver Tonic as directed; it will keep the blood circulating, the stomach in good condition, and the appetite good.

(With respect to "Brewster's Throat Wash.")

If—taking cold, gargle with Throat Wash as directed for tonsil trouble. One or two gargles will stop the cold.

(With respect to "Brewster's Throat Eaz" or "Brewster's Thoax Eaz.")

If you notice at any time of day or night that you are taking cold, gargle the throat with Throat Eaz as directed for tonsil trouble.

It will keep off colds. As soon as you notice that your throat is getting sore or that you are taking cold, gargle one time. Will stop if you do as directed. Also relieves tonsillitis and other throat trouble.

Rub * * * on the spine all the way up and down every night. It will keep your nerves quiet so that you can sleep.

If patient is a woman * * * she will rub Throat-Eaz on both sides * * *. That will keep periods regular.

A quick and sure relief for croup, diphtheria, whooping cough, scarlet fever, or cough from colds.

Brewster's Thoax-Eaz will absolutely remove the cause of the cough and if used according to directions will cure your cold.

Relieves whooping cough and coughs from colds, croup, and diphtheria as soon as applied.

If you have a small or delicate child that you want to keep from taking whooping cough or if you have one exposed to diphtheria, rub their throats with Thoax-Eaz six nights after such exposure. There will be no danger of them contracting either.

(With respect to "Brewster's Sinine.")

As treatment for sinus, mastoid, anthrum, nose or ear trouble.

(With respect to "Brewster's Pain Kill.")

It stops rheumatic and other body pains.

For Neuralgia.

For Rheumatism and Neuritis.

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(With respect to "Brewster's Ready Relief.")

It is unnecessary to be over three or four days in getting a patient over an attack of pneumonia.

Not over a week with typhoid or slow fever.

(With respect to the treatment of tuberculosis of the bone or lungs and asthma by the combined use of the four preparations mentioned in paragraph 2 hereof.)

We were * * * restoring poor tuberculosis sufferers back to health. We do it in a few months.

The one right medicine would have healed every tuberculosis patient that has ever fallen.

We are successfully treating tuberculosis of all kinds.

The patient, if not altogether relieved, will show such improvement that they will be anxious to order the second treatment.

(With respect to the other preparations.)

Don't allow Stomach Trouble, Kidney Trouble, Female Trouble, After Effect of Flu, Fever, Whooping Cough, Measles, or any other trouble that is calculated to pull down your power of resisting disease.—We have a treatment for most all of the diseases mentioned above.

Brewster's guaranteed treatment for goiter.

We also treat under a guarantee—Sciatica, mastoid, ear and head troubles; fistula and pile troubles, stomach and nerve troubles, gallstone and many other bodily ills.

By the said statements and others of like import and effect in his said circulars, respondent directly and by inference represents:

That "Brewster's G-D" is a protection and preventative against tuberculosis, a remedy for constipation, a remedy for asthma, a means of relieving pain in any part of the body, a germicide, and, in combination with the "Tonic" hereinafter mentioned, a remedy for cancer or any sore on the body.

That "Brewster's T-Z" is a means of preventing or alleviating coughing spells and tubercular hemorrhages, keeping the nerves quiet, and women's menstruation regular.

That "Brewster's Tonic" is a means of keeping the blood circulating, the stomach in good condition, and the appetite good.

That "Brewster's Throat Wash" is a means of preventing colds.

That "Brewster's Throat Eaz" is a preventive of, and a remedy for, colds, and a means of relieving coughing spells, tonsilitis, and other throat troubles, keeping the nerves quiet, and women's menstruation regular; a sure and quick relief and cure for croup, diphtheria, whooping cough, common cough, and scarlet fever, and a means of preventing whooping cough or diphtheria in small and delicate children.

That "Brewster's Sinine" is a treatment for sinus, mastoid, antrum, nose, or ear trouble.

That "Brewster's Pain Kill" is a treatment for rheumatism, neuritis, neuralgia, a means of stopping rheumatic and other body pains, and a cure for pneumonia and diphtheria.

That "Brewster's Ready Relief" is a remedy for head, chest, or lung colds, pneumonia, flu, typhoid fever, and childbed fever, and a means of warding off after effects of flu, pneumonia, or deep colds.

That "Brewster's Pyle Ointment" is of value for the relief and cure of hemorrhoids.

That a combination of the four preparations referred to above as "G-D," "Tonic," and "Throat Wash" together constitute a complete course of treatment for the cure of relief of tuberculosis of lungs or bone.

That he has other preparations which constitute treatments for kidney trouble, female trouble, measles, stomach trouble, gall stones, and goiter.

PAR. 5. In addition to the claims set forth in paragraph 4, the respondent, in like manner, has caused certain claims to be made as to his business and professional status.

Included among and typical of such claims are the following:

Prepared and guaranteed by Brewster Laboratories.

Manufactured and guaranteed by Brewster Laboratories.

Dr. Reece Brewster.

By the said statements, and others of like import and significance, respondent directly and by inference represents that the said preparations are compounded or manufactured in "laboratories," within the common and usual meaning of the word when used in connection with the preparation of drugs and medicines, i. e., place appropriately equipped for, and devoted to, experimental study in medical or pharmaceutical science, or the application of medical or pharmaceutical principles in the testing and analysis, or in the preparation of drugs and medicines, by persons skilled in those arts, and that the respondent is a physician entitled to use the designation or style of "Doctor" or "Dr."

PAR. 6. The representations made by respondent directly or by inference, with respect to the said medicinal preparations and to the curative or therapeutic value thereof, and the results to be obtained from the use thereof, are false, misleading, and untrue. In truth and in fact, "Brewster's G-D" will not, singly or in combination with other preparations of the respondent, constitute either a competent remedy or an adequate treatment for tuberculosis of the lungs or bone, cancer, asthma, or running sores. It will neither relieve constipation, nor afford protection against tuberculosis. It will not relieve pain and will not kill germs. "Brewster's T-Z" will not allay or avert

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coughing spells or tubercular hemorrhages, and will neither quiet the nerves nor keep women's periods regular. "Brewster's Tonic" has no tonic qualities nor does it affect the circulation of the blood. "Brewster's Throat-Eaz" (or "Thoax Eaz") is not a preventative of or a remedy for colds and does not constitute an effective treatment for any diseased condition of the throat, will not quiet the nerves and will not keep women's periods regular, will not relieve or cure croup, diphtheria, whooping cough, or scarlet fever, nor protect small or delicate children from contracting whooping cough or diphtheria. "Brewster's Sinine" is of no value in the treatment of sinus, mastoid, antrum, nose, or ear trouble. "Brewster's Pain Kill" is not a competent treatment or adequate remedy for rheumatism, neuritis, neuralgia, pneumonia, or diphtheria nor will it stop rheumatic and other bodily pain. "Brewster's Ready Relief" is not a competent remedy or adequate treatment for colds, pneumonia, flu, typhoid fever, or childbed fever, nor will it ward off the after effects of any of them. "Brewster's Pyle Ointment" is of no value in the treatment of piles. None of the said preparations, singly or in conjunction, constitute a competent remedy or adequate treatment for kidney trouble, female trouble, measles, stomach trouble, gallstones, or goiter.

The true facts are that the said preparations named herein consist essentially of mixtures of turpentine, kerosene, and edible oil in varying proportions. None of them are of value in the relief, remedy, and treatment of or protection against the diseases, symptoms, or conditions as represented by respondent. In addition, the preparations known as "G-D," "T-Z," and "Throat Wash" which are offered in combination with the "Tonic" as a cure for tuberculosis, contain iodides which have the property of breaking down the walled-off tubercular lesions.

PAR. 7. The representations made by respondent directly or by inference with respect to his business and professional status are false, misleading, and untrue. In truth and in fact, the said preparations are not prepared or manufactured in laboratories within the common and usual conception of the word when used in connection with drugs and medical preparations; respondent has had no medical training or laboratory experience, and is not qualified under the laws of the State of Tennessee or Texas as a person entitled to practice medicine.

PAR. 8. There are among the competitors of respondent, many who are engaged in the business of selling and distributing drugs and medicinal preparations intended for use in the relief, remedy, and treatment of the diseases, symptoms, and conditions hereinbefore set forth, and the building up of bodily resistance against the ravages thereof and the alleviation of the pains incident thereto, who do not in any

way misrepresent the therapeutic value of their said drugs and medicinal preparations or their respective business status.

PAR. 9. Each and all of the foregoing false and misleading representations and implications made by respondent, as hereinabove set out, were and are calculated to, and have had, and now have a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that the said representations and implications are true. As a direct result of such false and erroneous belief a number of the consuming public have purchased substantial amounts of respondent's preparations, with the result that trade has been diverted unfairly to respondent from respondent's competitors as aforesaid who do not resort to such false and deceptive representations. As a consequence thereof injury has been done, and is now being done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 10. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice 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 the 30th day of August 1938, issued and thereafter served its complaint in this proceeding upon the respondent, Jefferson R. Brewster, an individual trading as the Brewster Laboratories and as Dr. Reece Brewster, 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. After the issuance of said complaint, the respondent having failed to file any answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by DeWitt T. Puckett, attorney for the Commission, before John J. Keenan, 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. The respondent appeared in person at said hearing, but offered no evidence in opposition to said complaint. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, testimony, and other evidence, and brief in support of the complaint (respondent not having filed any brief and oral argument not having been

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requested), and the Commission having duly considered the matter and now being 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 respondent, Jefferson R. Brewster, of 1908 Joe Johnson Avenue, Nashville, Tenn., is an individual trading at this address under his own name and also under the name Brewster Laboratories.

PAR. 2. Respondent is engaged in the business of manufacturing, selling, and distributing various medicinal preparations designated by him as—

1. Brewster's G-D
2. Brewster's T-Z
3. Brewster's Tonic
4. Brewster's Throat Wash
5. Brewster's Thoax-Eaz
6. Brewster's Sinine
7. Brewster's Pain Kill
8. Brewster's Ready Relief
9. Brewster's Pile Ointment
10. A combination of the four preparations referred to above as G-D, T-Z, Tonic, and Throat Wash.
11. Other preparations.

PAR. 3. Respondent causes, and has caused, his said preparations, when sold, to be shipped from his place of business in Tennessee to purchasers thereof located in the States of Kentucky, North and South Carolina, Arkansas, Texas, and other States of the United States. Respondent maintains and has maintained a course of trade in his products in commerce between and among the various States of the United States.

PAR. 4. The respondent is in substantial competition with other individuals and with corporations, firms, and partnerships engaged in the sale and distribution among and between the various States of the United States of medicinal preparations designed for the treatment of the same ailments of the human body as those for which the respondent's preparations are recommended.

PAR. 5. The respondent, to promote the sale of his preparations, has caused circulars containing representations and claims with respect to his products to be distributed among prospective purchasers located in several States of the United States.

Among and typical of the representations and claims contained in said circulars are the following:

(With respect to "Brewster's G-D.")

There is practically no danger of one contracting it (tuberculosis) if he will observe the following rules: Take Brewster's liver tonic regularly and take two treatments of Brewster's G-D each week while you are being constantly exposed to the disease.

For constipation rub G-D on the bowels three times a day.

If you have a pain anywhere about your body, rub G-D on and get relief.

* * * many large running sores, * * * Brewster's G-D cured her in 30 days.

(With respect to "Brewster's T-Z.")

If you have a hemorrhage or symptoms of one, just begin rubbing T-Z right where the blood is coming from or feels like it might come and rub on gently until the symptoms disappear. However, it is not often that one of our patients have a hemorrhage after starting our treatment.

Rub T-Z on spine all the way up and down every night. It will keep your nerves quiet so that you can sleep.

If patient is a woman * * * rub T-Z * * *. That will keep periods regular * * *.

(With respect to "Brewster's Tonic.")

Give Brewster's Liver Tonic as directed; it will keep the blood circulating, the stomach in good condition, and the appetite good.

(With respect to "Brewster's Throat Wash.")

It will keep off cold. As soon as you notice that your throat is getting sore or that you are taking cold, gargle one time. Will stop if you do as directed. Also relieves tonsillitis and other throat troubles.

(With respect to "Brewster's Thoax-Eaz.")

A quick and sure relief for croup, diphtheria, whooping cough, scarlet fever, or cough from colds.

Brewster's Thoax-Eaz will absolutely remove the cause of the cough and if used according to directions will cure your child.

Relieves whooping cough and coughs from colds, croup, and diphtheria as soon as applied.

If you have a small or delicate child that you want to keep from taking whooping cough or if you have one exposed to diphtheria, rub their throats with Thoax-Eaz six nights after such exposure. There will be no danger of them contracting either.

(With respect to "Brewster's Sinine.")

For sinus, mastoid, antrum, nose, and ear troubles.

(With respect to "Brewster's Pain Kill.")

For Neuralgia.

For rheumatism and neuritis. It stops the pain.

You will catch the stray germs * * *.

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(With respect to "Brewster's Ready Relief.")

It is unnecessary to be over three or four days in getting a patient over an attack of pneumonia.

Not over a week with typhoid or slow fever.

(With respect to the treatment of tuberculosis of the bone or lungs and asthma by the combined use of the four preparations mentioned in paragraph 2 hereof.)

We were * * * restoring poor tuberculosis sufferers back to health. We do it in a few months.

The one right medicine would have healed every tuberculosis patient that has ever fallen.

Brewster's Treatment for T. B. of Lung and Bone and Asthma.

We are successfully treating tuberculosis of all kinds.

The patient, if not altogether relieved, will show such improvement that they will be anxious to order the second treatment.

(With respect to the other preparations.)

Don't allow Stomach Trouble, Kidney Trouble, Female Trouble, After Effect of Flu, Fever, Whooping Cough, Measles, or any other trouble, that is calculated to pull down your power of resisting disease—protect yourself against cancer—, We have a treatment for most all of the diseases mentioned above.

Brewster's guaranteed treatment for goiter.

We also treat under a guarantee—Sciatica, mastoid, ear and head troubles; fistula and pile troubles, stomach and nerve troubles, gallstones and many other bodily ills.

PAR. 6. By the use of said statements and representations, and others of like import and effect in the said circulars, respondent, directly and by inference, represents that his preparations possess remedial and curative qualities; that "Brewster's G-D" is a remedy for constipation, and for running sores, a means of relieving pain in any part of the body, and, in combination with the "Tonic" hereinafter mentioned, a preventive of tuberculosis; that "Brewster's T-Z" will prevent and alleviate coughing spells, will cure hemorrhages, keep the nerves quiet, and women's menstruation regular; that "Brewster's Tonic" will make the blood circulate properly if there is any disease or other condition of the circulatory system existing, will remedy stomach conditions and keep the stomach in good condition, and will produce a good appetite; that "Brewster's Throat Wash" is a means of preventing colds, and will relieve tonsillitis and other throat troubles; that "Brewster's Thoax-Eaz" is a means of relieving and curing croup, diphtheria, whooping cough, common cough, and scarlet fever, and a means also of preventing whooping cough or diphtheria in small and delicate children; that "Brewster's Sinine" is a treatment and remedy for sinus, mastoid, antrum, and nose and ear troubles; that "Brewster's Pain Kill" is a competent and effective germicide and a competent and effective treat-

ment for rheumatism, neuritis, and neuralgia; that "Brewster's Ready Relief" is a cure for pneumonia, slow fever, and typhoid fever; that "Brewster's Pile Ointment" is a cure for hemorrhoids; that a combination of the four preparations "G-D," "T-Z," "Tonic" and "Throat Wash" constitutes a cure for tuberculosis of the lungs or bone and for asthma; that respondent has other preparations which constitute cures for kidney trouble, cancer, female trouble, measles, stomach trouble, gallstones, goiter, sciatica, head troubles, fistula troubles, piles, and nerve disorders.

PAR. 7. The Commission finds that all of the respondent's preparations are combinations in varying proportions of turpentine, kerosene, and edible oil, with traces of water, iron salts, iodides, ammonia, iodine, cresols, and oil of cinnamon. None of the preparations, whether used singly or in combination with others, constitute a cure or remedy or a competent or effective treatment for any of the ailments, diseases, or conditions of the human body for which they are recommended by the respondent. Nor do said preparations or any of them constitute preventives of whooping cough or diphtheria, or constitute competent or effective germicides. The preparations are wholly without therapeutic value.

PAR. 8. In addition to the representations made by the respondent with respect to his preparations as herein set forth, the respondent has also made in his said advertising material certain representations with respect to his business status.

Among and typical of such representations are the following:

Prepared and guaranteed by Brewster Laboratories.

Manufactured and guaranteed by Brewster Laboratories.

By the use of said statements and representations and others of like import, the respondent represents that he owns or operates a laboratory in connection with his business, and that his said preparations are compounded and tested in such laboratory.

The Commission finds that the respondent does not now own or operate, nor has he at any time owned or operated, a laboratory. Respondent mixes his preparations in his own home, and his equipment consists only of jugs and bottles, a funnel, and certain measuring cans or vessels.

PAR. 9. The use by the respondent of the aforesaid false and misleading statements and representations has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and into the purchase of substantial quantities of respondent's preparations. As a result, trade has been di-

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verted unfairly to the respondent from his competitors, and in consequence thereof substantial injury has been done and is being done by the respondent to competition in commerce among and between the various States of the United States.

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 (the respondent having filed no answer thereto), testimony and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint (the respondent having offered no evidence in opposition thereto) and brief in support of the complaint (respondent having filed no brief, and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Jefferson R. Brewster, individually and trading as Brewster's Laboratories, or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of his medicinal preparations designated "Brewster's G-D," "Brewster's T-Z," "Brewster's Tonic," "Brewster's Throat Wash," "Brewster's Thoax-Eaz," "Brewster's Sinine," "Brewster's Pain Kill," "Brewster's Ready Relief," and "Brewster's Pile Ointment," or any other preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from:

1. Representing that said preparations, or any of them, or any combination of two or more of them, are cures or remedies for, or possess any therapeutic value in the treatment of, constipation, running sores, pains in the body, tuberculosis, coughing spells, hemorrhages, nervousness, irregular menstruation, disorders of the circula-

tory system, stomach disorders, lack of appetite, colds, tonsilitis, throat troubles, croup, diphtheria, whooping cough, common coughs, scarlet fever, sinus disorders, mastoid disorders, nose troubles, antrum, ear troubles, rheumatism, neuritis, neuralgia, pneumonia, slow fever, typhoid fever, hemorrhoids, asthma, kidney trouble, cancer, female troubles, measles, gallstones, goiter, sciatica, head troubles, fistula troubles, piles, or nerve disorders.

2. Representing that any of said preparations constitute preventives of whooping cough or diphtheria.

3. Representing that any of said preparations constitute competent or effective germicides.

4. Using the word "Laboratories" or any other word of similar import or meaning in his trade name, or otherwise representing that he owns or operates a laboratory.

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.

IN THE MATTER OF

SAN PEDRO FISH EXCHANGE, SEAFOOD BROKERAGE, INC., SOUTHERN CALIFORNIA WHOLESALE FISH DEALERS ASSOCIATION AND THE RESPECTIVE OFFICERS, ETC., OF SAID ASSOCIATIONS AND CORPORATION, AND LOS ANGELES FISH EXCHANGE, M. N. BLUMENTHAL AND SOUTHERN SEA PRODUCTS BROKERAGE CORPORATION, AND OFFICERS, DIRECTORS AND STOCKHOLDERS THEREOF

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3739. Complaint, Mar. 17, 1939—Decision, July 13, 1940

Where distributors or wholesale fish dealers who (1) were engaged in purchasing, selling, and distributing fish and sea products from their respective places of business on the Municipal Wharf in San Pedro, Calif., 20 miles from city proper in metropolitan Los Angeles, and principal fresh fish market in southern California, through which pass most of fish caught locally and marketed in commerce, (2) purchased, until recently, when situation was affected by demands and activities of one of unions of fishermen who had brought fish to said point, entire supply of fish caught locally and moving across San Pedro wharf, and part of which was shipped to customers in States lying east and northeast of southern California and to dealers in San Francisco and other places in State, (3) handled, prior to unaccommodated price demand of one of fishermen's unions, through their Fish Exchange, the entire commercial supply of fresh fish caught locally and coming to said point, (4) bought fish and sea products originating elsewhere from shippers, and usually through their Seafood Brokerage concern, and (5) sold fresh fish moving across said wharf to wholesalers in Los Angeles and other California points, to retailers in states outside of California and those within said State, and to stock wagons and peddlers operating in Los Angeles area—

- (a) Entered into an understanding and agreement, as members of their said San Pedro Fish Exchange association, organized and composed of all wholesale fish and sea food dealers at said point, to effect that each would observe prices fixed by price committee of Exchange, and that each should pay to Exchange, as liquidated damages for all fish sold other than in accordance with uniform price quotation of executive committee thereof, 5 cents per pound for entire shipment wherein any item thereof was so sold in violation of such quotations, and with minimum penalty of \$5; and

Where aforesaid unincorporated association, organized in December 1936, under laws of said State, as San Pedro Fish Exchange, with principal office and place of business at said point, composed as aforesaid, and to which no new members, under agreement and articles of association limiting such members to those receiving two-thirds favorable vote and paying initiation fee of \$5,000, had been admitted since organization, and executive committee of