

Syllabus

IN THE MATTER OF
FRANK SPORS, TRADING AS THE SPORS COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4246. Complaint, Aug. 20, 1940—Decision, Oct. 9, 1940

Where an individual engaged in sale and distribution of various drugs, cosmetics, fountain pens, mending tissue, household accessories, and numerous other products, including (1) Super-Pure Laxative Bromide Quinine Tablets, (2) Electro Heat-Kwik water heater, (3) Savarip, for silk and rayon garments, and (4) Elgin Style Pointed (fountain) Pens; in advertisements of his said Bromide Quinine Tablets, which he disseminated and caused to be disseminated through the mails and in newspapers and periodicals and by circulars, leaflets, and other advertising literature, and otherwise, and which were intended and likely to induce purchase of said preparation—

- (a) Represented that said tablets constituted a cure or remedy for colds, through such statements as "The Easiest and quickest way to get rid of a cold" and others of similar import, facts being, while said medicinal preparation might afford partial and temporary relief from symptoms of colds, it did not constitute cure or remedy for such ailment or condition; and

Where said individual; in advertisements of said water heater, Savarip and pens, which he caused to be inserted in periodicals and other publications, and in catalogs, circulars, and other printed or written matter distributed among purchasers and prospective purchasers—

- (b) Represented that said heater was capable of heating substantial quantities of water, such as required for family laundry and bathing, and that it might be used with entire safety, and heated such quantities more quickly than gas, coal or wood, and had been approved by the Underwriters' Laboratories, facts being it was incapable of heating such quantities for purposes aforesaid, was not entirely safe and might cause severe shock to user coming in contact with any grounded metal object, did not heat substantial quantities more quickly than gas, coal or wood, and, while cord attached to said product might have been approved as aforesaid, the heater had not been;
- (c) Represented that said Savarip was of substantial value in prevention of runs, snags, and breaks in silk and rayon hosiery and lingerie and rendered such garments rain-spot proof and prevented shrinkage and fading and prolonged life thereof, facts being it was of no substantial value in prevention of runs, etc., as above claimed, did not accomplish aforesaid results and was of no value in prolonging life of such garments; and
- (d) Represented that his said fountain pens were comparable to those retailing for sums up to \$5.00 each, and that flow of ink therefrom was unusually even and steady, and that agents and salesmen reselling the same were enabled to make a profit of 300 percent, facts being said products did not compare favorably with pens selling for \$5.00, or for any sum approxi-

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mating such amount, nor compare favorably with those selling for more than \$1.00, flow of ink therefrom was not unusually even or steady, and it was not possible for agents or salesmen to make such a profit or one approaching such profit from resale of said products;

With effect of misleading and deceiving substantial number of purchasing public into erroneous and mistaken belief that such statements and representations were true, and into purchase of substantial quantities of his said products:

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.

Mr. Donovan R. Divet 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 Frank Spors, an individual trading as The Spors Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Frank Spors, is an individual trading as The Spors Co. and has his office and principal place of business at Le Center, in the State of Minnesota.

Respondent is now and for more than 2 years last past has been engaged in the business of selling and distributing various drugs, cosmetics, fountain pens, mending tissue, household accessories and numerous other products, among which are: a medicinal preparation known as Super-Pure Laxative Bromide Quinine Tablets, intended as a cure for colds; a small electric water heater known as Electro Heat-Kwik water heater; a composition intended to strengthen, and prevent runs in, silk and rayon garments, known as Savarip; and fountain pens sometimes described as Elgin Stylo Pointed Pens.

Respondent causes each and all of said products, when sold, to be transported from his aforesaid place of business in the State of Minnesota, to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in all of said products 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 his aforesaid business the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements con-

cerning his said product Super-Pure Laxative Bromide Quinine Tablets by the United States mails and by various 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 said product; and respondent has also disseminated, and is now disseminating, and has caused and is now causing, the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his products Electro Heat-Kwik water heater, Savarip, and Elgin Stylo Pointed Pen, the respondent has caused various statements and representations relative to said products to be inserted in periodicals and other publications and in catalogs, circulars, and other printed or written matter, all of which are distributed among purchasers and prospective purchasers of said products.

Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements with respect to respondent's said medicinal preparation, Super-Pure Laxative Bromide Quinine Tablets, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, and by circulars, leaflets, and other advertising literature, are the following:

The Easiest and quickest way to get rid of a cold.

Among and typical of the statements and representations concerning said product Electro Heat-Kwik water heater, are the following:

For washing, shaving, bathing, clothing, and dishwashing.

The Electro Heat-Kwik has been found to be safe, sanitary, and quicker acting than either gas, coal or wood.

With this handy new device you get hot water in a jiffy by merely plugging the underwriters approved 8 foot cord to your light socket.

You'll find the Underwriters' Laboratories seal of approval on every Electro Heat-Kwik 8 foot cord.

Among and typical of the statements and representations concerning said product Savarip are the following:

Helps prevent runs. A preparation that helps to prevent and retard runs, snags, and breaks in silk and rayon hosiery or lingerie. Rain spot proof.

Doubles the wear of hosiery and lingerie.

Prevents shrinking and fading.

Among and typical of the statements and representations concerning said product Elgin Stylo Pointed Pens are the following:

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Compare with \$5 fountain pen performance.

Ink flows as evenly and as steady as an electric current.

Ball on concealed end of point regulates the steady even ink flow—Eliminates blotting and keeps the point ever ready for quick starting.

You can sell it for 99¢ and make a 300% profit.

PAR. 3. Through the use of the foregoing statements and representations and others of similar import not specifically set out herein, respondent represents that said medicinal preparation "Super-Pure Laxative Bromide Quinine Tablets" constitutes a cure or remedy for colds. In a similar manner the respondent has represented that said "Electro Heat-Kwik" water heater is capable of heating substantial quantities of water such as are required for family laundry and for baths; that it may be used with entire safety; that it heats substantial quantities of water more quickly than gas, coal or wood and that such device has been approved by the Underwriters' Laboratories. In a similar manner, respondent has represented that the product "Savarip" is of substantial value in the prevention of runs, snags, and breaks in silk and rayon hosiery and lingerie; that it renders such garments rain-spot proof, prevents shrinking and fading and prolongs the life of such garments. In a similar manner respondent has represented that said fountain pens are comparable to fountain pens retailing for sums up to \$5.00 each; that the flow of ink from said pens is unusually even and steady; and that agents and salesmen reselling said pens are enabled to make a profit of 300 percent.

PAR. 4. The foregoing representations are grossly exaggerated, false, and misleading. While respondent's medicinal preparation may afford partial and temporary relief for the symptoms of colds, it does not constitute a cure or remedy for colds. Said water heater is incapable of heating substantial quantities of water such as are required for family laundering or for bathing purposes. It is not entirely safe, as it may cause severe shock to a user coming in contact with any grounded metal object. It does not heat substantial quantities of water more quickly than gas, coal or wood. While the cord attached to said water heater may have been approved by the Underwriters' Laboratories, said heater has not been so approved.

Respondent's product Savarip is of no substantial value in the prevention of runs, snags or breaks in silk or rayon hosiery or lingerie. It does not render such garments rain-spot proof, nor does it prevent shrinking or fading. It is of no value in prolonging the life of such garments. Respondent's said fountain pens do not compare favorably with fountain pens selling for \$5.00 each or for any sum approximating that amount. Such pens do not compare favorably with pens selling for more than \$1.00 each. The flow of ink from such pens is

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not unusually even or steady. It is not possible for agents or salesmen to make a profit of 300 percent, or any profit approaching such figure, from the resale of such pens.

PAR. 5. The use by the respondent of the aforesaid false and misleading statements and representations has the capacity and tendency to, and does, mislead and deceive a substantial number 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 said products.

PAR. 6. 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 August 20, 1940, issued and subsequently served its complaint in this proceeding upon respondent Frank Spors, an individual trading as the The Spors Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 17, 1940, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said 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 and the answer thereto, 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 respondent, Frank Spors, is an individual trading as The Spors Co. and has his office and principal place of business at Le Center, in the State of Minnesota.

Respondent is now and for more than 2 years last past has been engaged in the business of selling and distributing various drugs, cosmetics, fountain pens, mending tissue, household accessories, and numerous other products, among which are: a medicinal preparation known as Super-Pure Laxative Bromide Quinine Tablets, intended as a cure for colds; a small electric water heater known as Electro Heat-Kwik water heater; a composition intended to strengthen, and

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prevent runs in, silk and rayon garments known as Savarip; and fountain pens sometimes described as Elgin Stylo Pointed Pens.

Respondent causes each and all of said products, when sold, to be transported from his aforesaid place of business in the State of Minnesota, to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in all of said products 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 his aforesaid business the respondent has caused and is now causing the dissemination of, false advertisements concerning his said product Super-Pure Laxative Bromide Quinine Tablets by the United States mails and by various 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 said product; and respondent has also disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his products Electro Heat-Kwik water heater, Savarip, and Elgin Stylo Pointed Pen, the respondent has caused various statements and representations relative to said products to be inserted in periodicals and other publications and in catalogs, circulars, and other printed or written matter, all of which are distributed among purchasers and prospective purchasers of said products.

Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements with respect to respondent's said medicinal preparation, Super-Pure Laxative Bromide Quinine Tablets, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, and by circulars, leaflets, and other advertising literature, are the following:

The Easiest and quickest way to get rid of a cold.

Among and typical of the statements and representations concerning said product Electro Heat-Kwik water heater, are the following:

For washing, shaving, bathing, clothing, and dishwashing.

The Electro Heat-Kwik has been found to be safe, sanitary and quicker acting than either gas, coal or wood.

With this handy new device you get hot water in a jiffy by merely plugging the underwriters approved 8 foot cord to your light socket.

You'll find the Underwriters' Laboratories seal of approval on every Electro Heat-Kwik 8 foot cord.

Among and typical of the statements and representations concerning said product Savarip are the following:

Helps prevent runs. A preparation that helps to prevent and retard runs, snags, and breaks in silk and rayon hosiery or lingerie. Rain spot proof.

Doubles the wear of hosiery and lingerie.

Prevents shrinking and fading.

Among and typical of the statements and representations concerning said product Elgin Stylo Pointed Pens are the following:

Compare with \$5 fountain pen performance.

Ink flows as evenly and as steady as an electric current.

Ball on concealed end of point regulates the steady even ink flow—Eliminates blotting and keeps the point ever ready for quick starting.

You can sell it for 99¢ and make a 300% profit.

PAR. 3. Through the use of the foregoing statements and representations and others of similar import not specifically set out herein, respondent represents that said medicinal preparation "Super-Pure Laxative Bromide Quinine Tablets" constitutes a cure or remedy for colds. In a similar manner the respondent has represented that said "Electro Heat-Kwik" water heater is capable of heating substantial quantities of water such as are required for family laundry and for baths; that it may be used with entire safety; that it heats substantial quantities of water more quickly than gas, coal or wood; and that such device has been approved by the Underwriters' Laboratories. In a similar manner, respondent has represented that the product "Savarip" is of substantial value in the prevention of runs, snags, and breaks in silk and rayon hosiery and lingerie; that it renders such garments rain-spot proof, prevents shrinking and fading and prolongs the life of such garments. In a similar manner respondent has represented that said fountain pens are comparable to fountain pens retailing for sums up to \$5.00 each; that the flow of ink from said pens is unusually even and steady; and that agents and salesmen reselling said pens are enabled to make a profit of 300 percent.

PAR. 4. The foregoing representations are grossly exaggerated, false, and misleading. While respondent's medicinal preparation may afford partial and temporary relief for the symptoms of colds, it does not constitute a cure or remedy for colds. Said water heater is incapable of heating substantial quantities of water such as are required for family laundering or for bathing purposes. It is not entirely safe, as it may cause severe shock to a user coming in contact with

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any grounded metal object. It does not heat substantial quantities of water more quickly than gas, coal or wood. While the cord attached to said water heater may have been approved by the Underwriters' Laboratories, said heater has not been so approved.

Respondent's product Savarip is of no substantial value in the prevention of runs, snags, or breaks in silk or rayon hosiery or lingerie. It does not render such garments rain-spot proof, nor does it prevent shrinking or fading. It is of no value in prolonging the life of such garments. Respondent's said fountain pens do not compare favorably with fountain pens selling for \$5 each or for any sum approximating that amount. Such pens do not compare favorably with pens selling for more than \$1 each. The flow of ink from such pens is not unusually even or steady. It is not possible for agents or salesmen to make a profit of 300 percent, or any profit approaching such figure, from the resale of such pens.

PAR. 5. The use by the respondent of the aforesaid false and misleading statements and representations has the capacity and tendency to, and does, mislead and deceive a substantial number 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 said products.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, 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, Frank Spors, individually and trading as The Spors Co., 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 or distribution of his medicinal preparation designated

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Super-Pure Laxative Bromide Quinine Tablets, or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name, 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, that said preparation is a cure or remedy for colds.

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 advertisements contain any of the representations prohibited in paragraph 1 hereof.

It is further ordered, That the respondent, Frank Spors, individually and trading as The Spors Co., 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 of his products known as Electro Heat-Kwik water heaters, Savarip, and Elgin Style Pointed Pens, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Representing that said Electro Heat-Kwik water heaters are capable of heating substantial quantities of water such as are required for family laundering or for bathing purposes.

(b) Representing, through failure to reveal that a user of said Electro Heat-Kwik water heater coming in contact with any grounded metal object may suffer severe shock, or in any other manner, that said water heaters are entirely safe for use.

(c) Representing that said Electro Heat-Kwik water heaters will heat substantial quantities of water more quickly than gas, coal or wood.

(d) Representing that said Electro Heat-Kwik water heaters have been approved by the Underwriters' Laboratories.

(e) Representing that said product Savarip is of any substantial value in the prevention of runs, snags or breaks in silk or rayon hosiery or lingerie, or that it renders such garments rain-spot proof, or that it prevents shrinking or fading, or that it is of any value in prolonging the life of silk or rayon hosiery or lingerie.

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(f) Representing that said Elgin Style Pointed Pens compare favorably with fountain pens retailing for any sum in excess of \$1.00, or that the flow of ink from said pens is unusually even or steady, or that said pens can be resold at a profit of 300 percent or at any profit approximating such figure.

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

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IN THE MATTER OF

BLANCHE KAPLAN, DOING BUSINESS AS PROGRESSIVE MEDICAL COMPANY, PROGRESSIVE LABORATORIES, LADIES AID COMPANY, LADIES AID, AND LADIES AID PRODUCTS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4261. Complaint, Aug. 22, 1940—Decision, Oct. 9, 1940

Where an individual engaged, under names Progressive Medical Co., Progressive Laboratories, Ladies Aid Co., and others, in sale and distribution of certain medicinal preparations designated as Ladies Aid No. 1 H. Y. G. Tablets, Ladies Aid No. 4, Promeco Cod Liver Oil Compound Tablets, and Ladies Aid Reducing Tablets; in advertisements of her said products which she disseminated and caused to be disseminated through the United States mails and through circulars, leaflets, pamphlets, and other advertising literature, and otherwise, and which were intended and likely to induce purchase of her said products—

- (a) Represented that her said Ladies Aid No. 1 H. Y. G. Tablets constituted a competent vaginal antiseptic and reliable germ destroyer, and was an effective prophylactic against venereal diseases and a dependable contraceptive, facts being her said product was not a competent vaginal antiseptic and reliable germ destroyer, nor effective prophylactic against such diseases, nor dependable contraceptive;
- (b) Represented that her said Ladies Aid No. 4 was a competent and effective treatment for leucorrhea, vaginitis, pruritus vulvae, and cases of fetid discharges, facts being said product was not such a treatment for said conditions, which are only symptoms that arise from vaginal and uterine infections or other pathological conditions, and can only be corrected by eliminating the causes thereof, and at best said preparation could only be useful as an accessory to the treatment of such causes;
- (c) Represented that her said Promeco Cod Liver Oil Compound Tablets was a new scientific discovery and constituted an effective remedy for every condition for which physicians might prescribe cod liver oil, facts being said product was not a new scientific discovery nor an effective remedy for every such condition;
- (d) Represented that her said Ladies Aid Reducing Tablets constituted an amazing new scientific discovery and was safe and harmless, and that by use thereof one could easily reduce five pounds a week without diet or exercise, and that it contained the ingredients of a wonderful and newly discovered ocean plant that are effective in the treatment of obesity, facts being her said product was not an amazing new scientific discovery, nor safe and harmless, one could not reduce 5 pounds a week or any other appreciable amount by use thereof without diet or exercise, and it did not contain the ingredients of such plant, but the only ingredient contained therein, other than the commonly known drugs of phenolphthalein and aloin, was powdered extract of bladder wrack, which does not possess any therapeutic properties,