

Syllabus

IN THE MATTER OF

RENE P. BALDITT, TRADING AS CLITO COMPANY

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

Docket 4262. Complaint, Aug. 23, 1940—Decision, Oct. 23, 1940

Where an individual engaged, as "Clito Company," in sale and distribution of two drug preparations advertised under name "Clito," and designated respectively as "Clito Emmenagogue Capsules" and "Rayo De Sol"; in advertisements of his said preparations which he disseminated and caused to be disseminated through the mails and by various other means in commerce, through advertisements in newspapers and by circulars and other advertising literature, and otherwise—

- (a) Represented, directly and by implication, that his said product designated as "Clito," and also as "Clito Emmenagogue Capsules," was a competent and effective treatment for delayed menstruation, and was safe and harmless, facts being said preparation was not a competent or efficient treatment for such condition, and was not safe or harmless, in that it contained apiol and various other drugs in quantities sufficient to cause serious and irreparable injury to health if used under conditions described in said advertisements or under such conditions as are customary and usual, and might result in gastrointestinal disturbances and excessive congestion and hemorrhage of the pelvic organs and, in case of pregnancy, might cause uterine infection and blood poisoning and other serious conditions, resulting, in some instances, in serious and irreparable loss and injury to health;
- (b) Represented that said "Rayo De Sol" was a competent and efficient cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes, and possessed therapeutic value in the treatment of such conditions, facts being said "Rayo De Sol" was not a competent and efficient cure for conditions above set forth, and had no value in treatment thereof; and
- (c) Failed to reveal in said advertisements facts material in the light of such representations, and that use of said "Clito Emmenagogue Capsules," under conditions prescribed in such advertisements or under such conditions as are customary or usual, might result in serious and irreparable injury to health;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous and mistaken belief that said false, misleading, and deceptive statements, representations, and advertisements were true, and that said preparation designated as "Clito Emmenagogue Capsules" was a safe, competent, and effective treatment for delayed menstruation, and that said preparation designated as "Rayo De Sol" was a competent and efficient treatment and cure for aforesaid conditions of the eyes, and to induce purchase by the public of his said 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.

Mr. R. P. Bellinger, for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondent.

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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 Rene P. Balditt, trading as Clito Co., 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, Rene P. Balditt, is an individual trading and doing business as Clito Co., with his principal office and place of business located at 325 North Frio Street, San Antonio, Tex.

PAR. 2. Respondent is now, and for some time past has been, engaged in the sale and distribution of two drug preparations advertised under the name "Clito," and designated respectively as "Clito Emmenagogue Capsules" and as "Rayo De Sol."

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

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused, and is now causing, the dissemination of, false advertisements concerning his said preparations, by United States mails, 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 his said preparations, and respondent has also disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning his said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers, and by circulars and other advertising literature, are the following:

SEÑORAS CASADAS

Periodo irregular o suspendido hasta por tres meses aliviado inmediatamente con !! CLITO !! Solo unas cuantas dosis y el resultado viene. No tiene riesgo

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ni se interpone con su trabajo. Quitese esa duda. Ordene este remedio hoy mismo! **FUERZA ENTERA, \$2.35—MUY EFFECTIVO** para casos largos y obstinados \$5. Tratamiento completo. Remita valor o pídalo C. O. D. a Clito Company, P. O. Box 1294—Dept. P, San Antonio, Tex.

The English translation of the above advertisement is as follow:

MARRIED WOMEN

Irregular period or period suspended for as much as three months, relieved immediately with CLITO! Only a few doses for results. There is no risk and it does not interfere with your work. Get rid of that doubt. Order this remedy this very day. Full strength \$2.35. Very effective for long-standing and obstinate cases \$5.00. Complete treatment. Send money or order it C. O. D. of Clito Company, P. O. Box 1294, Dept. P, San Antonio, Texas.

No vaya a Quedar Ciego!

"RAYO DE SOL." Tratamiento para combatir cataratas o NUBLAZON de la vista o nubes, carnosidades, úlceras o inflamaciones de los ojos. Miles de personas sanadas.

NUEVO PRECIO: \$1.35

Mande valor o pídalo C. O. D. a

CLITO CO.—Box 1294

San Antonio, Texas

The English translation of the above advertisement is as follows:

DON'T BECOME BLIND!

"RAYO DE SOL," a treatment to combat cataracts, CLOUDINESS of vision, or film, carnosity, ulcers or inflammation of the eyes. Thousands of persons cured.

NEW PRICE: \$1.35

Send the amount or order it C. O. D. from

CLITO CO.—Box 1294

San Antonio, Texas

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, the respondent has represented, directly and by implication, that his preparation designated as "Clito," also designated as "Clito Emmenagogue Capsules," is a competent and effective treatment for delayed menstruation and that said preparation is safe and harmless, and that the preparation designated as "Rayo De Sol" is a competent and efficient cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes and possesses therapeutic value in the treatment of such conditions.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondent as hereinabove set forth are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation designated as "Clito Emmenagogue Capsules" is not a competent or efficient treatment for delayed menstruation. More-

over, said preparation is not safe or harmless, in that it contains the drugs, apiol, ext. cotton root bark, ext. viburnum prunifolium, ext. pulsatilla, ext. sumbul and ext. helonias, in quantities sufficient to cause serious and irreparable injury to health, if used under the conditions described in said advertisements or under such conditions as are customary or usual.

Such use of said preparation may result in gastro-intestinal disturbances, catharsis, nausea and vomiting, with pelvic congestion, congestion of the uterus, leading to excessive uterine hemorrhage, and in those cases where said preparation is used to interfere with the normal course of pregnancy, such use may result in uterine infection with extension to other pelvic and abdominal structures and even to the blood stream, causing the condition known as septicemia or blood poisoning.

Such use of said preparation may also produce a severe circulatory condition by the congestion of the blood vessels, contraction of the involuntary muscles, often with poisonous effect upon the human system, and tending to cause abortion in some instances, and may result in severe toxic conditions such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs, resulting either in possible loss of limbs or in other serious and irreparable injury to health.

In truth and in fact, respondent's preparation "Rayo de Sol" is not a competent and efficient cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes and said preparation has no value in the treatment of such conditions.

PAR. 6. In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements of the preparation designated as "Clito Emmenagogue Capsules," failed to reveal facts material in the light of such representations and failed to reveal that the use of such preparation under the conditions prescribed in such advertisements or under such conditions as are customary or usual, may result in serious and irreparable injury to health.

PAR. 7. The use by the respondent of the aforesaid false, misleading, and deceptive statements and representations with respect to his said preparations, disseminated as aforesaid, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and advertisements are true, and that the preparation designated as "Clito Emmenagogue Capsules," is a safe, competent, and effective treatment for delayed menstruation, and that the preparation designated as "Rayo De Sol" is a competent and effi-

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cient treatment and cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes, and to induce purchase by the public of the respondent's said preparations.

PAR. 8. 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 23, 1940, issued, and on August 28, 1940, served its complaint in this proceeding upon respondent, Rene P. Balditt, an individual trading as Clito 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 10, 1940, the respondent filed his answer, in which answer he admitted all of 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 the 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. Respondent, Rene P. Balditt, is an individual trading and doing business as Clito Co., with his principal office and place of business located at 325 North Frio Street, San Antonio, Tex.

PAR. 2. Respondent is now, and for some time past has been, engaged in the sale and distribution of two drug preparations advertised under the name "Clito," and designated respectively as "Clito Emmenagogue Capsules," and as "Rayo De Sol."

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

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused, and is now causing, the dissemination of, false advertisements concerning his said preparations, by United States mails, and

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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 his said preparations, and respondent has also disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning his said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers, and by circulars and other advertising literature, as the following:

SEÑORAS CASADAS

Periodo irregular o suspendido hasta por tres meses, aliviado inmediatamente con !! CLITO !! Solo unas cuantas dosis y el resultado viene. No tiene riesgo ni se interpone con su trabajo. Quite esa duda. Ordene este remedio hoy mismo] FUERZA ENTERA, \$2.35—MUY EFECTIVO para casos largos y obstinados \$5, Tratamiento completo. Remita valor o pídalo C. O. D. a Clito Company, P. O. Box 1294—Dept. P—San Antonio, Tex.

The English translation of the above advertisement is as follows:

MARRIED WOMEN

Irregular period or period suspended for as much as three months, relieved immediately with CLITO! Only a few doses for results. There is no risk and it does not interfere with your work. Get rid of that doubt. Order this remedy this very day. Full strength, \$2.35. Very effective, for long-standing and obstinate cases \$5.00. Complete treatment. Send money or order it C. O. D. of Clito Company, P. O. Box 1294, Dept. P, San Antonio, Texas.

No Vaya a Quedar Ciego!

"RAYO DE SOL." Tratamiento para combatir cataratas o NUBLAZON de la vista o nubes, carnosidades, úlceras o inflamaciones de los ojos. Miles de personas sanadas.

NUEVO PRECIO: \$1.35

Mande valor o pídalo C. O. D. a

CLITO co.—Box 1294

San Antonio, Texas.

The English translation of the above advertisement is as follows:

DON'T BECOME BLIND!

"RAYO DE SOL," a treatment to combat cataracts, CLOUDINESS of vision, or film, carnosity, ulcers or inflammation of the eyes. Thousands of persons cured.

NEW PRICE: \$1.35

Send the amount or order it C. O. D. from

CLITO co.—Box 1294

San Antonio, Texas.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, the respondent has represented, directly and by implication, that his preparation designated as "Clito," also designated as "Clito Emmenagogue Capsules" is a competent and effective treatment for delayed menstruation and that said preparation is safe and harmless, and that the preparation designated as "Rayo De Sol" is a competent and efficient cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes and possesses therapeutic value in the treatment of such conditions.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondent as hereinabove set forth are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation designated as "Clito Emmenagogue Capsules" is not a competent or efficient treatment for delayed menstruation. Moreover, said preparation is not safe or harmless, in that it contains the drugs, apiol, ext. cotton root bark, ext. viburnum prunifolium, ext. pulsatilla, ext. sumbul, and ext. helonias, in quantities sufficient to cause serious and irreparable injury to health, if used under the conditions described in said advertisements or under such conditions as are customary or usual.

Such use of said preparation may result in gastro-intestinal disturbances, catharsis, nausea and vomiting, with pelvic congestion, congestion of the uterus, leading to excessive uterine hemorrhage, and in those cases where said preparation is used to interfere with the normal course of pregnancy, such use may result in uterine infection with extension to other pelvic and abdominal structures and even to the blood stream, causing the condition known as septicemia or blood poisoning.

Such use of said preparation may also produce a severe circulatory condition by the congestion of the blood vessels, contraction of the involuntary muscles, often with poisonous effect upon the human system, and tending to cause abortion in some instances, and may result in severe toxis conditions, such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs, resulting either in possible loss of limbs or in other serious and irreparable injury to health.

In truth and in fact, respondent's preparation "Rayo De Sol" is not a competent and efficient cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes and said preparation has no value in the treatment of such conditions.

PAR. 6. In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false ad-

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vertisements in the manner above set forth, in that said advertisements of the preparation designated as "Clito Emmenagogue Capsules," failed to reveal facts material in the light of such representations and failed to reveal that the use of such preparation under the conditions prescribed in such advertisements or under such conditions as are customary or usual, may result in serious and irreparable injury to health.

PAR. 7. The use by the respondent of the aforesaid false, misleading, and deceptive statements and representations with respect to his said preparations, disseminated as aforesaid, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and advertisements are true, and that the preparation designated as "Clito Emmenagogue Capsules," is a safe, competent, and effective treatment for delayed menstruation, and that the preparation designated as "Rayo De Sol" is a competent and efficient treatment and cure for cataracts, cloudiness of vision, or film carnosity, ulcers, and inflammation of the eyes, and to induce purchase by the public of the respondent's said preparations.

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, Rene P. Balditt, an individual, trading as Clito Co., or trading under any other name or names, his agents, representatives, servants, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his drug preparations advertised under the name "Clito," and designated respectively as "Clito Emmenagogue Capsules" and as "Rayo De Sol," or of any other prep-

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arations composed of substantially similar ingredients or possessing substantially the same properties, whether sold under the same names or under any other name or names, do forthwith cease and desist from, directly or indirectly :

1. Disseminating or causing to be disseminated any advertisement (a) by means of United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that said preparation, designated as "Clito Emmenagogue Capsules," is a safe, competent, or effective treatment for delayed menstruation; or which advertisement represents, directly or through inference, that said preparation, designated as "Rayo De Sol," is a cure or remedy for cataracts, cloudiness of vision, film carnosity, ulcers, and inflammation of the eyes, or has any value in the treatment of such conditions; or which advertisement of "Clito Emmenagogue Capsules" fails to reveal that the use of said preparation may cause gastrointestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in case of pregnancy, may cause uterine infection and blood poisoning.

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 preparations, "Clito Emmenagogue Capsules" and "Rayo De Sol," which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement of "Clito Emmenagogue Capsules" fails to reveal that the use of said preparation may cause gastrointestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in case of pregnancy may cause uterine infection and blood poisoning.

It is further ordered, That the respondent shall, within 10 days after service upon him of this order file with the Commission an interim report in writing, stating whether he intends to comply with this order and if so, the manner and form in which he intends to comply; and that within 60 days after service upon him of this order said respondent shall 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
**MAF HAT WORKS, INC., ALSO TRADING AS NEW SYSTEM
HAT MANUFACTURING COMPANY, AND ALEX MILDER**

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

Docket 1897. Complaint, Oct. 13, 1939¹—Decision, Nov. 1, 1940

Where a corporation and an individual, who was its president and had long managed, controlled, and dominated its affairs and activities, engaged in manufacture of hats from hat bodies and other materials obtained from old, worn, and previously used hats purchased by them, and in cleaning, steaming, ironing, and shaping said articles, and fitting same with new trimmings, sweat bands, and size labels, so that, after having been thus processed and treated, said products had appearance of new hats made from hat bodies which had never been used or worn—

Sold said hats, with appearance aforesaid, and with no marking or designation stamped thereon to indicate to purchasing public that they were in fact made from old, worn, and previously used hat bodies and other materials, cleaned and renovated by them as above set forth, and with no designation in billing or invoicing thereof to disclose kind or type of materials from which made, to jobbers, wholesalers, and retailers who resold to purchasing public said articles, without disclosure of fact that they were made of old hat bodies which had been previously worn and then cleaned and renovated, and under such circumstances that purchasers were led to believe that they were in fact new products made from new materials, and failed, through use of phrase "Made Over Hat" immediately following words "None Better Jay Bee \$5 Special" and other similar names or words made use of in designating their merchandise and embossed on sweat bands attached to articles in question, to disclose to purchasers that products in question were made from old, worn, and previously used bodies, as distinguished from products made from shopworn hat bodies never used, by hat manufacturers in accordance with practically same process as they employed in manufacture of hats from old, worn, and previously used hat bodies;

With effect of misleading and deceiving substantial number of wholesale dealers, jobbers, retailers, and members of purchasing public into erroneous and mistaken belief that said products were made from either new and unused materials or from new, but shop-worn bodies, and into purchase of a substantial number thereof because of such belief, and with result, as direct consequence of such belief induced by them, that number of consuming public purchased substantial volume of their products, nature of which, as not made entirely from new materials, would not be disclosed by hat purchaser's casual examination, and trade was diverted unfairly to them from those engaged in sale of hats made from old, worn, and previously used hat bodies and other materials, and manufacturers who make hats from new materials; to the substantial injury of competition in commerce:

¹ Amended and supplemental.