

Syllabus

IN THE MATTER OF
CRAZY WATER COMPANY ET AL.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 4314. Complaint, Sept. 13, 1940—Decision, Dec. 12, 1940*

Where a corporation, and four individuals who were, as the case might be, chairman of its board and general officers thereof and controlled its policies and practices, engaged in interstate sale and distribution of certain mineral waters and derivatives thereof under trade designations "Crazy Mineral Water," "Crazy Water Crystals," and "Crazy Fiz"; in substantial competition in commerce with others engaged in sale and distribution of other products used and useful for same purposes for which they recommended their said mineral waters and derivatives, and acting in conjunction and cooperation with each other; in advertisements which they disseminated and caused to be disseminated through the mails and through newspapers, circulars, pamphlets, leaflets and periodicals having general circulation, and in other printed or written matter distributed in commerce among the various States, and through continuities broadcast from radio stations of extra-State audience, and by various other means, and including testimonials or purported testimonial letters, or quotations therefrom, and which advertisements were intended and likely to induce purchase of their mineral waters and derivatives—

Represented, directly and indirectly, that constipation and "faulty elimination" were the cause of and associated with a long list of diseases, ailments, afflictions, and conditions, which they enumerated, and which included, among numerous others thus set forth, diseases of alimentary tract, such as intestinal stasis, chronic constipation, nervous indigestion, urticaria, conditions involving urinary tract, kidneys and gall duct, cystitis, urethritis, cirrhosis of the liver, diabetes mellitus, gravel and calculous concretion in the bladder and gall duct, fevers, toxic conditions, typhoid, influenza, jaundice, Bright's disease, rheumatism, arthritis, neuritis, high blood pressure, acidosis and various others, and that their said mineral waters and derivatives possessed beneficial, therapeutic properties with respect to curing or remedying and competently and effectively treating constipation and "faulty elimination," and, therefore, the diseases, ailments, afflictions and conditions above set forth;

Facts being that said mineral waters and derivatives possessed no therapeutic properties in excess of those of a cathartic or laxative, plus tendency temporarily to neutralize excess gastric acidity, and served no other purpose than to assist in temporary evacuation of intestinal tract and to tend temporarily to neutralize excess gastric acidity, use of said mineral waters and derivatives thereof for certain of said diseases, including those of alimentary tract, such as intestinal stasis, chronic constipation, nervous indigestion, conditions involving urinary tract, kidneys and gall duct, cystitis, urethritis and gastrointestinal disturbances, and for biliousness, backaches, headaches, nervousness, run-down condition, insomnia, loss of appetite and lack of energy, was

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limited to such temporary relief as might result from temporary evacuation of intestinal tract and tendency temporarily to neutralize excess gastric acidity, when said diseases, ailments, afflictions and conditions were caused by, associated with, due to, or persisted because of excess gastric acidity or constipation, and said waters and derivatives would be of no beneficial or therapeutic value in treatment of, serve as remedies or cures for such diseases, ailments, afflictions and conditions, when not thus caused or associated, and they would not in any way effect any tendency to excess gastric acidity or constipation, and possessed no beneficial therapeutic properties whatsoever in treatment of various other diseases, ailments, afflictions, and conditions named and set-out by them in their advertisements aforesaid and including among others, cirrhosis of the liver, diabetes mellitus, gravel and calculous concretion in the bladder and gall duct, nephritis, Bright's disease, kidney trouble, obesity, rheumatism, arthritis, neuritis, high blood pressure, acidosis, and other disease, ailments, afflictions and conditions not caused by or associated with, and which do not persist because of excess gastric acidity or constipation;

With effect of misleading and deceiving substantial portion of purchasing public into mistaken and erroneous belief that such false advertisements were true and, as result of such belief thus engendered, inducing substantial portion of said public to purchase their said mineral waters and derivatives thereof, and thereby divert trade to themselves from their competitors who do not use such acts, practices and methods employed by them; to the substantial injury of said competitors in said commerce, and to the injury of the public:

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

Mr. Maurice C. Pearce for the Commission.

COMPLAINT¹

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 Crazy Water Co., a corporation, Carr P. Collins, individually and as chairman of the board of Crazy Water Co., H. H. Collins, individually and as president of Crazy Water Co., W. W. Woodall, individually and as secretary of Crazy Water Co., and J. A. Pondrom, individually and as treasurer of Crazy Water Co., hereinafter referred to as respondents, have 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:

¹ An extended enumeration in paragraph 4 of the complaint, quoting respondents' representations, direct and indirect, and through direct statements and quoted statements in testimonial letters purporting to come from customers, which also appears in the findings, *infra*, at pp. 115-117, is omitted from the complaint as published.

PARAGRAPH 1. Respondent Crazy Water Co. is a corporation duly chartered, organized, and existing under and by virtue of the laws of the State of Texas, with its principal office and place of business located in Mineral Wells, Tex.

Carr P. Collins, chairman of the board of Crazy Water Co., H. H. Collins, president of Crazy Water Co., W. W. Woodall, secretary of Crazy Water Co., and J. A. Pondrom, treasurer of Crazy Water Co., are individuals with their offices and principal places of business located in Mineral Wells, Tex. These individual respondents control and have controlled the policies and practices of the corporate respondent, and they and the corporate respondent act in conjunction and cooperation with each other in the doing of the acts and practices hereinafter alleged.

Respondents, acting in conjunction and cooperation with each other, are now, and for several years last past have been, 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 certain mineral waters and derivatives thereof under the trade designations "Crazy Mineral Water," "Crazy Water Crystals," and "Crazy Fiz," recommended as a treatment for certain ailments of the human body.

Respondents cause said mineral waters and derivatives thereof under the trade designations "Crazy Mineral Water," "Crazy Water Crystals," and "Crazy Fiz," when sold, to be transported from their place of business in the State of Texas to the purchasers thereof located in the various other States of the United States and in the District of Columbia. Respondents maintain, and at all times, mentioned herein have maintained, a course of trade in said mineral waters and derivatives thereof under the said trade designations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their business, as aforesaid, the respondents have been and are in substantial competition in commerce between and among the said several States of the United States and in the District of Columbia, with corporations, associations, partnerships, and individuals who are engaged in the sale and distribution of other products used and useful for the same purposes for which respondents recommend their said mineral waters and derivatives.

PAR. 3. In the course and conduct of their aforesaid business the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said mineral waters and derivatives thereof by

United States mails, by insertion in newspapers, circulars, pamphlets, leaflets, and periodicals having a general circulation and also in other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by continuities broadcast from radio stations which have sufficient power to and do carry the programs emanating therefrom to listeners located in the various States of the United States other than the State in which said broadcasts originate; and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said mineral waters and derivatives therefrom; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said products by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

In said representations disseminated as aforesaid, respondents falsely represent and imply that said mineral waters and derivatives thereof will cure or are beneficial in the treatment of many of the diseases, ailments, afflictions, and conditions which may be present or exist in the human body. Among the diseases, ailments, afflictions, and conditions named by the respondents as diseases, ailments, afflictions, and conditions which their said mineral waters and derivatives thereof will cure, or are beneficial in the treatment of, are the following: Diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, urticaria; conditions involving the urinary tract, kidneys and gall duct, cystitis, urethritis, cirrhosis of the liver, chronic metritis, parametritic exudations; diabetes mellitus, arthritis, acidosis, gravel and calculous concretion in the bladder and gall duct, fevers, toxic conditions, both local and generalized, such as rheumatism, typhoid, infection of numerous types, influenza, gastro-intestinal disturbances, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, gout, Bright's disease, kidney trouble, obesity; and irregularities of liver, gall duct and bladder.

In truth and in fact, the use of respondents' said mineral waters and derivatives thereof, whether by drinking or external application, will not cure, nor are they beneficial in the treatment of all, or any of, the diseases, ailments, afflictions and conditions above set out.

PAR. 4. Among and typical of the false statements and representations contained in said advertisements, either by direct statements by respondents or by quoting statements contained in testimonial letters

purporting to come from customers, disseminated and caused to be disseminated as aforesaid, are the following:²

PAR. 5. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative and therapeutic properties of their mineral waters and derivatives thereof, the respondents have represented and do now represent, directly and indirectly, that constipation and "faulty elimination" are the cause of and associated with the following, among other, diseases, ailments, afflictions, and conditions: Diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, urticaria; conditions involving the urinary tract, kidneys and gall duct, cystitis, urethritis, cirrhosis of the liver, chronic metritis, parametritic exudations; diabetes mellitus, gravel and calculous concretion in the bladder and gall duct; fevers, toxic conditions, typhoid, influenza, gastrointestinal disturbances, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, Bright's disease, kidney trouble, obesity, irregularities of the liver, gall duct and bladder, rheumatism, arthritis, neuritis, upset stomach, biliousness, backaches, headaches, high blood pressure, acidosis, lumbago, gout, nervousness, poisonous system, affected vision, colds, scarlet fever, rundown condition, insomnia, loss of appetite, lack of energy, aching joints, numbness of limbs; and that said mineral waters and the derivatives thereof possess beneficial, therapeutic properties with respect to curing or remedying and competently and effectively treating constipation and "faulty elimination" and therefore the diseases, ailments, afflictions and conditions hereinabove set forth.

PAR. 6. The aforesaid representations are grossly exaggerated, false and misleading. In truth and in fact, respondents' mineral waters and derivatives thereof possess no therapeutic properties in excess of those of a cathartic or laxative and serve no purpose other than to assist in the temporary evacuation of the intestinal tract. The diseases, ailments, afflictions, and conditions set out in paragraph 5 are not necessarily due to and do not generally persist because of constipation or "faulty elimination." The use of said mineral waters and the derivatives thereof will not serve as a remedy or cure for or eliminate or in any way effect any tendency to constipation. It has no beneficial value in overcoming or effectively treating the specific diseases, ailments, afflictions, and conditions set forth in

² The quoted matter set forth at length in the complaint at this point, as purportedly descriptive of the remedial, curative and therapeutic properties of respondents' mineral waters and derivatives thereof, is also set forth in the findings, *infra*, at pp. 115-117, and for that reason is here omitted in the interest of brevity.

paragraph 5 hereof or in treating the same other than to the extent they may be temporarily relieved by the evacuation of the intestinal tract when they are due to, or persist because of, constipation. When such diseases, ailments, afflictions and conditions are due to causes other than constipation, said mineral waters and derivatives thereof will be of no beneficial or therapeutic value in the treatment thereof.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading advertisements with respect to their said mineral waters and the derivatives thereof, disseminated as aforesaid, has had and now 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 false advertisements are true, and as a result of such erroneous and mistaken belief, engendered as aforesaid, has a tendency to induce and has induced a substantial portion of the purchasing public to purchase respondents' said mineral waters and derivatives thereof, thereby diverting trade to the respondents from their competitors who do not use the acts, practices and methods used by respondents, to the substantial injury of said competitors in said commerce, and to the injury of the public.

PAR. 8. The aforesaid acts and practices of the respondents, as hereinabove alleged, are all to the prejudice of the public and the respondents' said 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 13th day of September 1940, issued and thereafter served its complaint in this proceeding upon said respondents, Crazy Water Co., a corporation, Carr P. Collins, individually and as chairman of the board of Crazy Water Co., H. H. Collins, individually and as president of Crazy Water Co., W. M. Woodall, individually and as secretary of Crazy Water Co., and J. A. Pondrom, individually and as treasurer of Crazy Water Co., charging them 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. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this

proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto and that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint and stipulation, said stipulation having been approved, accepted, and filed, and the Commission having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Crazy Water Co. is a corporation duly chartered, organized and existing under and by virtue of the laws of the State of Texas, with its principal office and place of business located in Mineral Wells, Tex.

Carr P. Collins, chairman of the board of Crazy Water Co., H. H. Collins, president of Crazy Water Co., W. M. Woodall, secretary of Crazy Water Co., and J. A. Pondrom, treasurer of Crazy Water Co., are individuals with their offices and principal places of business located in Mineral Wells, Tex. These individual respondents control and have controlled the policies and practices of the corporate respondent, and they and the corporate respondent act in conjunction and cooperation with each other in doing the acts and practices hereinafter set forth.

Respondents, acting in conjunction and cooperation with each other, are now, and for several years last past have been, 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 certain mineral waters and derivatives thereof under the trade designations "Crazy Mineral Water," "Crazy Water Crystals," and "Crazy Fiz," recommended as a treatment for certain ailments of the human body.

Respondents cause said mineral waters and derivatives thereof under the trade designations "Crazy Mineral Water," "Crazy Water Crystals," and "Crazy Fiz" when sold, to be transported from their place of business in the State of Texas to the purchasers thereof located in the various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said mineral

waters and derivatives thereof under the said trade designations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their business, the respondents have been and are in substantial competition in commerce between and among the several States of the United States and in the District of Columbia, with corporations, associations, partnerships, and individuals who are engaged in the sale and distribution of other products used and useful for the same purposes for which respondents recommend their said mineral waters and derivatives.

PAR. 3. In the course and conduct of their business the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their mineral waters and derivatives thereof by United States mails, by insertion in newspapers, circulars, pamphlets, leaflets, and periodicals having a general circulation and also in other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by continuities broadcast from radio stations which have sufficient power to and do carry the programs emanating therefrom to listeners located in the various States of the United States other than the State in which said broadcasts originate; and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their mineral waters and derivatives therefrom; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their products by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their products in commerce as "commerce" is defined in the Federal Trade Commission Act.

In said representations disseminated as aforesaid, respondents falsely represent and imply that said mineral waters and derivatives thereof will cure or are beneficial in the treatment of many of the diseases, ailments, afflictions and conditions which may be present or exist in the human body. Among the diseases, ailments, afflictions, and conditions named by the respondents as diseases, ailments, afflictions, and conditions which their mineral waters and derivatives thereof will cure, or are beneficial in the treatment of, are the following: Diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, urticaria, conditions involving the urinary tract, kidneys and gall duct, cystitis,

urethritis, cirrhosis of the liver, chronic metritis, parametric exudations, diabetes mellitus, arthritis, acidosis, gravel and calculous concretion in the bladder and gall duct, fevers, toxic conditions, both local and generalized, such as rheumatism, typhoid, infection of numerous types, influenza, gastro-intestinal disturbances, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, gout, Bright's disease, kidney trouble, obesity; and irregularities of liver, gall duct and bladder.

In truth and in fact, the use of respondents' mineral waters and derivatives thereof, whether by drinking or external application, will not cure, nor are they beneficial in the treatment of all, or any of, the diseases, ailments, afflictions and conditions above set-out, except as set forth in paragraph 6 hereof.

PAR. 4. Among and typical of the false statements and representations contained in said advertisements, either by direct statements of respondents or by quoting statements contained in testimonial letters purporting to come from customers, disseminated and caused to be disseminated as aforesaid, are the following:

CRAZY WATER IS UNCONDITIONALLY GUARANTEED.

Every buyer of a bottle of Crazy Water makes their own terms: we unconditionally guarantee our product to produce certain positive results and if in any way you are dissatisfied—and you alone are the judge, our distributors are authorized to make a refund to you in full without question—you must be pleased.

CRAZY CRYSTALS ARE UNCONDITIONALLY GUARANTEED.

* * * the results will equal those obtained in the various diseases in which the natural Crazy Mineral Waters have long been employed.

A natural product.

If you suffer with some painful chronic ailment, such as

Rheumatism,
Arthritis,
Neuritis,
Upset Stomach,
Biliousness,
Backaches,
Headaches,

or any other of the many troubles that so often follow long-neglected faulty elimination, check up now. Find the cause. Cleanse yourself and keep yourself clean and regular inside, with Crazy Mineral Water made from Crazy Water Crystals.

* * * 70 to 75 per cent of disease today can be attributed to one condition. Crazy Water remedies this common condition.

If you * * * are suffering from arthritis, neuritis, high blood pressure, acidosis, rheumatism, lumbago, gout, nervousness, stomach distress and other painful afflictions * * * there is a way you can rid yourself from the sufferings of these conditions.

Keep your system clear of poisons. There are millions of satisfied users of Crazy Water all over the nation.

My trouble has been a poisonous system which seriously affected my vision * * * I came here for your health treatments. The poison has left my system, my normal vision has been restored, and I shall be ever grateful to Crazy Water and Crazy baths * * *.

Crazy Water Crystals dissolved in water gives us genuine Crazy Water.

It is one of nature's greatest gifts to suffering mankind, for that cunning combination of 11 minerals in Crazy Water * * * and now evaporated and sent to you as Crazy Water Crystals * * * has brought relief to more than forty millions of people * * *.

* * * others who are unable to come to the hotel are getting benefits just as remarkable by adding Crazy Crystals to their drinking water.

* * * know how different you feel when you visit mineral spas, so just add Crazy Water Crystals to your drinking water at home and get the many fine benefits offered * * *.

Anyone suffering from a chronic ailment should thoroughly investigate mineral waters. For hundreds, yes thousands of years, man has found relief from chronic disorders simply by drinking pure natural mineral waters. The mineral water spas of Europe and America are visited yearly by millions of people seeking relief from a wide variety of chronic ills. They are sent by their doctors * * * you only have to add Crazy Water Crystals to your regular drinking water, and in this inexpensive way you can enjoy the principal benefits to be gotten from a trip to the Wells.

* * * rheumatic condition * * * was so severe * * * did not have use of * * * left arm. After taking Crazy baths, * * * and drinking Crazy Water, he has shown remarkable improvement. If you are unable to come to the Crazy Hotel, you may receive practically the same benefit by the use of Crazy Crystals at home.

* * * the remedy given us by Nature.

* * * our natural product—Crazy Crystals.

Crazy Crystals—nature's own remedy for any ailment caused by a sluggish system.

* * * the producers of Crazy Crystals have made it possible for everyone to have the beneficial minerals in Crazy Water at home. Simply add Crazy Crystals to your drinking water—when you do this, you're helping nature with nature.

Give Crazy Water Crystals a chance to help you in the same simple, natural way that they have helped millions of people throughout America.

* * * This great natural product just naturally makes people feel better. It's the best safeguard * * * against ill health.

* * * Crazy Crystals. It's a simple natural product and not a man-made medicine * * *.

You don't want to take medicine, and we do not blame you for that. * * * Crazy Water Fiz Tablets * * * you'll agree it's the best thing * * * you've ever tried for colds, upset stomach and the like.

You're interested in learning how you can get rid of this bad feeling without taking medicine, * * * try drinking a glass of water to which you've added a couple of alkalizing effervescent Crazy Water Fiz Tablets * * *. If you don't like the medicine habit, get a bottle of Crazy Water Fiz Tablets from your druggist.

Today many of you are suffering from a bad cold or the flu * * * use Crazy Water Fiz, * * * pleasant to use—not like harsh unpleasant medicine at all.

* * * It's different from anything you'll find in the drug store * * * and here's something you're particularly interested in. It doesn't have the disagreeable medicine effect.

* * * Crazy Water Crystals are particularly recommended for * * * those who have some chronic trouble caused by a sluggish system * * * those who need something to keep them normal and regular without resorting to harsh habit-forming laxatives.

It has been said that nature's three cure-alls are fresh air, sunshine and mineral water. * * * Crazy Water brings renewed health after many different remedies and medicines fail. * * * You can do this by getting Crazy Crystals.

Crazy Water has brought health and happiness to thousands * * * has made it possible for people to once again enjoy the blessings of robust health. Regardless of how miserable you feel * * * of how long you have suffered, do not despair; Commence drinking Crazy Water today. Wake up and start living.

* * * victim of illness * * * 100 per cent benefited.

I have been relieved of a very bad stomach trouble by Crazy Crystals.

I have been using Crazy Water Crystals about three years. I had scarlet fever and it left me in a run-down condition. My father-in-law advised me to use your product and in less than two weeks I was up and walking and doing my work.

Crazy Water Crystals have brought local relief to many pale, run-down, nervous folks who couldn't sleep, who had no appetite and who suffered from headaches, biliousness, stomach distress and other unpleasantness due to poor elimination from the digestive tract.

I am really proud and grateful for what Crazy Water Crystals have done for me. About a year ago I noticed my joints would ache, my arms and hands felt numb, so I started drinking Crazy Water. In less than two weeks I was feeling different—of course better. I still drink Crazy Water and will be drinking it the next time you hear from me.

PAR. 5. Through the use of the statements hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative and therapeutic properties of their mineral waters and derivatives thereof, the respondents have represented, and do now represent, directly and indirectly, that constipation and "faulty elimination" are the cause of and associated with the following, among other, diseases, ailments, afflictions and conditions: diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, urticaria; conditions involving the urinary tract, kidneys and gall duct, cystitis, urethritis, cirrhosis of the liver, chronic metritis, parametritic exudations; diabetes mellitus, gravel and calculous concretion in the bladder and gall duct; fevers, toxic conditions, typhoid, influenza, gastrointestinal disturbances, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, Bright's disease, kidney trouble, obesity, irregularities of the liver, gall duct and bladder, rheumatism,

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arthritis, neuritis, upset stomach, biliousness, backaches, headaches, high blood pressure, acidosis, lumbago, gout, nervousness, poisonous system, affected vision, colds, scarlet fever, run-down condition, insomnia, loss of appetite, lack of energy, aching joints, numbness of limbs; and that said mineral waters and the derivatives thereof possess beneficial, therapeutic properties with respect to curing or remedying and competently and effectively treating constipation and "faulty elimination" and therefore the diseases, ailments, afflictions, and conditions hereinabove set forth.

PAR. 6. The aforesaid representations are grossly exaggerated, false, and misleading. In truth and in fact respondent's mineral waters and the derivatives thereof possess no therapeutic properties in excess of those of a cathartic or laxative plus a tendency to temporarily neutralize excess gastric acidity and serve no other purpose than to assist in a temporary evacuation of the intestinal tract and to tend to temporarily neutralize excess gastric acidity. The use of said mineral waters and the derivatives thereof for diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, conditions involving the urinary tract, kidneys and gall duct, cystitis, urethritis, gastrointestinal disturbances, upset stomach, biliousness, backaches, headaches, nervousness, run-down condition, insomnia, loss of appetite, and lack of energy is limited to such temporary relief which may result from the temporary evacuation of the intestinal tract and a tendency to temporarily neutralize excess gastric acidity, when such diseases, ailments, afflictions, and conditions are due to and persist because of excess gastric acidity or constipation. The aforesaid diseases, ailments, afflictions, and conditions are not necessarily caused by, associated with or due to and do not generally persist because of excess gastric acidity or constipation. The use of said mineral waters and the derivatives thereof will not serve as a remedy or cure for or eliminate or in any way effect any tendency to excess gastric acidity or constipation. When such diseases, ailments, afflictions, and conditions are due to causes other than excess gastric acidity or constipation, said mineral waters and the derivatives thereof will be of no beneficial or therapeutic value in the treatment thereof.

Respondents' mineral waters and the derivatives thereof possess no beneficial therapeutic properties whatsoever in the treatment of any of the following diseases, ailments, afflictions, and conditions: Urticaria, cirrhosis of the liver, chronic metritis, parametritic exudations, diabetes mellitus, gravel and calculous concretion in the bladder and gall duct, fevers, toxic conditions, typhoid, influenza, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, Bright's

disease, kidney trouble, obesity, irregularities of the liver, gall duct and bladder, rheumatism, arthritis, neuritis, high blood pressure, acidosis, lumbago, gout, poisonous system, affected vision, colds, scarlet fever, aching joints, and numbness of limbs. The aforesaid diseases, ailments, afflictions, and conditions are not caused by or associated with and do not persist because of excess gastric acidity or constipation.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading advertisements with respect to their mineral waters and the derivatives thereof, disseminated as aforesaid, has had and now 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 false advertisements are true, and as a result of such erroneous and mistaken belief, engendered as aforesaid, has the tendency to induce and has induced a substantial portion of the purchasing public to purchase respondents' said mineral waters and derivatives thereof, thereby diverting trade to the respondents from their competitors who do not use the acts, practices and methods used by respondents, to the substantial injury of said competitors in said commerce, and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of the respondents, as hereinabove found, are all to the prejudice of the public and the respondents' said 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 and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that the facts therein stated may be taken as the facts in this proceeding, in lieu of testimony, and that the Commission may proceed to make its report and state its findings as to the facts, including inferences drawn by it therefrom, and state its conclusion based thereon, and, without filing of briefs or presentation of argument, may enter its order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It Is Ordered, That respondent Crazy Water Co., a corporation, its officers, representatives, agents, and employees, and respondents Carr P. Collins, H. H. Collins, W. M. Woodall, and J. A. Pondrom, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of respondents' products, "Crazy Mineral Water," "Crazy Water Crystals," or "Crazy Fiz," or any other product or products composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, do forthwith cease and desist from, directly or indirectly:

1. Disseminating or causing to be disseminated any advertisements (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:

(A) That respondents' products are a cure or remedy for diseases or symptoms of diseases of the alimentary tract, such as intestinal stasis, chronic constipation, mucous colitis, nervous indigestion, conditions involving the urinary tract, kidneys and gall duct, cystitis, urethritis, gastro-intestinal disturbances, upset stomach, biliousness, backaches, headaches, nervousness, run-down condition, insomnia, loss of appetite, or lack of energy, or a competent or effective treatment therefor, in excess of the extent to which said products, by reason of temporarily relieving constipation and temporarily relieving gastric acidity, may be beneficial in the treatment of such disorders when constipation and gastric acidity are contributing factors therein.

(B) That the diseases or symptoms of diseases enumerated in subparagraph (A) hereof, or any of them, are necessarily caused by, or generally persist because of, or are necessarily associated with, constipation, faulty elimination or excess gastric acidity.

(C) That respondents' products are a cure or remedy or a competent or effective treatment for constipation, faulty elimination, or excess gastric acidity, or that the use of said products will serve to eliminate or check the tendency to constipation, faulty elimination, or excess gastric acidity; or that said products will have any therapeutic effect other than to assist in the temporary evacuation of the intestinal tract, and to tend to temporarily neutralize excess gastric acidity.

(D) That respondents' products possess any therapeutic properties beyond those of a cathartic or laxative and as an antacid with a tendency to temporarily neutralize excess gastric acidity.

(E) That respondents' products are a cure or remedy or a competent or effective treatment for, or possess any beneficial therapeutic

properties whatsoever in the treatment of, any of the following diseases, ailments, afflictions and conditions: Urticaria, cirrhosis of the liver, chronic metritis, parametritic exudations; diabetes mellitus, gravel and calculous concretion in the bladder and gall duct; fevers, toxic conditions, typhoid, influenza, anaphylaxis, nephritis, pyelitis, catarrhal jaundice, cholecystitis, Bright's disease, kidney trouble, obesity, irregularities of the liver, gall duct and bladder, rheumatism, arthritis, neuritis, high blood pressure, acidosis, lumbago, gout, poisonous system, affected vision, colds, scarlet fever, aching joints, and numbness of limbs.

(F) That the diseases, ailments, afflictions, and conditions set forth in paragraph (E) hereof, or any of them, are caused by, or generally persist because of, or are generally associated with, excess gastric acidity or constipation.

2. Disseminating or causing to be disseminated any advertisements, by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said products, which advertisements contain any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF

JULIUS MILLER AND JESSIE MILLER, TRADING AS
MILLER DRUG COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914*Docket 4363. Complaint, Oct. 25, 1940—Decision, Dec. 12, 1940*

Where two individuals engaged in interstate sale and distribution of their variously designated "Belite," "Reducers," and "Miller's Reducing Prescription"; in advertisements of their said medicinal preparation which they disseminated and caused to be disseminated through the mails and by other means in commerce, and otherwise, and by advertisements in newspapers and other advertising literature, and which were intended and likely to induce purchase of their said product—

- (a) Represented that their said medicinal preparation was a cure or remedy for obesity and constituted a safe, competent, and effective treatment therefor, and for reduction of body weight, facts being it did not constitute such a treatment, and was not safe, by virtue of inclusion therein of desiccated thyroid extract, present therein in quantities sufficient to cause serious and irreparable injury to health, if used under conditions prescribed in said advertisements or under such conditions as are customary or usual, and which, thus used, would accelerate rate of metabolism, burning body tissues in excess of that which is normal, and might produce nausea and various other effects, including angina pectoris, and result, among other things, in permanent injury to tissues, organic functions, and entire body mechanism, and irreparable injury to heart muscles, as in detail set forth; and
- (b) Failed to reveal in said advertisements facts material in the light of the representations therein contained, and that use of said preparation under conditions prescribed in said advertisements, or under such conditions as are customary or usual, might result in serious and irreparable injury to health, in that it accelerated rate of metabolism, thereby burning body tissues in excess of normal and causing permanent injury to heart, thyroid gland, and other vital organs;

With effect, through use of aforesaid false, deceptive, and misleading statements and representations with respect to their said preparation, disseminated as aforesaid, of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and advertisements were true, and of inducing portion of said public, because of such erroneous and mistaken belief, to purchase their said preparation:

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. James L. Baker for the Commission.

Stone & Hoffenberg, of Rochester, N. Y., for respondents.