

Syllabus

IN THE MATTER OF

HARRY S. BENHAM, TRADING AS THE ZONE COMPANY,
ACTIVE MERCHANDISERS, ACTIVE MEDICINE, NU-
MODE COMPANY, AND AMERICAN MEDICINE COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4352. Complaint, Oct. 17, 1940—Decision, Jan. 15, 1941*

Where an individual engaged, under various trade names such as The Zone Co., American Medicine Co., and others, in interstate sale and distribution of various medicinal preparations, including certain products and devices for so-called feminine hygiene purposes, designated as Nu-Mode Vaginal Jelly (also known as A. M. Vaginal Jelly), Nu-Mode Hygiene Tablets, Vaginal Suppositories, Douche Tablets and Powders, Athlete's Foot Salve, Wonder Salve, and Womb Supporter; in advertisements of his said medicinal preparations and devices which he disseminated and caused to be disseminated through the mails and through various other means in commerce, and otherwise, and including advertisements in newspapers and periodicals, and circulars and other printed matter, and which were intended and likely to induce purchase of his said preparations and devices—

- (a) Represented, directly and through implication, that his products Nu-Mode Vaginal Jelly, A. M. Vaginal Jelly, Nu-Mode Hygiene Tablets, Vaginal Suppositories and Douche Tablets, and Speed Nu-Mode Hygiene Douche Tablets, were safe, competent and effective preventives against conception, and that use of such products was a dependable, positive, and guaranteed method of preventing pregnancy due to antiseptic and powerful germ-destroying properties thereof, and that such use prevented disease, insured health, and caused rapid destruction of bacteria, that said products were effective as prophylactics and healed delicate membranes and tissues in vaginal tract and formed competent and effective treatments for subnormal or unhealthy conditions of the uterus or vagina, and that they were prescribed by well known physicians or gynecologists, facts being said products did not form or constitute safe or competent preventives against conception and, while they might possess antiseptic properties, they were not powerful germicides and did not provide dependable, positive or guaranteed method of preventing pregnancy, said products were not effective prophylactics or preventives against disease and would not insure health, cause rapid destruction of bacteria or heal membranes or tissues of vaginal tract, and they were not competent and effective treatments for unhealthy conditions in uterus or vagina and were not prescribed or recommended by well known physicians and gynecologists;
- (b) Represented that said Supporter was comfortable, efficient and sanitary, supported the womb without irritation to vagina or any interference with any function or act of nature, and tended to relieve overworked muscles, giving nature a chance to heal and return womb to its proper position, and that said product was efficacious in treatment of mild sores, swollen or inflamed uterine parts and fissures, facts being use of said supporter, as advertised, disregards anatomical relationships and gynecological principles, and would

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be of little or no value in treatment of either forward or backward displacement of uterus or any inflammation of uterine parts, and said product would tend to cause vaginal inflammation and ulcerations due to pressure, and, in order to provide temporary artificial support for uterus it is necessary that physical examination for fitting of the device to meet individual requirements in each case be secured.

- (c) Represented, directly and by implication, that said Foot Salve was a cure or remedy for athlete's foot and constituted competent and effective treatment therefor, and that it quickly relieved trouble by ridding user of germ causing such condition, facts being said preparation was not a cure or remedy for such condition, and had no therapeutic value in treatment thereof, in excess of temporarily relieving symptoms of itching and, in some cases, destroying the superficial fungi associated with athlete's foot; and
- (d) Represented, directly and by implication, that application of his Wonder Salve instantly healed and relieved irritation and acted as a bar against infection, and that it was a cure or remedy for common eczema, sores, itch, rash, old sores, leg sores, chafe, sunburn, pimples, insect bites, acne, cuts and bruises, and constituted competent and effective treatment therefor, facts being said preparation was not a cure or remedy for eczema and other forms of itch or rash and did not constitute competent or effective treatment therefor, in excess of affording temporary relief from symptoms of itching associated with such conditions, it had little or no value in treatment of acne and pimples, and had no properties which would be effective in preventing infection and had little or no value in treatment of ulcers, described by said individual as old sores and leg sores;

With effect 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, because of such belief, portion of such public to purchase his said preparations and devices:

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. William L. Taggart 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 Harry S. Benham, an individual, trading under the names of The Zone Co., Active Merchandisers, Active Medicine, Nu-Mode Co., and American Medicine 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, Harry S. Benham, is an individual trading and doing business as The Zone Co., Active Merchandisers, Active Medicine, Nu-Mode Co., and American Medicine Co., and has his

principal place of business at 620 Orleans Street, Chicago, Ill. The respondent is now, and for more than 1 year last past, has been engaged in the sale and distribution of various medicinal preparations and devices in commerce among and between the various States of the United States and in the District of Columbia.

Among the preparations so sold and distributed by the respondent are certain medicinal preparations and devices for so-called feminine hygiene purposes, designated as Nu-Mode Vaginal Jelly (also known as A. M. Vaginal Jelly), Nu-Mode Hygiene Tablets, Vaginal Suppositories, Douche Tablets and Powders, Athlete's Foot Salve, Wonder Salve, and Womb Supporter.

Respondent causes said preparations and devices when sold to be transported from his place of business in the State of Illinois to 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 said medicinal preparations and devices 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 concerning his said products, by United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said products in commerce, as commerce is defined in the Federal Trade Commission Act.

Among, and typical of, the false statements and representations contained in said false advertisements, disseminated and caused to be disseminated as aforesaid, by United States mails, by advertisements in newspapers and periodicals, and by circulars and other printed matter, are the following with reference to the various and respective products of respondent:

Nu-Mode Vaginal Jelly and A. M. Vaginal Jelly:

Many well known gynecologists, recommend this method of feminine hygiene above all others.

It penetrates every part of the vagina reaching every muscular fold and crease where harmful germs or innate secretions can possible accumulate . . . Its marvelous adhesive powers cause it to form a practically impenetrable film over these folds. This film lasts for hours giving positive safety against new toxic infections.

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It is a convenient way of keeping their personal daintiness and at the same time protecting their health.

Nu-Mode Hygiene Tablets:

For dependable antiseptic safeguarding in Feminine Hygiene!

CAN BE RECOGNIZED AS THE GREATEST BOON OF ITS KIND TO THE MODERN WOMAN THAT THE WORLD HAS EVER KNOWN.

FOR FEMININE HYGIENE! NU-MODE Vaginal Antiseptic Tablets are designed to combine the two essential qualities of ABSOLUTE HARMLESSNESS with MAXIMUM GERM-DESTROYING ABILITY. The natural moisture within the vagina causes the tablet to quickly dissolve into a MOST POWERFUL GERM-DESTROYING FOAM which pervades into every fold and crevice of the vaginal canal, effecting absolute killing of inherent bacteriological life contained in discharges and secretions of the uterus and vagina. THIS FOAM IS AS HARMLESS AS MILK to the most delicate, tender, and sensitive tissues and membranes. This germ-destroying foam is not felt—nor does it interfere with any function or fecunding of female nature, or cause bad unnatural after effects. They have no noticeable odor.

Vaginal Suppositories:

Refined women today carefully practice feminine hygiene and do not take the risks of toxic danger that may develop from inefficient or improper attention to this matter.

Many women use solutions containing tissue harming alcohol, crude bichloride of mercury and other dangerous ingredients until the delicate tissues are injured when they stop all forms of feminine hygiene, which is a great mistake.

Nu-Mode Vaginal Suppositories do not cause the slightest irritation or discomfort since they melt rapidly at body temperature. Continued use over a long period of time should not harden, coarsen or make less sensitive the delicate tissues of the region but encourage more perfect functioning power. These suppositories are dangerous ONLY to harmful, inherent germ life.

Douche Tablets and Powders:

SURETY: It does what is required. There need be no doubt about feminine hygiene and cleanliness if you know the proper use of the douche. 100 tablets in a box. Perfumed, contains strong antiseptics.

SPEED NU-MODE Hygiene Douche Tablets dissolve as a rule more rapidly than the average. They almost equal the speed of liquid. We know of nothing their equal.

SAFETY: It CANNOT harm you. Made of U. S. P. ingredients, it is pure, containing no bichloride of mercury, or other dangerous caustics.

PAR. 3. In said statements together with other similar statements not set out herein with respect to the products named, and in general advertising, respondent, directly and through implication, represents that his products, Nu-Mode Vaginal Jelly, A. M. Vaginal Jelly, Nu-Mode Hygiene Tablets, Vaginal Suppositories and Douche Tablets, and Speed Nu-Mode Hygiene Douche Tablets, for safe, competent and effective preventives against conception; that the use of such products is a dependable, positive and guaranteed method of preventing pregnancy due to the antiseptic and powerful germ-destroying properties of such products; that the use of said products prevents disease, insures health, causes the rapid destruction of bacteria; that said products are effective as prophylactics and heal the

delicate membranes and tissues in the vaginal tract and form competent and effective treatments for subnormal or unhealthy conditions of the uterus or vagina; and that they are prescribed by well known physicians or gynecologists.

In truth and in fact said products do not form or constitute safe or competent preventives against conception. While such products may possess antiseptic properties, they are not powerful germicides and do not provide a dependable, positive or guaranteed method of preventing pregnancy. Said products are not effective prophylactics or preventives against disease; and will not insure health, cause the rapid destruction of bacteria, or heal the membranes or tissues of the vaginal tract. They are not competent and effective treatments for unhealthy conditions in the uterus or vagina; and are not prescribed or recommended by well known physicians and gynecologists.

PAR. 4. With reference to the Nu-Mode Ladies' Womb Supporter, such statements as the following are made:

The Nu-Mode Ladies Womb Supporter is made of * * *. Comfortable, efficient and sanitary it is so light and flexible as to be unnoticeable. It is impossible not to insert it properly as every side is alike. The deeply cupped sides cling to the walls of the vagina, keeping the supporter from slipping and supporting the womb lightly but firmly. It does not irritate the vagina or INTERFERE WITH ANY FUNCTION OR ACT OF NATURE. As sure and pure as the air you breathe and as comfortable as an old shoe.

The Nu-Mode Ladies Perfect Supporter is placed at the neck of the womb, tending to relieve the over-worked muscles and giving nature a chance to heal and is to be used when an operation is not indicated. This gradually helps to return the womb to its proper position.

Many women use the Nu-Mode Ladies Supporter for home treatment of mild sores, swollen, or inflamed uterine parts, and fissures so common with MOST MARRIED WOMEN. Placing the salve or medicine in the cups of the Nu-Mode Ladies Supporter before insertion insures medication of the exact parts desired.

In said statements together with other similar statements not set-out herein with respect to the above product, respondent represents that the product is comfortable, efficient and sanitary; that it supports the womb, without irritation to the vagina or any interference with any function or act of nature and tends to relieve overworked muscles, giving nature a chance to heal and return the womb to its proper position; that it is efficacious in the treatment of mild sores, swollen or inflamed uterine parts and fissures.

In truth and in fact the use of the said supporter as advertised disregards anatomical relationships and gynecological principles. The use of the product as advertised would be of little or no value in the treatment of either the forward or backward displacement of the uterus or any inflammation of the uterine parts. Furthermore, the product would tend to cause vaginal inflammation and ulcerations

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due to the pressure; and in order to provide for temporary artificial support for the uterus it is necessary that a physical examination for the fitting of the device to meet the individual requirements in each case, be secured.

PAR. 5. With reference to the product known as A. M. Athlete's Foot Salve, such statements as the following were made:

STOP FOOT ITCH

Athlete's Foot * * * For your own health and comfort you should do your utmost to stop the contamination from spreading. Start your treatment "now". A. M. Athlete's Foot Salve was made solely for treating athlete's foot. Almost never fails to bring relief from itching quickly and relieves source of trouble by ridding you of the dread germ.

In said statements together with other similar statements not set out herein with respect to the product named, respondent, directly and by implication, represents that said preparation is a cure or remedy for athlete's foot and constitutes a competent and effective treatment therefor, and that it quickly relieves the trouble by ridding the user of the germ caused such condition.

In truth and in fact said preparation is not a cure or remedy for athlete's foot and has no therapeutic value in the treatment thereof, in excess of temporarily relieving the symptoms of itching and in some cases destroying the superficial fungi associated with athlete's foot.

With reference to the product known as A. M. Wonder Salve, such statements as the following were made:

A. M. WONDER SALVE

Words cannot describe the merits, instant healing sensation and relief of A. M. Wonder Salve.

It is designed for the double purpose of allaying the irritation and insulating against continued infection. * * * Try it on common eczema, sores, itch, rash, old sores, leg sores, chafe, sunburn, pimples, insect bites, acne, cuts, bruises, etc.

In said statements, together with other similar statements not set out herein with respect to said product, respondent, directly and by implication, represents that application of the product instantly heals and relieves irritation and acts as a bar against infection; that it is a cure or remedy for common eczema, sores, itch, rash, old sores, leg sores, chafe, sunburn, pimples, insect bites, acne, cuts and bruises, and constitutes a complete and effective treatment therefor.

In truth and in fact, said preparation is not a cure or remedy for eczema and other forms of itch or rash and does not constitute a competent or effective treatment therefor, in excess of affording temporary relief from the symptoms of itching associated with such conditions. Said preparation would have little or no value in the treatment of acne

and pimples. Respondent's preparation has no properties which would be effective in preventing infection and would have little or no value in the treatment of ulcers, described by the respondent as old sores and leg sores.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his preparation disseminated aforesaid, has had and now has, the capacity and tendency to, and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparation.

PAR. 7. The foregoing 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 meaning and intent 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 October 17, 1940, issued and subsequently served its complaint in this proceeding upon the respondent, Harry S. Benham, an individual, trading as The Zone Co., Active Merchandisers, Active Medicine, Nu-Mode Co., and American Medicine Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On November 16, 1940, 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 the said complaint and the answer thereto, and the Commission, having duly considered the matter, and being fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Harry S. Benham, is an individual trading as The Zone Co., Active Merchandisers, Active Medicine, Nu-Mode Co. and American Medicine Co. with his office and principal place of business at 620 Orleans Street, Chicago, Ill., from which address he transacts business under the above trade names.

The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of various medicinal preparations and devices in commerce among and between the various States of the United States and in the District of Columbia.

Among the preparations so sold and distributed by the respondent are certain medicinal preparations and devices for so-called feminine hygiene purposes, designated as Nu-Mode Vaginal Jelly (also known as A. M. Vaginal Jelly), Nu-Mode Hygiene Tablets, Vaginal Suppositories, Douche Tablets and Powders, Athlete's Foot Salve, Wonder Salve, and Womb Supporter.

Respondent causes said preparations and devices when sold to be transported from his place of business in the State of Illinois to purchaser 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 said medicinal preparations and devices 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 concerning his said products, by United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said products in commerce, as commerce is defined in the Federal Trade Commission Act.

Among, and typical of, the false statements and representations contained in said false advertisements, disseminated and cause to be disseminated as aforesaid, by United States mails, by advertisements in newspapers and periodicals, and by circulars and other printed matter, are the following with reference to the various and respective products of respondent:

Nu-Mode Vaginal Jelly and A. M. Vaginal Jelly:

Many well known gynecologists, recommend this method of feminine hygiene above all others.

It penetrates every part of the vagina reaching every muscular fold and crease where harmful germs or innate secretions can possibly accumulate
* * * Its marvelous adhesive powers cause it to form a practically impenetrable film over these folds. This film lasts for hours giving positive safety against new toxic infections.

It is a convenient way of keeping their personal daintiness and at the same time protecting their health.

Nu-Mode Hygiene Tablets:

For dependable antiseptic safeguarding in Feminine Hygiene!

CAN BE RECOGNIZED AS THE GREATEST BOON OF ITS KIND TO MODERN WOMAN THAT THE WORLD HAS EVER KNOWN.

FOR FEMININE HYGIENE! NU-MODE Vaginal Antiseptic Tablets are designed to combine the two essential qualities of ABSOLUTE HARMLESSNESS with MAXIMUM GERM-DESTROYING ABILITY. The natural moisture within the vagina causes the tablet to quickly dissolve into a MOST POWERFUL GERM-DESTROYING FOAM which pervades into every fold and crevice of the vaginal canal, effecting absolute killing of inherent bacteriological life contained in discharges and secretions of the uterus and vagina. THIS FOAM IS AS HARMLESS AS MILK to the most delicate, tender and sensitive tissues and membranes. This germ-destroying foam is not felt—nor does it interfere with any function or fecunding of female nature, or cause bad unnatural after effects. They have no noticeable odor.

Vaginal Suppositories:

Refined women today carefully practice feminine hygiene and do not take the risks of toxic danger that may develop from inefficient or improper attention to this matter.

Many women use solutions containing tissue harming alcohol, crude bichloride of mercury and other dangerous ingredients until the delicate tissues are injured when they stop all forms of feminine hygiene, which is a great mistake.

Nu-Mode Vaginal Suppositories do not cause the slightest irritation or discomfort since they melt rapidly at body temperature. Continued use over a long period of time should not harden, coarsen or make less sensitive the delicate tissues of the region but encourage more perfect functioning power. These suppositories are dangerous ONLY to harmful, inherent germ life.

Douche Tablets and Powders:

SURETY: It does what is required. There need be no doubt about feminine hygiene and cleanliness if you know the proper use of the douche. 100 tablets in a box. Perfumed, contains strong antiseptics.

SPEED NU-MODE Hygiene Douche Tablets dissolve as a rule more rapidly than the average. They almost equal the speed of liquid. We know of nothing their equal.

SAFETY: IT CANNOT harm you. Made of U. S. P. ingredients, it is pure, containing no bichloride of mercury, or other dangerous caustics.

PAR. 3. In said statements together with other similar statements not set out herein with respect to the products named, and in general advertising, respondent, directly and through implication, represents that his products, Nu-Mode Vaginal Jelly, A. M. Vaginal Jelly, Nu-Mode Hygiene Tablets, Vaginal Suppositories and Douche Tablets, and Speed Nu-Mode Hygiene Douche Tablets, are safe, competent and effective preventives against conception; that the use of such products is a dependable, positive, and guaranteed method of

preventing pregnancy due to the antiseptic and powerful germ-destroying properties of such products; that the use of said products prevents disease, insures health, causes the rapid destruction of bacteria; that said products are effective as prophylactics and heal the delicate membranes and tissues in the vaginal tract and form competent and effective treatments for subnormal or unhealthy conditions of the uterus or vagina; and that they are prescribed by well known physicians or gynecologists.

In truth and in fact said products do not form or constitute safe or competent preventives against conception. While such products may possess antiseptic properties, they are not powerful germicides and do not provide a dependable, positive or guaranteed method of preventing pregnancy. Said products are not effective prophylactics or preventives against disease; and will not insure health, cause the rapid destruction of bacteria, or heal the membranes or tissues of the vaginal tract. They are not competent and effective treatments for unhealthy conditions in the uterus or vagina; and are not prescribed or recommended by well known physicians and gynecologists.

PAR. 4. With reference to the Nu-Mode Ladies' Womb Supporter, such statements as the following are made:

The Nu-Mode Ladies Womb Supporter is made of * * *. Comfortable, efficient and sanitary it is so light and flexible as to be unnoticeable. It is impossible not to insert it properly as every side is alike. The deeply cupped sides cling to the walls of the vagina, keeping the supporter from slipping and supporting the womb lightly but firmly. It does not irritate the vagina or INTERFERE WITH ANY FUNCTION OR ACT OF NATURE. As sure and pure as the air you breathe and as comfortable as an old shoe.

The Nu-Mode Ladies Perfect Supporter is placed at the neck of the womb, tending to relieve the over-worked muscles and giving nature a chance to heal and is to be used when an operation is not indicated. This gradually helps to return the womb to its proper position.

Many women use the Nu-Mode Ladies Supporter for home treatment of mild sores, swollen, or inflamed uterine parts, and fissures so common with MOST MARRIED WOMEN. Placing the salve or medicine in the cups of the Nu-Mode Ladies Supporter before insertion insures medication of the exact parts desired.

In said statements together with other similar statements not set out herein with respect to the above product, respondent represents that the product is comfortable, efficient and sanitary; that it supports the womb, without irritation to the vagina or any interference with any function or act of nature and tends to relieve overworked muscles, giving nature a chance to heal and return the womb to its proper position; that it is efficacious in the treatment of mild sores, swollen or inflamed uterine parts and fissures.

In truth and in fact the use of the said supporter as advertised disregards anatomical relationships and gynecological principles.

The use of the product as advertised would be of little or no value in the treatment of either the forward or backward displacement of the uterus or any inflammation of the uterine parts. Furthermore, the product would tend to cause vaginal inflammation and ulcerations due to the pressure; and in order to provide for temporary artificial support for the uterus it is necessary that a physical examination for the fitting of the device to meet the individual requirements in each case, be secured.

PAR. 5. With reference to the product known as A. M. Athlete's Foot Salve, such statements as the following were made:

STOP FOOT ITCH

Athlete's Foot * * * For your own health and comfort you should do your utmost to stop the contamination from spreading. Start your treatment "now." A. M. Athlete's Foot Salve was made solely for treating athlete's foot. Almost never fails to bring relief from itching quickly and relieves source of trouble by *ridding you of the dread germ.*

In said statements together with other similar statements not set out herein with respect to the product named, respondent, directly and by implication, represents that said preparation is a cure or remedy for athlete's foot and constitutes a competent and effective treatment therefor, and that it quickly relieves the trouble by ridding the user of the germ causing such condition.

In truth and in fact said preparation is not a cure or remedy for athlete's foot and has no therapeutic value in the treatment thereof, in excess of temporarily relieving the symptoms of itching and in some cases destroying the superficial fungi associated with athlete's foot.

With reference to the product known as A. M. Wonder Salve, such statements as the following were made:

A. M. WONDER SALVE

Words cannot describe the merits, instant healing sensation and relief of A. M. Wonder Salve.

It is designed for the double purpose of allaying the irritation and insulating against continued infection. * * * Try it on common eczema, sores, itch, rash, old sores, leg sores, chafe, sunburn, pimples, insect bites, acne, cuts, bruises, etc.

In said statements, together with other similar statements not set out herein with respect to said product, respondent, directly and by implication, represents that application of the product instantly heals and relieves irritation and acts as a bar against infection; that it is a cure or remedy for common eczema, sores, itch, rash, old

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sores, leg sores, chafe, sunburn, pimples, insect bites, acne, cuts and bruises, and constitutes a competent and effective treatment therefor.

In truth and in fact, said preparation is not a cure or remedy for eczema and other forms of itch or rash and does not constitute a competent or effective treatment therefor, in excess of affording temporary relief from the symptoms of itching associated with such conditions. Said preparation would have little or no value in the treatment of acne and pimples. Respondent's preparation has no properties which would be effective in preventing infection and would have little or no value in the treatment of ulcers, described by the respondent as old sores and leg sores.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to his said preparations and devices, disseminated as aforesaid, has had and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said preparations and devices.

CONCLUSION

The foregoing 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 meaning and intent 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, Harry S. Benham, individually, and trading as The Zone Co., Active Merchandisers, Active Medicine, Nu-Mode Co., and American Medicine Co., or trading under any other name or names, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Nu-Mode Vaginal Jelly

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(also known as A. M. Vaginal Jelly), Nu-Mode Hygiene Tablets, Vaginal Suppositories and Douche Tablets, Speed Nu-Mode Hygiene Douche Tablets, Athlete's Foot Salve, Wonder Salve, and Womb Supporter, or any products or devices of substantially similar composition or possessing substantially similar properties, whether sold under the same or under any other names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisements represent directly or through inference:

(a) That use of respondent's products known as Nu-Mode Vaginal Jelly (also known as A. M. Vaginal Jelly), Nu-Mode Hygiene Tablets, Vaginal Suppositories and Douche Tablets and Speed Nu-Mode Hygiene Douche Tablets form safe, competent and effective preventatives against conception; that said products possess powerful germ-destroying properties; or that their use constitutes a dependable, positive or guaranteed method of preventing pregnancy.

(b) That respondent's product known as Nu-Mode Ladies Womb Supporter is comfortable, efficient or sanitary; that it supports the womb without irritation; that it tends to relieve over-worked muscles; or that said device has any therapeutic value in the treatment of either the forward or backward displacement of the uterus or in the treatment of any inflammation of the uterine parts.

(c) That respondent's product known as Athlete's Foot Salve is a cure or remedy for the condition known as Athlete's Foot or that it has any therapeutic value in the treatment thereof in excess of temporarily relieving the symptoms of itching and in some cases destroying the superficial fungi associated with Athlete's Foot.

(d) That respondent's product known as A. M. Wonder Salve is a cure or remedy for eczema or other forms of itch or rash or has any therapeutic value in the treatment thereof in excess of affording temporary relief from the symptoms of itching associated with such conditions; or that said preparation has any properties which would be effective in preventing infection or has any value in the treatment of ulcers, old sores, leg sores, acne or pimples.

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
HOME DIATHERMY COMPANY, INC.

MODIFIED CEASE AND DESIST ORDER

Docket 3653. Order, Jan. 18, 1941

Order modifying prior order to cease and desist, made as of November 20, 1940, 31 F. T. C. 1407—and which required respondent corporation, its officers, etc., in connection with offer, etc., of their "Home Diathermy" device, or other substantially similar device, to cease and desist from disseminating or causing to be disseminated, as there set forth, advertisements which represent that such device may be easily and safely used in the home, or that use thereof constitutes a cure or remedy for various ailments and conditions specified or has any therapeutic value in the treatment of any other ailment, unless limited as in said order specified, or which advertisements fail to reveal that unsupervised use thereof by those not skilled in diagnosis, analysis and methods of treatment of disease may result in serious and irreparable injury to health—by prohibiting dissemination, etc., of such advertisements which, in addition to representations otherwise prohibited as above set forth, fail to "conspicuously reveal that the device may be safely used only after a competent medical authority has determined, as a result of diagnosis, that diathermy is indicated and has prescribed the frequency and amount of application of such diathermy treatments and the user has been adequately instructed in the method of operating such device by a trained technician."

Before *Mr. John P. Bramhall* and *Mr. Arthur F. Thomas*, trial examiners.

Mr. R. A. McOuat for the Commission.

Mr. Saul L. Harris, of Brooklyn, N. Y., for respondent.

ORDER MODIFYING ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before John P. Bramhall and Arthur F. Thomas, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein and oral arguments by R. A. McOuat, counsel for the Commission, and by Saul L. Harris, counsel for the respondent, and the Commission, on November 20, 1940, having made and issued its findings as to the facts and its conclusion that the respondent had violated the provisions of the Federal Trade Commission Act, and having made and issued its order to cease and desist herein on the same date, and it now appearing that such order to cease and desist should be modified in certain respects, and the Commission