

Syllabus

IN THE MATTER OF

ROSEMARIE LEWIS, TRADING AS CERTANE COMPANY
AND CERTANE COMPANY, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3486. Complaint, July 12, 1938—Decision, Mar. 19, 1941*

Where an individual engaged in the manufacture and competitive interstate sale and distribution of certain medicinal preparations for so-called feminine hygiene use and for use in preventing conception, pregnancy, and female diseases, and also in sale of certain syringes, applicators, "Douches," "douche shields," "Dia-Caps," and "Dia-Domes" for use in connection therewith; by means of advertisements disseminated among prospective purchasers by mail, by insertion in newspapers and magazines, and by distribution of books, pamphlets, and other advertising literature—

- (a) Represented that her various preparations and appliances, if used as directed by her and as illustrated in diagrams in her advertising, were safe, competent, and effective preventives against conception and would prevent pregnancy, and would correct suppressed or delayed menstruation;
- (b) Represented that her said preparations were composed in whole or in part of ingredients which were effective, among other things, in insuring health and youth to wives and mothers, and kept the body perfectly clean and sanitary and mind free from worry and anxiety, and that use thereof prevented disease, caused rapid elimination of bacteria, and acted as a preventive of female irregularities; and
- (c) Represented that her said preparations were antiseptic and effective as prophylactics, and healed the delicate membranes of vaginal tract and formed competent and effective treatments for subnormal or unhealthy conditions of the uterus or vagina, nervousness, pain, discomfort, and mental depression;

Facts being that her said preparations, while having some degree of effectiveness, were not competent preventives of conception or pregnancy, would not prevent female irregularities, had no therapeutic value in treatment of subnormal or unhealthy conditions of the uterus or vagina or of symptoms resulting therefrom, and would not prevent diseased conditions claimed, use thereof would not be effective in insuring health, but instead might be detrimental thereto, and particularly so in case of her "Douche Powder" with "Douche Bag," use of which, as directed, might cause salpingitis or even peritonitis, and her said "Dia-Caps" or "Dia-Domes," commonly known as diaphragms, would, without special instructions, and fitting, afford little or no protection against conception or pregnancy;

With tendency and capacity to mislead and deceive substantial portion of purchasing public into the erroneous belief that such representations were true, and to induce it, by reason thereof, to purchase her said preparations and appliances, whereby trade was diverted unfairly from her competitors to her:

Complaint

32 F. T. C.

Held, That such acts and practices were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition.

Before *Mr. Charles P. Vicini*, trial examiner.

Mr. Reuben J. Martin, *Mr. DeWitt T. Puckett*, and *Mr. William L. Taggart* for the Commission.

Mr. Daniel Dougherty, of Los Angeles, Calif., for respondent.

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 Rosemarie Lewis, individually, and trading as Certane Co. and the Certane Co., Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Rosemarie Lewis, individually, and trading as Certane Co., has been, and is now engaged in the business of manufacturing, advertising, distributing, and selling certain medical preparations and appliances for so-called feminine hygiene use and for use in preventing pregnancy and diseases common to the female anatomy. Her place of business is located at 1212 West Washington Boulevard, Los Angeles, Calif.

The Certane Co., Inc., is a California corporation with its principal place of business at 1212 West Washington Boulevard, Los Angeles, Calif. Rosemarie Lewis is its principal officer and directs its sales policies and business operations.

The respondents cause their products, when sold, to be transported from their aforesaid place of business in the State of California or from some other point to the purchasers thereof located at points in various States other than the States from which said shipments of said products originate and in the District of Columbia. Respondents maintain a course of trade and commerce in said products so distributed and sold by them in commerce among and between the various States of the United States and in the District of Columbia.

In the course and conduct of said business, respondents have been, and are, in substantial competition with other individuals and with firms, corporations and partnerships engaged in the distribution and sale of similar products and other products intended and designed for similar use by women, in commerce among and between the

various States of the United States and in the District of Columbia.

PAR. 2. The products marketed by respondents, and sold to customers in commerce, as herein set-out, are variously known and described as "Certane." An assortment of said products consists of douche powder, ointment, jelly, syringe, applicator, vaginal diaphragm, and vaginal cones and are sold in sets and otherwise.

PAR. 3. In the operation of their business and for the purpose of inducing the purchase of said products by the members of the public, the respondents have made use of various means and ways of advertising said products, among which are the distribution of booklets, pamphlets, show window displays, and circulars bearing the names of various products and in some instances all of them. Some of the aforesaid advertising literature describes and makes certain representations as to the efficacy of the products of respondent.

PAR. 4. For the purpose of selling and distributing their products, respondents publish and cause to be published as a part of their advertising, a booklet entitled:

WOMEN'S SECRETS

A confidential

Discussion of

FEMININE

HYGIENE

by

Rose Marie Lewis

In referring to their products in the booklets and other advertising, as aforesaid, such statements as the following are made:

"Through my investigation, I found that Certane, a product of years of research by laboratory specialists, was the one Feminine Hygiene highly recommended by many physicians and nurses, and also by thousands of women who have used it with such satisfying results."

Certane assures you of a method that is safe and dependable in quality, easy to use and economical to purchase. * * *

Your own physician can approve the use of every ingredient combined in the Certane Method of Feminine Hygiene.

* * * * *

Suppressed or Delayed Menstruation

Any abnormal or diseased condition should be treated by a reliable physician. Where the delayed menstruation is the result of exposure to cold or similar indiscretions, the effect of a warm, medicated douche is an aid to nature in relieving the congestion.

The most beneficial results are obtained by use of the "ballooning" douche, with the water at a temperature, according to physicians, of 120 to 125 degrees F. The solution, to which Certane Douche Powder should be added, must be retained for from 15 minutes to half an hour. Full ballooning of the vaginal

Complaint

32 F. T. C.

walls is imperative, as only in this way can the many folds and linings be reached by the douche. Use this treatment twice a day, a day or so before the customary flow period, continuing until relief from the congestion is obtained.

* * * * *

Certane Jelly, because of its proper consistence, clings to the tissues and readily spreads into the many folds and crevices of the vaginal tract, forming a film over the mucous membrane, and remaining for hours in effective contact.

You can depend on this product as being safe to use. Its action, persisting for hours, makes its usefulness obvious to every woman.

WHAT MODERN CLINICS ARE USING

As an accommodation to those who desire added precaution, Certane offers the uterine medicator, either the Dia-Cap or Dia-Dome, separately illustrated and described, as a scientific and convenient method of holding medication in contact with the cervix or mouth of the womb. This method is endorsed by medical science and is today the foremost method used in hygiene clinics. * * *

* * * Once properly inserted, and after a short time in use, the wearing of Certane Dia-Cap or Dia-Dome is unnoticed. There is not the slightest feeling of discomfort and it offers no obstacle to the normal functioning of the vaginal canal.

Nor is there any risk connected with the use of either the Certane Dia-Cap or Dia-Dome. It cannot be "lost" in the vaginal tract and is easily removed.

CERTANE DIA-CAP * * * *needs no fitting*

New and entirely revolutionary in design, made to fit all normal women, Certane Dia-Cap is especially favored by physicians.

* * * * *

It fits over the mouth of the cervix and lodges itself into the folds of the vaginal canal, completely blocking off the cervix, where it is held firmly in place by suction. When properly inserted there is no sensation of discomfort. The one size fits all normal women. Made exclusively by Certane Co., Inc.

* * * * *

Certane Antiseptic Powder is applied dry and sprayed into the vaginal tract. It is a recognized antiseptic compound, which is easily dissolved in the natural secretions of the vaginal tract. It penetrates and bathes both the tissues and delicate membranes and its action remains in effective contact for as many hours as it is retained in the vaginal tract. It is most active five to ten minutes after application, which allows time for dissolving.

The inclusion of this antiseptic in Certane assures you of a method of feminine hygiene that is safe from harmful poisons, dependable in quality, easy to use and economical to purchase.

Thousands of women have used Certane exclusively for years, to the exclusion of other products for which the manufacturers have claimed "just as good" qualities. We have in our files hundreds of unsolicited testimonials from women everywhere who have used it with such splendid results.

Certane has been laboratory tested by professional chemists and their reports establish its merited reputation (copy of laboratory report furnished any physician upon request).

But better than any laboratory test is the unanimous praise of those women who have used it with such gratifying satisfaction. It is recognized, both theoretically and practically, as one type method of feminine hygiene that meets the test of the most exacting use. This is because, in addition to the splendid reliable quality of its antiseptic ingredients, there is also the smooth, soothing texture of the jelly carrier itself. It melts at low temperature so that it quickly spreads at body heat. There is no tell-tale odor to linger and embarrass. Many physicians who have observed its excellent performance under actual application, recommended Certane exclusively to their patients.

In said statements, together with other similar statements not herein set-out with respect to their products and in their general advertising, respondents directly and through implication represent that their products form safe, competent, and effective preventatives against conception; that the use of said products is a guarantee against pregnancy; that said products are composed, in whole or in part, of agents which are fully effective, among other things, in insuring health and youth to wives and mothers; that said products keep the body perfectly clean and sanitary and the mind free from worry and anxiety, and keep the bloom of youth in the user; that use of said products prevents disease, insures health and strength, causes the rapid elimination of bacteria, including leucorrhea (whites) and disagreeable discharges, and acts as a preventative of female irregularities; and that said products are antiseptic and effective as prophylactic, that they heal the delicate membranes and tissues in the vaginal tract and form competent and effective treatments for subnormal or unhealthful conditions of the uterus and vagina, nervousness, pain and discomfort, and mental depression.

PAR. 5. The aforesaid statements and representations used by the respondents in offering for sale and selling their various products as herein described in commerce herein are false and misleading and in truth and in fact said products do not form or constitute safe and competent remedies against conception and are not a guarantee against pregnancy. Said products do not contain ingredients or medicinal agents which are fully effective, among other things, to insure health and youth to wives and mothers. They do not keep the body perfectly clean and sanitary; or the mind free from worry and anxiety. Said products are not effective as preventatives against disease; are not effective to keep the bloom of youth, or to insure health and strength; and will not cause the rapid elimination of bacteria, including leucorrhea (whites) or disagreeable discharge; neither are they preventatives of female irregularities generally. They do not act as an antiseptic or prophylactic or heal the delicate membranes or tissues of the vaginal tract; and are not competent and effective treat-

Findings

32 F. T. C.

ments for sub-normal or unhealthful conditions of the uterus or vagina, nervousness, pain or discomfort, and mental depression.

PAR. 6. There are among the respondents' competitors in commerce, as herein set-out, those who do not in any way misrepresent the character and nature of their respective businesses and who do not misrepresent in any way the nature, character, and efficacy of their respective products, and do not make use of any of the misleading representations herein set out or others similar thereto.

PAR. 7. The aforesaid false and misleading statements and representations used by the respondents in offering for sale and selling their various products as herein described, in commerce as herein set-out, have had, and do now have, the tendency and capacity to, and do, mislead and deceive members of the purchasing public into the erroneous and mistaken beliefs that said representations are true and into the purchase of substantial quantities of respondents' various products on account of said erroneous and mistaken beliefs induced as aforesaid. As a result thereof trade is diverted unfairly to respondents from competitors of respondents who do not, in the sale and distribution of their respective products, make use of the same or similar misrepresentations. In consequence thereof injury has been, and is now being, done by respondents to competition in commerce among and between the various States of the United States.

PAR. 8. The aforementioned methods, acts, and practices of respondents are all to the prejudice of the public and respondents' competitors as hereinabove alleged, and constitute unfair methods of competition 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 July 12, 1938, issued and thereafter served its complaint in this proceeding upon the respondent, Rosemarie Lewis, an individual, trading as the Certane Co. and Certane Co., Inc., a corporation, charging them with unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the answer of the respondent, Rosemarie Lewis, an individual, trading as Certane Co., thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Reuben J. Martin and DeWitt T. Puckett, attorneys for the Commission, and in opposition to the allegations of the complaint by Daniel Dougherty, attorney for the

respondent, before C. P. Vicini, an examiner of the Commission theretofore duly designated by it. Said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and other evidence, the report of the trial examiner upon the evidence, briefs in support of the complaint and in opposition thereto (oral argument not having been requested); 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, Rosemarie Lewis, is an individual trading as "Certane Company," with her principal office and place of business located at 1212 West Washington Boulevard, Los Angeles, Calif. She is now, and for more than 8 years has been engaged in the manufacture, sale, and distribution in commerce of certain medicinal feminine hygiene preparation and appliances known respectively as Certane Ointment, Certane Jelly, Certane Antiseptic Powder, Certane Douche Powder, and Certane Cones designed for so-called feminine-hygiene use and for use in preventing conception, pregnancy, and diseases common to the female anatomy. Respondent is also engaged in the sale of certain syringes, applicators, "Douches," "douche shields," "Dia-Caps," and "Dia-Domes" for use in applying said medicinal preparations. Respondent sells and distributes her products both to dealers and to consumers.

The Certane Co., Inc., also named as a respondent herein, was incorporated in 1933, as a California corporation, with its principal place of business also located at 1212 Washington Boulevard, Los Angeles, Calif. Respondent, Rosemarie Lewis, was the sole stockholder of said corporation until its dissolution on July 9, 1937. Prior to the dissolution of the said corporation, respondent, Rosemarie Lewis, traded under the name of Certane Co., Inc., manufacturing and selling feminine hygiene products, and, subsequent to such dissolution, respondent, Rosemarie Lewis, has continued such business under the trade name of Certane Co.

PAR. 2. In the course and conduct of her business respondent, Rosemarie Lewis, causes and has caused her said products, when sold, to be transported from her place of business in the State of California, to purchasers thereof located in various other States of the United States.

Findings

32 F. T. C.

Respondent maintains, and for more than 8 years last past has maintained, a course of trade in her said medicinal preparations and feminine-hygiene appliances in commerce between and among the various States of the United States.

PAR. 3. Respondent, Rosemarie Lewis, is now, and at all times mentioned herein has been, engaged in substantial competition with other individuals, and with firms, partnerships, and corporations engaged in the sale and distribution, in commerce between and among the various States of the United States, of various medicinal products and appliances designed for use in the treatment of the same diseases and ailments of the female human body as those for which respondent's preparations and appliances are recommended and sold.

PAR. 4. In the course and conduct of her business and for the purpose of inducing the purchase of her said products, the respondent, Rosemarie Lewis, is disseminating and has disseminated advertisements among prospective purchasers, by United States mail, by insertion in newspapers and magazines; and by distribution of booklets, pamphlets, and other advertising literature. Among and typical of the statements and representations made by her in advertising booklets are the following:

WOMEN'S SECRETS

A confidential

Discussion of

FEMININE

HYGIENE

by

Rose Marie Lewis

In referring to her products in the booklet and other advertising, as aforesaid, such statements as the following are made:

Through my investigation, I found that Certane, a product of years of research by laboratory specialists, was the one Feminine Hygiene highly recommended by many physicians and nurses, and also by thousands of women who have used it with such satisfying results.

Certain assures you of a method that is safe and dependable in quality, easy to use and economical to purchase. * * *

Your own physician can approve the use of every ingredient combined in the Certane Method of Feminine Hygiene.

* * * * *

Suppressed or Delayed Menstruation

Any abnormal or diseased condition should be treated by a reliable physician. Where the delayed menstruation is the result of exposure to cold or similar indiscretions, the effect of a warm, medicated douche is an aid to nature in relieving the congestion.

The most beneficial results are obtained by use of the "ballooning" douche, with the water at a temperature, according to physicians, of 120 to 125 degrees F. The solution, to which Certane Douche Powder should be added, must be retained for more than 15 minutes to half an hour. Full ballooning of the vaginal walls is imperative, as only in this way can the many folds and linings be reached by the douche. Use this treatment twice a day, a day or so before the customary flow period, continuing until relief from the congestion is obtained.

* * * * *

Certane Jelly, because of its proper consistence, clings to the tissues and readily spreads into the many folds and crevices of the vaginal tract, forming a film over the mucous membrane, and remaining for hours in effective contact.

You can depend on this product as being safe to use. Its action, persisting for hours, makes its usefulness obvious to every woman.

WHAT MODERN CLINICS ARE USING

As an accommodation to those who desire added precaution, Certane offers the uterine medicator, either the Dia-Cap or Dia-Dome, separately illustrated and described, as a scientific and convenient method of holding medication in contact with the cervix or mouth of the womb. This method is endorsed by medical science and is today the foremost method used in hygiene clinics. * * *

* * * Once properly inserted, and after a short time in use, the wearing of Certane Dia-Cap or Dia-Dome is unnoticed. There is not the slightest feeling of discomfort and it offers no obstacle to the normal functioning of the vaginal canal.

Nor is there any risk connected with the use of either the Certane Dia-Cap or Dia-Dome. It cannot be "lost" in the vaginal tract and is easily removed.

CERTANE DIA-CAP * * * *needs no fitting*

New and entirely revolutionary in design, made to fit all normal women, Certane Dia-Cap is especially favored by physicians.

It fits over the mouth of the cervix and lodges itself into the folds of the vaginal canal, completely blocking off the cervix, where it is held firmly in place by suction. When properly inserted there is no sensation of discomfort. The one size fits all normal women. Made exclusively by Certane Co., Inc.

* * * * *

Certane Antiseptic Powder is applied dry and sprayed into the vaginal tract. It is a recognized antiseptic compound, which easily dissolves in the natural secretions of the vaginal tract. It penetrates and bathes both the tissues and delicate membranes and its action remains in effective contact for as many hours as it is retained in the vaginal tract. It is most active five to ten minutes after application, which allows time for dissolving.

The inclusion of this antiseptic in Certane assures you of a method of feminine hygiene that is safe from harmful poisons, dependable in quality, easy to use and economical to purchase.

Thousands of women have used Certane exclusively for years, to the exclusion of other products for which the manufacturers have claimed "just as good" qualities. We have in our files hundreds of unsolicited testimonials from women everywhere who have used it with such splendid results.

Certane has been laboratory tested by professional chemists and their reports establish its merited reputation (copy of laboratory report furnished any physician upon request).

Findings

32 F. T. C.

But better than any laboratory test is the unanimous praise of those women who have used it with such gratifying satisfaction. It is recognized, both theoretically and practically, as one type method of feminine hygiene that meets the test of the most exacting use. This is because, in addition to the splendid reliable quality of its antiseptic ingredients, there is also the smooth, soothing texture of the jelly carrier itself. It melts at low temperature so that it quickly spreads at body heat. There is no tell-tale odor to linger and embarrass. Many physicians who have observed its excellent performance under actual application, recommend Certane exclusively to their patients.

PAR. 5. Through the use of the foregoing statements and representations and others of similar import, the respondent represents and has represented that her various preparations and appliances if used as directed by her and as illustrated in the various diagrams pictured in her advertising booklets and other literature, are safe, competent, and effective preventatives against conception and will prevent pregnancy; that her preparations if used as directed will correct suppressed or delayed menstruation; that said products are composed in whole or in part of ingredients which are effective, among other things, in insuring health and youth to wives and mothers; that said products keep the body perfectly clean and sanitary and the mind free from worry and anxiety; that the use of said products prevents disease, causes the rapid elimination of bacteria, including leucorrhea and disagreeable discharges and acts as a preventive of female irregularities; that said products are antiseptic and effective as prophylactics; that they heal the delicate membranes and tissues of the vaginal tract and form competent and effective treatments for the subnormal or unhealthy conditions of the uterus or vagina, nervousness, pain, discomfort, and mental depression.

PAR. 6. The Commission finds that respondent's Antiseptic Jelly and Antiseptic Powder are composed principally of boric acid, quinine bisulphate, and oxyquinoline sulphate as the chief medicants; the powder in addition contains citric acid; the Medicated Cones contain boric acid, oxyquinoline sulphate, and zinc sulphate; and respondent's Douche Powder contains boric acid, sodium chloride, and oxyquinoline sulphate; that all products sold by respondent are now prefaced by the name "Certane"; that all of the products with the exception of the Cones are applied by the use of special devices known as applicators, douche shields, syringes, atomizers, Dia-Caps and Dia-Domes.

The respondent's "Antiseptic Jelly" is inserted into the vaginal tract by the use of an instrument called an applicator which consists of a tube fitted with a plunger, and respondent directs that user fill the tube with jelly and force same into the vaginal cavity by use of the plunger, and represents that said product used as directed can be

depended upon as a safe preventative of conception or pregnancy and will cure various diseases of the vaginal tract.

Respondent's "Antiseptic Powder" is used by blowing the powder into the vaginal tract by use of a rubber bulb, a small rubber tube, and a glass tube. Respondent claims that the powder will in due course be dissolved and spread throughout the vaginal tract and effect a safe and harmless treatment for diseases of the vaginal tract and will prevent conception or pregnancy. Respondent's "Douche Powder" is used by dissolving said powder in water and thereafter ballooned into the vaginal tract by the use of respondent's fountain syringe equipped with her douche shield, and is recommended by the respondent as a safe and most sanitary method of treating various vaginal diseases and as a preventative of conception or pregnancy.

The "Dia-Caps" and "Dia-Domes" are recommended by the respondent for use as scientific and convenient methods of preventing conception and for treatment of vaginal diseases or disorders, by inserting as a cap over the cervix or mouth of the womb after having been covered with respondent's Antiseptic Jelly, and respondent claims that the absorption of same into the womb and other parts will give satisfactory results and that women can use same with little or no inconvenience. The Dia-Caps are sold by the respondent in only one size and respondent states in her advertising literature that they will fit any normal woman. The Dia-Domes are sold in various sizes for use in the same manner.

PAR. 7. The Commission finds that respondent's preparations while they may to some extent destroy spermatozoa with which they come in direct contact, are not competent or effective preventatives against conception and will not prevent pregnancy. The use of said preparations will not correct suppressed or delayed menstruation or prevent female irregularities. Said products have no therapeutic value in the treatment of subnormal or unhealthful conditions of the uterus or vagina, nervousness, pain, discomfort, or mental depression. The use of said products will not prevent disease, cause the rapid elimination of bacteria, including leucorrhea and disagreeable discharges, or heal the delicate membranes and tissues of the vaginal tract. The use of respondent's preparations and appliances will not be effective in insuring health but instead their use as directed by the respondent may be detrimental to health and this is particularly true in the use of respondent's Douche Powder with Douche Bag equipped with respondent's Shield, by which process respondent provides for ballooning the vaginal cavity with the possibility of causing sufficient pressure to force fluid into the womb and Fallopian tubes which might cause

Order

32 F. T. C.

salpingitis, and if infection of any kind is present in the vaginal cavity, it is possible for the ballooning operation to carry or force said infection into the Fallopian tubes and peritonitis might result.

The Commission finds that the use of respondent's Dia-Caps or Dia-Domes, commonly known in the medical profession and among the laity as diaphragms, is not a guarantee against conception or pregnancy. The Dia-Caps are sold in one size only and are guaranteed to fit any normal woman. The Dia-Domes are the same as the Dia-Caps, except made slightly different in shape, and are sold in various sizes. They will not fit all normal women. These appliances should be properly fitted to the particular woman who is to use them, preferably by a physician or other competent person. It is impossible for a woman to classify herself in a group and determine what size Dia-Cap or Dia-Dome meets her requirements. Without special instructions and fitting these appliances would afford little or no protection.

PAR. 8. The Commission finds that the use by the respondent of the foregoing false, deceptive, and misleading statements and representations 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 statements and representations are true and to induce a portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's preparations and appliances and thereby trade has been diverted unfairly to the respondent from her competitors in commerce among and between the various States of the United States.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony, and other evidence in support of the allegations of said complaint and in opposition thereto taken before C. P. Vicini, an examiner of the Commission theretofore duly designated by it, the report of the trial examiner upon the evidence, and upon briefs filed herein by William L. Taggart, counsel for the Commission, and

Daniel Dougherty, counsel for the respondent (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Rosemarie Lewis, individually, and trading as Certane Co., or trading under any other name, her representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of feminine hygiene preparations known as "Certane Ointment," "Certane Jelly," "Certane Antiseptic Powder," "Certane Douche Powder," and "Certane Cones," and various appliances known as "Douche Shields," "Applicators," "Dia-Caps," and "Dia-Domes," or any other preparations or appliances having substantially similar composition, or substantially similar properties or function, whether sold under the same names or under any other names, do forthwith cease and desist from representing directly or indirectly:

1. That any of said preparations or appliances whether used alone or in conjunction with any other of said preparations or appliances, will prevent conception or prevent pregnancy, or that said preparations or appliances are safe, competent or effective preventatives against conception.

2. That any of said preparations or appliances, whether used alone or in connection with any other of said preparations or appliances, possess any therapeutic value in the treatment of delayed menstruation, or that such use will prevent female irregularities in menstruation or will correct suppressed menstruation.

3. That any of said preparations or appliances have any therapeutic value in the treatment of subnormal or unhealthful conditions of the uterus or vagina, nervousness, pain, discomfort, or mental depression.

4. That the use of any of respondent's preparations or appliances, whether used alone or in connection with any other of said preparations or appliances, will prevent disease, cause the rapid elimination of bacteria, including leucorrhea and disagreeable discharges, or will heal the delicate membranes and tissues of the vaginal tract.

5. That the use of respondent's preparations or appliances, whether used alone or in connection with any other of said preparations or appliances, will be effective in insuring health.

6. That respondent's appliance known as "Douche Shield" may be used as directed by the respondent in ballooning the vaginal cavity without possible harmful effects.

Order

32 F. T. C.

It is further ordered, That the case herein be, and the same hereby is, closed as to Certane Co., Inc., a defunct corporation.

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

Syllabus

IN THE MATTER OF
CHICAGO THERMO-MAGNETIC CUSHION COMPANY,
AND A. MERCER PARKER

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

Docket 3523. Complaint, Aug. 2, 1938—Decision, Mar. 19, 1941

Where a corporation and an individual, who was its president, owned 98 percent of its stock, and managed, controlled, and directed its sales policies and business affairs, engaged in the manufacture and competitive interstate sale and distribution of their "Thermo-Magnetic Cushion," upon which, after plugging it into an ordinary house socket, patient was to sit for treatment through the pelvic region, in advertising and describing their said device in various magazines and newspapers of interstate circulation and in circulars, folders, and occasionally personal letters sent to those replying to aforesaid advertising—

Represented that their said "Thermo-Magnetic Cushion" possessed remedial and therapeutic value in treatment of constipation, colds, rheumatism, lumbago, sciatica, menstrual disorders of women, neurasthenia, neuritic troubles, nervous ailments, stomach and digestive troubles, including constipation, prostatic troubles, kidney or bladder trouble, nervous ailments, and other ailments of the human body, and that the use of said device would promote good blood circulation, dissipate congestion, and revitalize the human system;

Facts being infrared rays emitted by it were weak, with comparatively slight penetrating qualities, and its electromagnetic effect was very weak, with no effect upon body tissue, properties thereof were limited to those of an ordinary heating pad, local application of which may in some cases give temporary relief from pain, effective area of application in treatment of painful conditions was restricted by the method of use, and device did not constitute a cure or remedy for various ailments and conditions above set forth, and had no therapeutic value in the treatment thereof in excess of affording temporary relief from pain when localized in the area affected by said device, and use thereof would not revitalize the system;

With effect of misleading and deceiving a substantial portion of the purchasing public and of causing it mistakenly and erroneously to believe that their said representations and implications were true, and to purchase substantial quantities of their said device because of said mistaken and erroneous belief and with consequence that trade in commerce had been and was diverted unfairly to them from competitors who truthfully represented their said products:

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.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. DeWitt T. Puckett and *Mr. J. R. Phillips, Jr.*, for the Commission.