

Syllabus

IN THE MATTER OF
D. STEFAN WROBLEWSKI ET AL.

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

Docket 4196. Complaint, July 25, 1940—Decision, July 24, 1941

Where an individual and three corporations, which he used to carry on his business activities, engaged in the competitive interstate sale and distribution of various medicinal, toilet, and cosmetic preparations; sold under variety of designations such as "Kalwaryjskie Wino Lecznice," "Ampo-Lin," "Reginol," etc., by means of advertisements disseminated through the mail, in newspapers and periodicals, radio continuities, circulars, leaflets, pamphlets, and other advertising literature—

- (a) Falsely represented that its "Kalwaryjskie Wino Lecznice," so-called medicinal wine, was a cure or remedy and a competent and effective treatment for stomach ailments and disorders, including sour stomach, gas on stomach and indigestion, headaches, constipation, listlessness, general weakness of the human system, sluggishness, skin eruptions and blemishes, wrinkles, bad breath, loss of energy, sallow skin, dizziness, colds, fever and chills; and that it would eliminate poisons from the system and serve as a tonic to build up the general health; the facts being that it would not do more than serve as a bitter tonic and appetizer, the laxative properties of which might assist in the temporary relief of constipation;
- (b) Represented that its "Ampo-Lin" liniment constituted a competent and effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained and aching muscles, bruises, and swellings, and that its "Reginol" was a cure or remedy for corns and would prevent their return; facts being the former had no therapeutic value in excess of that of a local counter-irritant tending to decrease pain in simple neuralgia and muscular aches and pains, and, while use of the latter might assist in the removal of corns, it would not prevent their return;
- (c) Represented that "Masc Ratunek" or "Ratunek Salve" was a competent and effective treatment for sharp pains in the back and in the bones and body generally; and that their "Kalwa" was such a treatment for coughs, hoarseness, catarrh of the throat, smoker's cough, grippe, whooping cough, and other similar ailments; facts being the former had no therapeutic value other than as a local counterirritant tending to decrease simple neuralgia and muscular aches and pains, and the latter was not a treatment for the conditions set forth, in excess of constituting an expectorant which might aid in the removal of phlegm in coughs due to colds and mild throat irritations and in smoker's cough;
- (d) Represented that their "Wuzi-Wuzi" was a competent and effective treatment for all headaches and for fever, and was safe and harmless, and that their "Krople-Kobiece" or "Women's Drops" was of substantial therapeutic value in the treatment of ailments and disorders peculiar to women; the facts being former was not a treatment for fever, possessed no therapeutic value in the treatment of headaches in excess of such temporary relief as might be afforded by its analgesic properties, and was not safe or harmless by virtue of containing drugs which are habit forming, and were

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present in quantities sufficient to cause injury to health if taken in excessive or too frequent doses or over extended periods of time, and said "Drops" possessed no therapeutic value in treatment of women's ailments and would not accomplish more than to serve as a bitter appetizer;

- (e) Represented that their said "Sparoton Tablets" were a cure or remedy for gripe, colds and chills, and fever; and that their "Dunski Wyskok" would cure dandruff, stop and prevent falling hair and cause it to grow; the facts being that neither product constituted such a cure or remedy or accomplished the results claimed;
- (f) Falsely represented that their said "Krem Mlodosci No. 1" would prevent and heal sunburn, roughness of the face, neck and hands, and eliminate perspiration odors; that their "Krem Mlodosci No. 2" would remove pimples, blemishes, freckles, and all impurities from the complexion; that their "Vitamin F Krem" would remove wrinkles and blemishes from the face, rejuvenate fading, worn skin, renew complexions, regardless of their condition, and revive the skin; and that their "Puder Ksiazecy" protected the skin against atmospheric changes; and
- (g) Failed to reveal in their said advertisements that use of their "Wuzi-Wuzi" headache and fever treatment under prescribed, customary, or usual conditions might cause injury to health of the user; and

Where said individual and corporations, engaged as aforesaid—

- (h) Falsely represented through use of the word "laboratories" in their trade names and advertisements that they owned or operated a laboratory wherein their products were compounded and tested;
- (i) Implied that said individual was a physician and that their preparations were compounded by one possessing training and experience in the medical profession; facts being he had had no training or experience in the practice of medicine, held no medical degree, and was not licensed to practice; and
- (j) Made use in their advertisements of testimonials represented as having been supplied by persons who had received benefits from use of their preparations; when in fact such purported testimonials were prepared by themselves or by their employees;

With effect of misleading and deceiving members of the purchasing public into the mistaken belief that such representations were true, and into purchase of substantial quantities of said products by reason thereof, whereby trade was diverted unfairly from their competitors:

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

Mr. R. P. Bellinger for the Commission.

Evans & Evans, of New York City, for Margie Wroblewski Hartman and Norman Hartman.

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 D. Stefan Wroblewski, Margie Wroblewski, and Norman Hartman, individually,

and trading as D. Wroblewski & Co., and as D. S. Wroblewski, Inc., and as Daferu Drug Co., Ltd., and as Wroblewski Drug Co., Inc., and as Kalwaryjskie Laboratories, Inc., and as D. Wroblewski & Co., Ltd.; and D. Wroblewski & Co., a corporation; D. S. Wroblewski, Inc., a corporation; Daferu Drug Co., Ltd., a corporation; Wroblewski Drug Co., Inc., a corporation; Kalwaryjskie Laboratories, Inc., a corporation; and D. Wroblewski & Co., Ltd., a corporation, herein-after 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:

PARAGRAPH 1. Respondents D. Stefan Wroblewski, Margie Wroblewski, and Norman Hartman are individuals trading as D. Wroblewski & Co., and as D. S. Wroblewski, Inc., and as Daferu Drug Co., Ltd., and as Wroblewski Drug Co., Inc., and as Kalwaryjskie Laboratories, Inc., and as D. Wroblewski & Co., Ltd.

Respondents D. Wroblewski & Co., D. S. Wroblewski, Inc., Daferu Drug Co., Ltd., Wroblewski Drug Co., Inc., Kalwaryjskie Laboratories, Inc., and D. Wroblewski & Co., Ltd., are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York.

All of the respondents have their office and principal place of business at 55 Keap Street, Brooklyn, N. Y.

Respondent D. Stefan Wroblewski, is an officer of, and the principal stockholder in, all of the corporate respondents and directs, dominates, and controls their acts, practices, and policies. Said corporate residents are in effect the property of the said individual respondent and are used by him as a means to carry on his business activities.

PAR. 2. Respondents are now, and for more than 5 years last past have been, engaged in the sale and distribution of various medicinal and cosmetic preparations, causing said preparations, when sold, to be transported from their place of business in the State of New York to the purchasers thereof located in 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 their said products in commerce between and among the various States of the United States and in the District of Columbia. Among the preparations sold and distributed by the respondents as aforesaid are the following:

A so-called medicinal wine designated as "Kalwaryjskie Wino Lecznicze"; a liniment designated "Ampo-Lin"; a preparation for corns designated as "Reginol"; a salve called "Masc Ratunek"; a

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cough syrup called "Kalwa"; a so-called fever reducer and headache powder designated "Wuzi-Wuzi"; a preparation purported to be a remedy for ailments peculiar to women, designated as "Kropole-Kobiece" or "Women's Drops"; a tablet known as "Sparoton," represented as a treatment for fever and the grippe; a preparation known as "Dunski Wyskok," intended to be used as a shampoo and for various scalp diseases; facial creams called "Krem Mlodosci No. 1," "Krem Mlodosci No. 2," and "Vitamin F Krem"; and a face powder called "Puder Ksiazecy."

PAR. 3. Respondents are now, and at all times mentioned herein have been, in substantial competition with other individuals and corporations and with firms and partnerships, 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 medicinal and cosmetics preparations designed and intended for the same purposes as those for which the respondents' preparations are recommended.

PAR. 4. 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 products by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said products; and respondents have also 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. Among the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, by radio continuities, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

(a) That said produce, "Kalwaryjske Wino Lecznize," is a cure or remedy and a competent and effective treatment for stomach ailments and disorders including sour stomach, gas on stomach and indigestion, headaches, constipation, listlessness, general weakness of the human system, sluggishness, skin eruptions and blemishes, wrinkles, bad breath, loss of energy, sallow skin, dizziness, colds, fever and chills; that said product will eliminate poisons from the system, and will serve as a tonic to build up the general health;

(b) That said product, "Ampo-Lin," is a competent and effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained and aching muscles, bruises, and swellings;

(c) That said product, "Reginol," is a cure or remedy for corns, and that the use of said product will prevent the return of the corn;

(d) That said product, "Masc Ratunek" or "Ratunek Salve," is a competent and effective treatment for sharp pains in the back and in the bones and body generally;

(e) That said product, "Kalwa," is a competent and effective treatment for coughs, hoarseness, catarrh of the throat, smoker's cough, grippe, whooping cough, and other similar ailments;

(f) That said product, "Wuzi-Wuzi," is a competent and effective treatment for all headaches and for fever, and that said preparation is safe and harmless;

(g) That said product, "Krople-Koblece" or "Women's Drops," is of substantial therapeutic value in the treatment of ailments and disorders peculiar to women, and the pains and nervousness caused by such ailments;

(h) That said product, "Sparoton Tablets" is a cure or remedy for grippe, colds and chills and fever;

(i) That said product, "Dunski Wyskok," will cure dandruff, will stop and prevent falling hair and will cause the growth of hair;

(j) That said product, "Krem Mlodosci No. 1," will prevent and heal sunburn, roughness of the face, neck and hands, and will eliminate odors resulting from perspiration; that "Krem Mlodosci No. 2" will remove pimples, blemishes, freckles, and other imperfections, and remove all impurities from the complexion, and that "Vitamin F Krem" will remove wrinkles and blemishes from the face, rejuvenate fading, worn skin, renew complexions, regardless of their condition, and will revive the skin;

(k) That said product, "Puder Ksiazecy," protects the skin against atmospheric changes.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' preparations do not possess the properties and qualities, and are not capable of producing the results, claimed by respondents.

(a) Said product designated "Kalwaryjskie Wino Lecznicze" is not a cure or remedy, or a competent or effective treatment for stomach ailments or disorders, sour stomach, gas on stomach, indigestion, headaches, listlessness, general weakness of the human system, sluggishness, skin eruptions or blemishes, wrinkles, bad breath, loss of energy, sallow skin, dizziness, colds, fever, or chills. Said preparation is not a cure or remedy for constipation, nor has it any therapeutic value in the treatment of constipation, except insofar as its laxative properties may assist in the temporary evacuation of the bowels. Said preparation will not eliminate poisons from the system, nor will it serve as a tonic to build up the general health.

(b) Said product designated "Ampo-Lin" does not constitute a competent or effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained or aching muscles, bruises or swellings.

(c) Said product designated "Reginol" is not a cure or remedy for corns. While the use of said product may assist in the removal of corns, said product will not prevent the return of the corn.

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(d) Said product designated "Masc Ratunek" or "Ratunek Salve" does not constitute a competent or effective treatment for pains in the back or in the bones or in the body generally.

(e) Said product designated "Kalwa" is not a competent or effective treatment for coughs, hoarseness, catarrh of the throat, smoker's cough, grippe, whooping cough or other similar ailments.

(f) Said product designated "Wuzi-Wuzi" is not a competent or effective treatment for fever, nor does it possess any therapeutic value in the treatment of headaches in excess of such temporary and palliative relief as may be afforded by its analgesic properties. Moreover said preparation is not safe or harmless, as it contains the drugs acetanilid and acetphenetidin, which are habit-forming, and which are present in said preparation in quantities sufficient to cause injury to health if taken in excessive doses, or in too frequent doses, or over extended periods of time.

(g) Said product designated "Krople-Kobiecie" or "Women's Drops" possesses no therapeutic value in the treatment of ailments or disorders peculiar to women, nor will the use of said product afford relief from any pains or nervousness caused by such ailments.

(h) Said product designated "Sparoton Tablets" is not a cure or remedy for grippe, colds, chills or fever.

(i) Said product designated "Dunski Wyskok" is not a cure or remedy for dandruff nor will it stop or prevent falling hair nor will it cause the growth of hair.

(j) Said product designated "Krem Mlodosci No. 1" will not prevent or heal sunburn or roughness of the face, neck, or hands, nor will it eliminate odors resulting from perspiration. The product designated "Krem Mlodosci No. 2" will not remove pimples, blemishes, freckles, or other skin imperfections, nor will it remove any impurities from the complexion. The product "Vitamin F Krem" will not remove wrinkles or blemishes from the face, nor will it rejuvenate fading, worn skin, nor will it renew the complexion or revive the skin.

(k) Said product designated "Puder Ksiazecy" will not protect the skin against atmospheric changes.

PAR. 6. Said advertisements with respect to the product "Wuzi-Wuzi" are false also in that they fail to reveal that the use of said product under the conditions prescribed in said advertisement or under such conditions as are customary or usual may cause injury to the health of the user.

PAR. 7. The respondents also represent, by the use of the word "Laboratories" in certain of their trade and corporate names and through advertisements disseminated as aforesaid, that they own or operate a laboratory in connection with their said business and that their products are compounded and tested in such laboratory. In truth and in fact the respondents do not own or operate any laboratory in connection with their business.

PAR. 8. The use by the respondents of the word "Laboratories" in certain of their trade and corporate names as aforesaid, constitutes within itself a false and misleading representation that the respondents own or operate a laboratory in connection with their said business.

PAR. 9. In their advertisements as aforesaid the respondents refer to the respondent D. Stefan Wroblewski as "Doctor" Wroblewski, thus implying that said respondent is a physician and that respondents' preparations are compounded by one possessing knowledge, training, and experience in the medical profession. In truth and in fact said respondent is not a physician and has had no special training or experience in the practice of medicine, nor does said respondent hold any medical degree, or any license to practice medicine.

PAR. 10. In their said advertisements the respondents have also used purported testimonials represented as having been supplied by persons who had received benefit from the use of respondents' preparations. In truth and in fact said purported testimonials were prepared by respondents or by their employees and did not originate with members of the public who had used such preparations.

PAR. 11. The use by the respondents of the aforesaid false and misleading statements and representations, disseminated as aforesaid, has the tendency and capacity to, and does, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and into the purchase of substantial quantities of respondents' products because of such erroneous and mistaken belief. As a result trade has been diverted unfairly to the respondents from their said competitors, and in consequence substantial injury has been done and is being done by the respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' 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 25th day of July, A. D. 1940, issued and thereafter served its complaint in this proceeding upon the respondents, D. Stefan Wroblewski, Margie Wroblewski Hartman (referred to in the complaint as Margie Wroblewski), and Norman Hartman, individually and trading as D. Wroblewski & Co., and as D. S. Wroblewski, Inc., and as Daferu Drug Co., Ltd., and as Wroblewski Drug Co., Inc., and as Kalwaryjskie Laboratories, Inc., and as D. Wroblewski & Co., Ltd., and D. Wroblewski & Co. of America, Inc., a corporation (referred to in the complaint as D. Wroblewski & Co.), D. S. Wroblewski, Inc., a corporation, Daferu Drug Co., Inc., a

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corporation (referred to in the complaint as Daferu Drug Co., Ltd.), The Wroblewski Drug Co., Limited, a corporation (referred to in the complaint as Wroblewski Drug Co., Inc.), Kalwaryjskie Laboratories, Inc., a corporation, and D. Wroblewski & Co., Ltd., a corporation (referred to in the complaint as D. Wroblewski & Co., Ltd.), 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. On August 31, 1940, the individual respondent, Norman Hartman, filed his answer, on September 3, 1940, the individual respondent named in the complaint as Margie Wroblewski filed her answer, and on September 19, 1940, all other respondents filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent D. Stefan Wroblewski, individually and as president of the corporate respondents D. S. Wroblewski, Inc., Daferu Drug Co., Inc., and D. Wroblewski & Co., Ltd., 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. The respondents therein specifically waived the filing of a trial examiner's report upon the evidence. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answers 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 D. Stefan Wroblewski is an individual who is now or has been trading as D. Wroblewski & Co., and as D. S. Wroblewski, Inc., and as Daferu Drug Co., Ltd., and as Wroblewski Drug Co., Inc., and as Kalwaryjskie Laboratories, Inc., and as D. Wroblewski & Co., Ltd.

The correct corporate name of the respondent named in the complaint as D. Wroblewski & Co. was D. Wroblewski & Co. of America, Inc., and this corporation was legally dissolved by the Secretary of State of the State of New York on December 15, 1937, since which

time it has not been in existence. The correct corporate name of the respondent named in the complaint as Wroblewski Drug Co., Inc., was The Wroblewski Drug Co., Ltd., and this corporation was legally dissolved by the Secretary of State of the State of New York on December 15, 1938, since which time it has not been in existence. The corporation, Kalwaryjskie Laboratories, Inc., named in the complaint as a respondent, was legally dissolved by the Secretary of State of the State of New York on December 15, 1939, since which time it has not been in existence. The correct corporate name of the respondent named in the complaint as Daferu Drug Co., Ltd., is Daferu Drug Co., Inc. The correct corporate name of the respondent named in the complaint as D. Wroblewski & Co., Ltd., is D. Wroblewski & Co., Ltd. The respondent Dafer Drug Co., Inc., D. Wroblewski & Co., Ltd., and D. S. Wroblewski, Inc., are corporations, organized, existing and doing business under and by virtue of the laws of the State of New York. The said corporate respondents and the individual respondent, D. Stefan Wroblewski, have their office and principal place of business at 55 Keap Street, Brooklyn, N. Y. Respondent D. Stefan Wroblewski is an officer of and the sole stockholder in and owner of the said corporate respondents, and directs, dominates, and controls their acts, practices, and policies. The said corporate respondents are in fact the property of the said individual respondent and are or have been used by him as a means to carry on his business activities.

The correct name of the individual respondent Margie Wroblewski is Margie Wroblewski Hartman; she is the wife of the individual respondent Norman Hartman, and the sister of the individual respondent D. Stefan Wroblewski. The said respondents Margie Wroblewski Hartman and Norman Hartman allowed their names to be used by the respondent D. Stefan Wroblewski in the formation and organization of the corporate respondent D. Wroblewski & Co., Ltd., on March 21, 1938, but such action by them was merely as an accommodation to the said D. Stefan Wroblewski, and the said respondents, Margie Wroblewski Hartman and Norman Hartman, have never at any time had any business relationship or connection with the said D. Stefan Wroblewski or any of the corporate respondents herein, other than in the use of their names at the time and in the manner mentioned above, and they do not now have nor have they ever had any voice in the control, management, conduct, or operation of the advertising or other business methods and activities of the individual respondent D. Stefan Wroblewski or any of the corporate respondents named herein; and they do not now have and have never had any interest, either financial or otherwise, in the said business or businesses.

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PAR. 2. The said respondents D. Stefan Wroblewski, D. S. Wroblewski, Inc., Daferu Drug Co., Inc., and D. Wroblewski & Co., Ltd., are now, and for several years last past have been engaged in the sale and distribution of various medicinal and cosmetic preparations, causing said preparations, when sold, to be transported from their place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondents maintain and at all times mentioned herein have maintained a course of trade in their said products in commerce between and among the various States of the United States and in the District of Columbia. Among the preparations sold and distributed by the respondents as aforesaid are the following:

A so-called medicinal wine designated as "Kalwaryjskie Wino Lecznicze"; a liniment designated "Ampo-Lin"; a preparation for corns designated as "Reginol"; a salve called "Masc Ratunek"; a cough syrup called "Kalwa"; a so-called fever reducer and headache powder designated "Wuzi-Wuzi"; a preparation purported to be a remedy for ailments peculiar to women, designated as "Krople-Kobiece" or "Women's Drops"; a tablet known as "Sparoton," represented as a treatment for fever and the grippe; a preparation known as "Dunski Wyskok," intended to be used as a shampoo and for various scalp diseases; facial creams called "Krem Mlodosci No. 1," "Krem Mlodosci No. 2," and "Vitamin F Krem"; and a face powder called "Puder Ksiazecy."

PAR. 3. The said respondents are now, and at all times mentioned herein have been, in substantial competition with other individuals and corporations and with firms and partnerships, 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 medicinal and cosmetic preparations designed and intended for the same purposes as those for which the said respondents' preparations are recommended.

PAR. 4. In the course and conduct of their aforesaid business the said respondents have disseminated and have caused the dissemination of false advertisements concerning their said products by means of the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products; and said respondents have also disseminated and have caused the dissemination of, false advertisements concerning their said products by various means for the purpose of inducing and which were likely to induce and have in-

duced, directly or indirectly, the purchase of their said products in commerce, as commerce is defined in the Federal Trade Commission Act. Among the false, misleading and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by means of the United States mails, by advertisements in newspapers and periodicals, by radio continuities and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

(a) That said product, "Kalwaryjskie Wino Lecznicze," is a cure or remedy and a competent and effective treatment for stomach ailments and disorders including sour stomach, gas on stomach and indigestion, headaches, constipation, listlessness, general weakness of the human system, sluggishness, skin eruptions and blemishes, wrinkles, bad breadth, loss of energy, sallow skin, dizziness, colds, fever and chills; that said product will eliminate poisons from the system, and will serve as a tonic to build up the general health;

(b) That said product, "Ampo-Lin" is a competent and effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained and aching muscles, bruises and swellings;

(c) That said product, "Reginal," is a cure or remedy for corns, and that the use of said product will prevent the return of the corn;

(d) That said product, "Masc Ratunek" or "Ratunek Salve," is a competent and effective treatment for sharp pains in the back and in the bones and body generally;

(e) That said product, "Kalwa" is a competent and effective treatment for coughs, hoarseness, catarrh of the throat, smoker's cough, grippe, whooping cough, and other similar ailments;

(f) That said product, "Wuzl-Wuzl," is a competent and effective treatment for all headaches and for fever, and that said preparation is safe and harmless;

(g) That said product, "Krople-Kobiece" or "Women's Drops," is of substantial therapeutic value in the treatment of ailments and disorders peculiar to women, and the pains and nervousness caused by such ailments;

(h) That said product, "Sparoton Tablets" is a cure or remedy for grippe, colds and chills and fever;

(i) That said product, "Dunski Wyskok," will cure dandruff, will stop and prevent falling hair and will cause the growth of hair;

(j) That said product, "Krem Mlodosci No. 1," will prevent and heal sunburn, roughness of the face, neck and hands, and will eliminate odors resulting from perspiration; that "Krem Mlodosci No. 2" will remove pimples, blemishes, freckles, and other imperfections, and remove all impurities from the complexion, and that "Vitamin F Krem" will remove wrinkles and blemishes from the face, rejuvenate fading, worn skin, renew complexions, regardless of their condition, and will revive the skin;

(k) That said product, "Puder Ksiazecy," protects the skin against atmospheric changes.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' preparations do not possess the properties and qualities, and are not capable of producing the results claimed by respondents.

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(a) Said product designated "Kalwaryjskie Wino Lecznicze" is not a cure or remedy, or a competent or effective treatment for stomach ailments, or disorders, sour stomach, gas on the stomach, indigestion, headaches, listlessness, general weakness of the human system, sluggishness, skin eruptions or blemishes, wrinkles, bad breath, loss of energy, sallow skin, dizziness, colds, fever, or chills. Said preparation will not eliminate poisons from the system, nor will it serve as a tonic to build up the general health, but only as a bitter tonic and appetizer, the laxative properties of which may assist in the temporary relief of constipation by the evacuation of the bowels.

(b) Said product designated "Ampo-Lin" does not constitute a competent or effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained or aching muscles, bruises or swellings, and has no therapeutic value, in excess of that of a local counter-irritant, tending to decrease pain in simple neuralgia and muscular aches and pains.

(c) Said product designated "Reginol" is not a cure or remedy for corns. While the use of said product may assist in the removal of corns, said product will not prevent the return of the corn.

(d) Said product designated "Masc Ratunek" or "Ratunek Salve" does not constitute a competent or effective treatment for pains in the back or in the bones or in the body generally, and has no therapeutic value, other than as a local counter-irritant, tending to decrease pain in simple neuralgia and muscular aches and pains.

(e) Said product designated "Kalwa" is not a competent or effective treatment for coughs, hoarseness, catarrh of the throat, smoker's cough, grippe, whooping cough or other similar ailments, in excess of constituting an expectorant which might aid in the removal of phlegm, in coughs due to colds and mild throat irritations, and in smoker's cough.

(f) Said product designated "Wuzi-Wuzi" is not a competent or effective treatment for fever, nor does it possess any therapeutic value in the treatment of headaches in excess of such temporary and palliative relief as may be afforded by its analgesic properties. Moreover, said preparation is not safe or harmless, as it contains the drugs acetanilid and acetphenetidin, which are habit-forming, and which are present in said preparation in quantities sufficient to otherwise cause injury to health if taken in excessive doses, or in too frequent doses, or over extended periods of time.

(g) Said product designated "Kropel-Koblece" or "Women's Drops" possesses no therapeutic value in the treatment of ailments or disorders peculiar to women, nor will the use of said product afford relief from any pains or nervousness caused by such ailments, nor accomplish more in any case than to serve as a bitter appetizer.

(h) Said product designated "Sparoton Tablets" is not a cure or remedy for grippe, colds, chills or fever.

(i) Said product designated "Dunski Wyskok" is not a cure or remedy for dandruff, nor has it any therapeutic value in the treatment of dandruff in excess of the removal of loose dandruff scales. It will not stop or prevent falling hair, nor will it cause the growth of hair.

(j) Said product designated "Krem Mlodosci No. 1" will not heal sunburn or roughness of the face, neck of hands, nor will it eliminate odors resulting from perspiration. The product designated "Krem Mlodosci No. 2" will not remove pimples, blemishes, freckles, or other skin imperfections, nor will it remove any impurities from the complexion. The product "Vitamin F Krem"

will not remove wrinkles or blemishes from the face, nor will it rejuvenate fading, worn skin, nor will it renew the complexion or revive the skin.

(k) Said product designated "Puder Ksiazecy" will not protect the skin against atmospheric changes.

PAR. 6. Said advertisements with respect to the product "Wuzi-Wuzi" are false also in that they fail to reveal that the use of said product under the conditions prescribed in said advertisements or under such conditions as are customary or usual may cause injury to the health of the user.

PAR. 7. The said respondents also represent, by the use of the word "Laboratories" in certain of their trade names and through advertisements disseminated as aforesaid, that they own or operate a laboratory in connection with their said business and that their products are compounded and tested in such laboratory. In truth and in fact the said respondents do not own or operate any laboratory in connection with their business.

PAR. 8. The use by the said respondents of the word "Laboratories" in certain of their trade names as aforesaid, constitutes within itself a false and misleading representation that the said respondents own or operate a laboratory in connection with their said business.

PAR. 9. In their advertisements as aforesaid the said respondents refer to the respondent D. Stefan Wroblewski as "Doctor" Wroblewski, thus implying that said respondent is a physician and that respondents' preparations are compounded by one possessing knowledge, training, and experience in the medical profession. In truth and in fact said respondent is not a physician and has had no special training or experience in the practice of medicine, nor does said respondent hold any medical degree, or any license to practice medicine.

PAR. 10. In their said advertisements the said respondents have also used purported testimonials represented as having been supplied by persons who had received benefit from the use of respondents' preparations. In truth and in fact said purported testimonials were prepared by said respondents or by their employees and did not originate with members of the public who had used such preparations.

PAR. 11. The use by the said respondents of the aforesaid false and misleading statements and representations, disseminated as aforesaid, had the tendency and capacity to, and did, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such statements and representations were true, and into the purchase of substantial quantities of respondents' products because of such erroneous and mistaken belief. In consequence thereof trade has been diverted unfairly to said respondents from their competitors.

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CONCLUSION

The aforesaid acts and practices of said respondents, as herein found, are all to the prejudice and injury of the public and of respondents' 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, the answers of the respondents, and a stipulation as to the facts entered into between the individual respondent D. Stefan Wroblewski and the corporate respondents D. S. Wroblewski, Inc., Daferu Drug Co., Inc. (referred to in the complaint as Daferu Drug Co., Ltd.), and D. Wroblewski & Co., Ltd. (referred to in the complaint as D. Wroblewski & Co., Ltd.) and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon said respondents findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent D. Stefan Wroblewski, individually and trading as D. Wroblewski & Co., and as D. S. Wroblewski, Inc., and as Daferu Drug Co., Inc., and as Wroblewski Drug Co., Inc., and as Kalwaryjskie Laboratories, Inc., and as D. Wroblewski & Co., Ltd., or trading under any other name or names or through any corporate or other device, and the respondents D. S. Wroblewski, Inc., a corporation, Daferu Drug Co., Inc., a corporation, and D. Wroblewski & Co., Ltd., a corporation, their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of respondents' medicinal and cosmetic preparations designated as "Kalwaryjskie Wino Lecznicze," "Ampo-Lin," "Reginol," "Masc Ratunek" or "Ratunek Salve," "Kalwa," "Wuzi-Wuzi," "Krople-Kobiece" or "Women's Drops," "Sparoton Tablets," "Dunski Wyskok," "Krem Mlodosci No. 1," "Krem Mlodosci No. 2," "Vitamin F. Krem," and "Puder Ksiazecy," or any preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce,

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as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

(a) That said preparation "Kalwaryjskie Wino Lecznice" is a cure or remedy or a competent or effective treatment for stomach ailments or disorders, sour stomach, gas on stomach, indigestion, headaches, listlessness, general weakness of the human system, sluggishness, skin eruptions or blemishes, wrinkles, bad breath, loss of energy, sallow skin, dizziness, colds, fever, or chills; that said preparation will eliminate poisons from the system; that it serves as a tonic to build up the general health, or that it has any value as a tonic other than as a bitter and appetizer, the laxative properties of which may assist in the temporary relief of constipation by the evacuation of the bowels;

(b) That said preparation "Ampo-Lin" constitutes a competent or effective treatment for rheumatism, neuralgia, lumbago, arthritis, sciatica, strained or aching muscles, bruises or swellings; that it has any therapeutic value except insofar as its properties as a local counter-irritant may tend to decrease pain in simple neuralgia and in muscular aches and pains;

(c) That said preparation "Reginol" is a cure or remedy for corns or will prevent the return of corns; that it has any therapeutic value in the treatment of corns in excess of assisting in the temporary removal thereof;

(d) That said preparation "Masc Ratunek" or "Ratunek Salve" constitutes a competent or effective treatment for pains in the back or in the bones or in the body generally; that it has any therapeutic value except insofar as its properties as a local counter-irritant may tend to decrease pain in simple neuralgia and in muscular aches and pains;

(e) That said preparation "Kalwa" possesses any therapeutic value in the treatment of coughs, hoarseness, catarrh of the throat, smokers' cough, grippe, whooping cough, or other similar ailments, except insofar as its expectorant properties may aid in the removal of phlegm in coughs due to colds and mild throat irritations, and in smokers' cough;

(f) That said preparation "Wuzi-Wuzi" is a competent or effective treatment for fever, or that it possesses any therapeutic value in the treatment of headaches in excess of such temporary and palliative relief as may be afforded by its analgesic properties; that said preparation is safe or harmless; or which advertisement with respect to said preparation fails to contain a warning against the frequent and continued use of said preparation and against excessive dosage

(provided, however, that such advertisement need contain only a statement that said preparation should be used only as directed on the label thereof, when such label contains a warning against the frequent and continued use of said preparation and against excessive dosage);

(g) That said preparation "Krople-Kobiece" or "Women's Drops" possesses any therapeutic value in the treatment of ailments or disorders peculiar to women, or that it will afford relief from any pains or nervousness caused by such ailments or disorders; that said preparation possesses any therapeutic value in excess of that of a bitter appetizer;

(h) That said preparation "Sparoton Tablets" is a cure or remedy for grippe, colds, chills, or fever;

(i) That said preparation "Dunski Wyskok" is a cure or remedy for dandruff, or that it has any therapeutic value in the treatment of dandruff in excess of the removal of loose dandruff scales; that it will stop or prevent falling hair or cause the growth of hair;

(j) That said preparation "Krem Mlodosci No. 1" will heal sunburn or roughness of the face, neck, or hands, or that it will eliminate odors resulting from perspiration; that said preparation "Krem Mlodosci No. 2" will remove pimples, blemishes, freckles, or other skin imperfections, or that it will remove any impurities from the complexion; that said preparation "Vitamin F Krem" will remove wrinkles or blemishes from the face, that it will rejuvenate fading, worn skin, or that it will renew the complexion or revive the skin.

(k) That said preparation "Puder Ksiazecy" will protect the skin against atmospheric changes.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any of said preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof; or which advertisement with respect to said preparation "Wuzi-Wuzi" fails to contain a warning against the frequent and continued use of said preparation and against excessive dosage (provided, however, that such advertisement need contain only a statement that said preparation should be used only as directed on the label thereof, when such label contains a warning against the frequent and continued use of said preparation and against excessive dosage).

It is further ordered, That said respondents, their officers, representatives, agents, and employees, as aforesaid, in connection with the offering for sale, sale and distribution of their said preparations

in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using the word "Laboratories" or any other word of similar import, as a part of any of respondents' trade or corporate names, or otherwise representing that respondents own or operate a laboratory;

(b) Using the word "Doctor" or the abbreviation "Dr." or any other word or abbreviation of similar import, to designate, describe or refer to said individual respondent D. Stefan Wroblewski, or otherwise representing that said respondent is a physician;

(c) Using testimonials purporting to have been received from purchasers of respondents' preparations, but which in fact were prepared by the respondents, their employees, representatives, or agents.

It is further ordered, That this proceeding be closed as to the individual respondents Margie Wroblewski Hartman (referred to in the complaint as Margie Wroblewski) and Norman Hartman, and the corporate respondents The Wroblewski Drug Co., Limited (referred to in the complaint as Wroblewski Drug Co., Inc.), and Kalwaryjskie Laboratories, Inc., and D. Wroblewski & Co. of America, Inc., referred to in the complaint as D. Wroblewski & Co.), without prejudice to the right of the Commission, should the facts so warrant, to reopen the proceeding and resume trial thereof in accordance with the Commission's regular procedure.

It is further ordered, That respondents D. Stefan Wroblewski, D. S. Wroblewski, Inc., Daferu Drug Co., Inc., and D. Wroblewski & Co., Ltd., shall within 10 days after the service upon them of this order, file with the Commission an interim report in writing stating whether they intend to comply with this order and, if so, the manner and form in which they intend to comply; and that within 60 days after the service upon them of this order, said respondents shall 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
THERMALAID METHOD, INC., AND CHARLES H.
McFARLAND

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

Docket 4078. Complaint, Apr. 2, 1940—Decision, July 25, 1941

Where a corporation and an individual, who was its president and manager, engaged in the manufacture and interstate sale and distribution of their "Thermalaid" electrical device for ailments of the prostate gland by the application of heat to adjacent areas; by means of advertisements disseminated through the mails, in newspapers and periodicals, circulars, pamphlets, and other advertising literature—

Represented, directly and by implication, that use of their device provided a cure or remedy for all prostate gland disorders, ranging from milder forms of prostatitis due to irritation to a complete state of hypertrophy (enlargement), or atrophy (hardening) of the gland, that use of said device constituted a competent and effective treatment for such conditions, and would prolong vigorous years of life and recuperate vitality and sex virility;

Facts being, it did not provide a cure for such disorders, or an effective treatment therefor in excess of the benefit that might be expected from local application of heat in cases of acute or chronic prostatitis in its milder forms, and was of no value in prolonging vigorous life or recuperating virility;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it because of such mistaken belief, to purchase said device:

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. Morton Nesmith 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 Thermalaid Method, Inc., a corporation, and Charles H. McFarland, an individual, 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:

PARAGRAPH 1. Respondent Thermalaid Method, Inc., is a corporation organized, existing and doing business under and by virtue of