

Syllabus

IN THE MATTER OF

NOLAN B. STADLEY, TRADING AS STERLING
APPLIANCE COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 4542. Complaint, July 18, 1941—Decision, Sept. 23, 1941*

Where an individual engaged in interstate sale and distribution of his "Sterling Short Wave Diathermy"; by means of advertisements disseminated through the mails—

- (a) Represented that his said device, when used by the unskilled lay public in the treatment of self-diagnosed diseases and ailments, by self-application in the home, was a scientific, safe, harmless, and effective means for the relief, cure, or treatment of rheumatism, arthritis, neuritis, bursitis, lumbago, sciatica, neuralgia, sinus trouble, and colds, painful menstruation, female disorders, ulcers, and innumerable other ailments, and for the alleviation of pain resulting therefrom, and that its use would have no ill effects upon the body;

Facts being the device did not constitute a competent treatment for conditions of acute inflammation of the nerves, muscles, bursae, or joints, and rheumatic pains associated therewith, but might result, in such cases, in further swelling of the inflamed tissues, thereby increasing the congestion and spreading the inflammation; short wave diathermy is contra-indicated in all cases of menstruation, pregnancy, gastric ulcers, acute appendicitis, in areas where there is a probable malignancy, and where there is a hemorrhagic diathesis; use of device in certain cases might cause serious injury to health, delay proper diagnosis and treatment, and result in severe tissue destruction and burns; use for treatment of pain in the extremities under certain conditions may lead to gangrene and even necessitate amputation; and diagnosis by competent medical authority is required to determine if diathermy is indicated and method of treatment which should be prescribed; and

- (b) Failed to reveal the facts material in the light of such representations, and that use of said device under prescribed or usual conditions might result in serious and irreparable injury to health, and failed to reveal conspicuously that it might be safely used only after a competent medical authority had determined that diathermy was indicated and had prescribed the treatment, and user had been adequately instructed in the operation of such device by a trained technician;

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

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

Mr. James L. Baker for the Commission.

Complaint

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COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Nolan B. Stadley, an individual, trading as Sterling Appliance 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, Nolan B. Stadley, is an individual trading as Sterling Appliance Co., with his office and principal place of business at 4203 South Hoover Street, Los Angeles, Calif., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain device or apparatus designated as Sterling Short Wave Diathermy.

In the course and conduct of his business, the respondent causes said device or apparatus, when sold, to be transported from his place of business in the State of California, 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 device or apparatus, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and has caused the dissemination of, false advertisements concerning his said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and has caused the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

Among, and typical of, the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, are the following:

Feel Better Through the use of Sterling Short Wave Diathermy—For home use. Natures way to health.

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Short wave diathermy and its use in the home. * * * the older methods of application were inefficient, uncertain * * *. These uncertain methods of the past have now given way to the modern scientific way—Short Wave Diathermy, a means of applying heat that overcomes every objection and enables you to enjoy its many benefits right in your own home. No more trips to the clinics or tiresome waits for appointments. * * * the simplicity of operation in Sterling equipment makes possible self-treatment without an attendant. * * * artificial fever will do exactly the same thing that natural fever does * * *. * * * germs succumb more readily in the presence of short waves * * *.

The feature of self-administration of short wave diathermy is an important one. * * * two or more treatments may be taken per day as long as it is necessary if there is a diathermy machine in the home, whereas two or even one visit per day to the doctor's office can easily be an unnecessary burden * * * on the patient's pocketbook.

Practical home treatment is easy. The Sterling Diathermy machine is especially designed for the home. It is comfortable and pleasant, and as safe as your electric pad * * *.

Relief immediate and cures rapid. * * * beneficial results are certain in such ailments as rheumatism, arthritis, neuritis, neuralgia, sciatica, lumbago, prostate trouble, female disorder, hay fever, asthma, bronchitis, tonsillitis, infected wounds, sores, boils, bruises, sprains, aching feet, aching back, aching teeth, headache, sinus infection—almost any ache or pain. * * * as a curative agent in such other diseases as pneumonia, infantile paralysis, gonorrhea, syphilis, stomach ulcers and hosts of others. The reason for its curative success is * * * increased antibodies to neutralize toxins, and germicidal characteristics.

Effective method of applying heat to legs, arms, head, chest, back, hip and lower abdominal region.

Its value is marked in such instances as painful menstruation, pelvic cramps, intestinal cramps, gas, urinary retardation from prostatitis, and innumerable other ailments.

If the public is to benefit very generally from such treatment and the wonderful results * * *, the machines should be in the homes * * *.

The patient is the best judge of length and frequency of treatments. With a Sterling instrument in your home you are well equipped for the quick alleviation of pain, aches, inflammation, congestion and the treatment of other unpleasant symptoms that might otherwise lead to dangerous disease.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondent represents that his device or apparatus, advertised as Sterling Short Wave Diathermy, when used by the unskilled lay public in the treatment of self-diagnosed diseases and ailments of the human body by individual self-application in the home, is a scientific, safe, harmless, and effective means and method for the relief, cure, or treatment of rheumatism, arthritis, neuritis, bursitis, lumbago, sciatica, neuralgia, sinus trouble, and colds, painful menstruation, female disorders, ulcers, and innumerable other ailments, and for the alleviation of pain resulting therefrom; and that its use will have no ill effects upon the human body.

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The foregoing representations are grossly exaggerated, false, and misleading.

PAR. 5. Respondent's device or apparatus, designated as Sterling Short Wave Diathermy, is composed principally of a high frequency generator encased in a portable wooden cabinet. The circuit is a modified Hartley Circuit, two RCA 812 tubes, push-pull, plus the regular chokes for proper control and for eliminating interference. The power to the circuit is furnished by a transformer of approximately 1,200 volts, 160 milliamperes plate supply, $6\frac{8}{10}$ volt filament supply. The output is inductively coupled and tuned with a series condenser of 50 millimicrofarads and the device may be adjusted to produce a wave length from 12 to 15 meters, inclusive. The maximum power output is approximately 140 watts as indicated on the panel meter. The power is transmitted to the user by 2 insulated rubber covered conductor pads, varying in size from 2 by 4 inches to 7 by 9 inches, together with ear and sinus applicators used with one of the larger pads. No single high frequency cable is used with this device. The application to the patient is made usually by placing the condenser pads in such position that the power may pass between said condenser pads through the affected area of the body, at stated intervals for varying periods of time.

The individual self-application of said device by the unskilled lay public in the home, under the conditions prescribed in said advertisement or under such conditions as are customary or usual, will not accomplish the results claimed by the respondent, and is not a scientific, safe, harmless, and effective means and method to be used by the unskilled lay public for the relief, cure, or treatment of self-diagnosed diseases and ailments of the human body, or for the alleviation of pain resulting therefrom, and may cause severe electric burns or other serious and irreparable injury to health.

The said device does not constitute a competent treatment for conditions of acute inflammation of the nerves, such as neuritis, neuralgia, and sciatica; acute inflammation of the muscles, such as lumbago and myositis; acute inflammation of the bursae, such as bursitis; acute inflammation of the joints, such as acute inflammatory arthritis; and rheumatic pains associated with acute inflammatory conditions of the joints, bursae, nerves, and muscles. Such treatment as aforesaid may result in further swelling of the inflamed tissue, thereby increasing the congestion of the inflamed part and in spreading the inflammation to adjacent tissue and allowing the absorption of toxins, when present.

Short wave diathermy is contra-indicated in all cases of menstruation, pregnancy, gastric ulcers, acute appendicitis, in areas where

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there is a probable malignancy, and where there is a hemorrhagic diathesis.

Furthermore, the use of this device for the relief of pain due to neuralgia or neuritis, which may often be symptomatic of some deeper, underlying disease or cause (such as pains due to tuberculosis of the joints, syphilis, and other infectious processes, or to tumor or cancer) may cause serious injury to health and also delay proper diagnosis and treatment.

The application of Sterling Short Wave Diathermy in treating conditions of acute sinus trouble may result in further increasing congestion of the mucous membranes of the sinuses, nose, and throat, and facilitate extension of the infections and increased absorption of bacterial toxins.

In those areas of the skin where the sense of heat has been lost, due to injury or impairment of the peripheral nerves, the application of said device may result in severe tissue destruction and severe burns.

Cancer or tuberculosis of the spine may evidence itself by severe pains in the knees and the application of diathermy by the untrained layman may delay proper diagnosis and treatment.

The application of this device for the treatment of pain in the extremities in the presence of advanced blood vessel changes of the legs or arms, when given in excess dosage, will cause serious injuries and may lead to gangrene and necessitate amputation of the legs or arms.

There are many diseases and conditions in the treatment of which, diathermy would be contra-indicated. There are other conditions in which the efficacy of diathermy is dependent upon the method and duration of its use. In both of these classes of cases, the use of diathermy may aggravate rather than relieve such conditions. Many conditions, including some of those for which respondent recommends this device, are sometimes symptomatic or indicative of underlying systemic disorders for which diathermy would have no therapeutic value and may even be injurious. It would be impossible for a member of the lay public to correctly diagnose his ailment or condition or to determine the underlying cause of such disorder. It would also be impossible for such person to correctly determine the method and duration of the use of diathermy. Consequently, the use of diathermy requires the diagnosis of the ailment or condition by a competent medical authority to determine if diathermy is indicated and the method and duration of treatment which should be prescribed.

PAR. 6. In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal all facts material in the light of such representations or material with respect to consequences which may result from the use of said device or apparatus, under the conditions prescribed in said advertisement, or under such conditions as are customary or usual, and fail to reveal that the use of said device may result in serious and irreparable injury to health.

The said advertisement is further false, as aforesaid, in that said advertisement also fails 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.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his device or apparatus, 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 induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the respondent's said device or apparatus.

PAR. 8. 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 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 18th day of July 1941, issued, and on the 22nd day of July 1941, served its complaint in this proceeding upon respondent, Nolan B. Stadley, an individual, trading as Sterling Appliance Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 8th day of August 1941, respondent filed his answer, admitting all the material allegations of fact set forth in the complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint and the answer thereto, and the Commission, having duly considered

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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, Nolan B. Stadley, is an individual trading as Sterling Appliance Co., with his office and principal place of business at 4203 South Hoover Street, Los Angeles, Calif., from which address he transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain device or apparatus designated as Sterling Short Wave Diathermy.

In the course and conduct of his business, the respondent causes said device or apparatus, when sold, to be transported from his place of business in the State of California, 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 device or apparatus, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated, and has caused the dissemination of, false advertisements concerning his said product by means of the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated, and has caused the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of, 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, are the following:

Feel Better Through the use of Sterling Short Wave Diathermy—For home use. Natures way to health.

Short wave diathermy and its use in the home. * * * the older methods of application were inefficient, uncertain * * *. These uncertain methods of the past have now given way to the modern scientific way—Short wave Diathermy, a means of applying heat that overcomes every objection and enables you to enjoy its many benefits right in your own home. No more trips to the clinics or tiresome waits for appointments. * * * the simplicity of operation in Sterling equipment makes possible self-treatment without an

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attendant. * * * artificial fever will do exactly the same thing that natural fever does * * *. * * * germs succumb more readily in the presence of short waves * * *.

The feature of self-administration of short wave diathermy is an important one. * * * two or more treatments may be taken per day as long as it is necessary if there is a diathermy machine in the home, whereas two or even one visit per day to the doctor's office can easily be an unnecessary burden * * * on the patient's pocketbook.

Practical home treatment is easy. The Sterling Diathermy machine is especially designed for the home. It is comfortable and pleasant, and as safe as your electric pad * * *.

Relief immediate and cures rapid. * * * beneficial results are certain in such ailments as rheumatism, arthritis, neuritis, neuralgia, sciatica, lumbago, prostate trouble, female disorder, hay fever, asthma, bronchitis, tonsilitis, infected wounds, sores, boils, bruises, sprains, aching feet, aching back, aching teeth, headache, sinus infection—almost any ache or pain. * * * as a curative agent in such other diseases as pneumonia, infantile paralysis, gonorrhea, syphilis, stomach ulcers and hosts of others. The reason for its curative success is * * * increased antibodies to neutralize toxins and germicidal characteristics.

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PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondent represents that his device or apparatus, advertised as Sterling Short Wave Diathermy, when used by the unskilled lay public in the treatment of self-diagnosed diseases and ailments of the human body by individual self-application in the home, is a scientific, safe, harmless and effective means and method for the relief, cure or treatment of rheumatism, arthritis, neuritis, bursitis, lumbago, sciatica, neuralgia, sinus trouble, and colds, painful menstruation, female disorders, ulcers and innumerable other ailments, and for the alleviation of pain resulting therefrom; and that its use will have no ill effects upon the human body.

The foregoing representations are grossly exaggerated, false, and misleading.

PAR. 5. Respondent's device or apparatus, designated as Sterling Short Wave Diathermy, is composed principally of a high frequency generator encased in a portable wooden cabinet. The circuit is a

modified Hartley Circuit, two RCA 812 tubes, push-pull, plus the regular chokes for proper control and for eliminating interference. The power to the circuit is furnished by a transformer of approximately 1,200 volts, 160 milliamperes plate supply, 6 $\frac{1}{10}$ volt filament supply. The output is inductively coupled and tuned with a series condenser of 50 millimicrofarads and the device may be adjusted to produce a wave length from 12 to 15 meters, inclusive. The maximum power output is approximately 140 watts as indicated on the panel meter. The power is transmitted to the user by two insulated rubber-covered conductor pads, varying in size from 2 by 4 inches to 7 by 9 inches, together with ear and sinus applicators used with one of the larger pads. No single high frequency cable is used with this device. The application to the patient is made usually by placing the condenser pads in such position that the power may pass between said condenser pads through the affected area of the body, at stated intervals for varying periods of time.

The individual self-application of said device by the unskilled lay public in the home, under the conditions prescribed in said advertisement or under such conditions as are customary or usual, will not accomplish the results claimed by the respondent, and is not a scientific, safe, harmless and effective means and methods to be used by the unskilled lay public for the relief, cure or treatment of self-diagnosed diseases and ailments of the human body, or for the alleviation of pain resulting therefrom, and may cause severe electric burns or other serious and irreparable injury to health.

The said device does not constitute a competent treatment for conditions of acute inflammation of the nerves, such as neuritis, neuralgia, and sciatica; acute inflammation of the muscles, such as lumbago, and myositis; acute inflammation of the bursae, such as bursitis; acute inflammation of the joints, such as acute inflammatory arthritis; and rheumatic pains associated with acute inflammatory conditions of the joints, bursae, nerves, and muscles. Such treatment as aforesaid may result in further swelling of the inflamed tissue, thereby increasing the congestion of the inflamed part and in spreading the inflammation to adjacent tissue and allowing the absorption of toxins, when present.

Short wave diathermy is contra-indicated in all cases of menstruation, pregnancy, gastric ulcers, acute appendicitis, in areas where there is a probable malignancy, and where there is a hemorrhagic diathesis.

Furthermore, the use of this device for the relief of pain due to neuralgia or neuritis, which may often be symptomatic of some deeper, underlying disease or cause (such as pains due to tuberculosis

of the joints, syphilis, and other infectious processes, or to tumor or cancer), may cause serious injury to health and also delay proper diagnosis and treatment.

The application of Sterling Short Wave Diathermy in treating conditions of acute sinus trouble may result in further increasing congestion of the mucous membranes of the sinuses, nose, and throat, and facilitate extension of the infections and increased absorption of bacterial toxins.

In those areas of the skin where the sense of heat has been lost, due to injury or impairment of the peripheral nerves, the application of said device may result in severe tissue destruction and severe burns.

Cancer or tuberculosis of the spine may evidence itself by severe pains in the knees and the application of diathermy by the untrained layman may delay proper diagnosis and treatment.

The application of this device for the treatment of pain in the extremities in the presence of advanced blood vessel changes of the legs or arms, when given in excess dosage, will cause serious injuries and may lead to gangrene and necessitate amputation of the legs or arms.

There are many diseases and conditions in the treatment of which, diathermy would be contra-indicated. There are other conditions in which the efficacy of diathermy is dependent upon the method and duration of its use. In both of these classes of cases, the use of diathermy may aggravate rather than relieve such conditions. Many conditions, including some of those for which respondent recommends his device, are sometimes symptomatic or indicative of underlying systemic disorders for which diathermy would have no therapeutic value and may even be injurious. It would be impossible for a member of the lay public to correctly diagnose his ailment or condition or to determine the underlying cause of such disorder. It would also be impossible for such person to correctly determine the method and duration of the use of diathermy. Consequently, the use of diathermy requires the diagnosis of the ailment or condition by a competent medical authority to determine if diathermy is indicated and the method and duration of treatment which should be prescribed.

PAR. 6. In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal all facts material in the light of such representations or material with respect to consequences which may result from the use of said device or apparatus, under the conditions prescribed in said advertisement, or under such condi-

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tions as are customary or usual, and fail to reveal that the use of said device may result in serious and irreparable injury to health.

The said advertisement is further false, as aforesaid, in that said advertisement also fails 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.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his device or apparatus, 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 induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the respondent's said device or apparatus.

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 intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer the 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, Nolan B. Stadley, an individual, trading as Sterling Appliance Co., or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his device advertised as Sterling Short Wave Diathermy, or any other device of substantially similar construction, whether sold under the same name or any other name

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or 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, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that respondent's device when used by the unskilled lay public constitutes a scientific, safe, harmless and effective means or method for the relief, cure or treatment of:

Rheumatism, arthritis, neuritis, bursitis, lumbago, sciatica, neuralgia, sinus trouble and colds, painful menstruation, female disorders, ulcers or innumerable other ailments, or for the alleviation of pain resulting therefrom;

or which advertisement fails to reveal that the unsupervised use of said device by persons not skilled in the diagnosis, analysis, and methods of treatment of disease may result in serious and irreparable injury to health.

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 by the Federal Trade Commission Act, of said device, which advertisement contains any of the representations prohibited in paragraph 1 hereof; or which advertisement fails to reveal that the unsupervised use of said device by persons not skilled in the diagnosis, analysis, and methods of treatment of disease may result in serious and irreparable injury to health.

It is further ordered, That the respondent shall, within 10 days after service upon him of this order, file with the Commission an interim report in writing stating whether he intends to comply with this order, and, if so, the manner and form in which he intends to comply, and that within 60 days after service upon him of this order, said respondent shall file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Complaint

IN THE MATTER OF

THE THOMAS PAGE MILL COMPANY, INC., AND
PIEDMONT WHOLESALE GROCERY COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 4286. Complaint, Aug. 29, 1940—Decision Oct. 1, 1941

Where a corporation engaged in the milling and interstate sale and distribution of flour, during a certain period selling large quantities to a wholesale grocery company, 88 percent of the outstanding stock of which was owned by three individuals engaged as Minetree Brokerage Co., and which was served in an executive capacity by one of the three—

Paid, on such sales, during said period, a brokerage fee of 20 cents a barrel to said three individuals, who, in the transactions in question, were the agents of said grocery company and acted in fact for it:

Held, That in so paying and granting such brokerage fees, it violated the provisions of section 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. P. C. Kolinski for the Commission.

Doran, Kline, Cosgrove, Jeffrey & Russell, of Topeka, Kans., for Thomas Page Mill Co., Inc.

Mr. William T. Powers, of Piedmont, Mo., for Piedmont Wholesale Grocery Co.

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof, hereinafter more particularly designated and described, since June 19, 1936, have violated, and are now violating, the provisions of subsection (c) of section 2 of the Clayton Act (U. S. C., title 15, sec. 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect as follows:

PARAGRAPH 1. Respondent, The Thomas Page Mill Co., Inc., is a corporation organized and existing under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at Norris and Quincy Streets, Topeka, Kans. This respondent is engaged in the milling, distribution, and sale of flour.

PAR. 2. Respondent, Piedmont Wholesale Grocery Co., is a corporation organized and existing under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at Piedmont, Mo. This respondent is engaged in the general wholesale merchandise business.