

Syllabus

IN THE MATTER OF

GRANT T. WHITESIDE, TRADING AS GRANT COMPANY

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

Docket 4553. Complaint, July 31, 1941—Decision, Dec. 11, 1941

Where an individual engaged in the interstate sale and distribution of medicinal preparations designated as "Ton Jon No. 1," "Ton Jon No. 2," and "Ton Jon No. 3"; by means of advertisements disseminated through the mails and in various other ways, including purported testimonials containing such exaggerated statements of claimed benefits received from use of said preparations as "No dread of gallstones after suffering 10 years," "Endorses Ton Jon No. 3, as the only treatment in many for prostate trouble.," "Ton Jon worth twenty times the price. Gave lasting relief," "Years of suffering ended," and "Says kidney stones came out like sand.;"

- (a) Falsely represented that his said Ton Jon No. 1 was an effective treatment for ailments and diseases of the stomach and bowels which would bring complete relief from indigestion, pain in the chest and stomach, palpitation, headache, loss of weight or strength, nervousness, sleeplessness, and various other conditions and troubles;
- (b) Falsely represented that said Ton Jon No. 2 was a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder, which would bring relief from impurities of the blood and other disorders, lazy liver, sick headache, billousness, constipation, dizzy spells, drowsy feeling, gall stones, high blood pressure and various other troubles;
- (c) Represented that his Ton Jon No. 3 was an effective treatment for ailments and disorders of the kidneys and prostate glands, which would give complete relief from bladder irritations and weakness, dull and sharp pain in the back, stiffness in back and lower limbs, nephritis, diminished sexual power, nervousness, mental depression, sleeplessness, tiredness, low blood pressure and various other conditions and troubles; when in fact such representations were false and it would not accomplish such or better results in the treatment of prostate gland and kidney disorders than any medicine had ever done before; and
- (d) Failed to reveal that prescribed use of first two cathartic preparations by one suffering from nausea, vomiting, abdominal pains or other symptoms of appendicitis was dangerous;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such false representations were true and of thereby inducing purchase by it of the preparations in question:

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

Mr. S. F. Rose for the Commission.

Nash & Donnelly, of Washington, D. C., for respondent.

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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 Grant T. Whiteside, individually and doing business under the name and style of Grant Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Grant T. Whiteside, is an individual, trading and doing business under the name of Grant Co., with his office and principal place of business located in the city of Sabina, State of Ohio.

Respondent is now and for more than one year last past has been engaged in the preparation, offering for sale, sale, and distribution, of certain medicinal preparations designated as "Ton Jon No. 1," "Ton Jon No. 2," and "Ton Jon No. 3."

PAR. 2. Respondent, in the course and conduct of his aforesaid business, has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said medicinal preparations designated "Ton Jon No. 1," "Ton Jon No. 2" and "Ton Jon No. 3" by the United States mails and by various means in commerce, as commerce is defined by the Federal Trade Commission Act, which are likely to induce, directly or indirectly, the purchase of said preparations. The respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations in commerce, as commerce is defined by the Federal Trade Commission Act.

Among and typical of the false representations contained in said advertisements disseminated and caused to be disseminated by respondent, as aforesaid, are the following:

WHAT IT WILL DO

Ton Jon gets at the seat of common afflictions by aiding nature in throwing off toxic poisons, thus your nervousness and rheumatic aches and pain will disappear, you will feel full of pep like you never felt before in your life. So, if you are run down and any of the common ailments named above are ruining your life it would certainly be a mistake not to get Ton Jon and take it.

WHAT TON JON NO. 1 WILL DO— STOMACH AND BOWELS

Ton Jon No. 1 will aid nature in throwing off poisons that foster stomach trouble, bringing complete relief from indigestion, gas, bloat feeling like a rock in stomach, dyspepsia, pain in the chest and stomach, wild heart palpitation, awful headaches, loss of weight and strength, sour stomach, cramps, spitting up bits of foods and sour liquids, acid rising and belching and all-gone, tired feeling. It will give you an appetite like you never had before in your life. Ton Jon No. 1 will cleanse your bowels (not drastic or severe) as they were never cleansed before, producing proper elimination, giving them a daily natural action, thus cleansing and toning your blood, giving the nerves a new tingle.

WHAT TON JON NO. 2 WILL DO— LIVER—GALL BLADDER

Ton Jon No. 2 will wake up that lazy liver, frequently clearing out impurities that may have contaminated your blood and inner organs for a long time, bringing relief from sick headaches that may last for days, attacks of biliousness, constipation, dizzy spells, lazy spells, drowsy tired feeling, relieving such embarrassing conditions as foul breath, unsightly complexion, sallowness or muddiness, and will in place give you a glowing complexion, one which the highest cosmetics cannot equal. When the liver bile fails to flow or food backs up into the stomach, causing pain and distress like stomach trouble. This bile must flow to prevent gallstones. Ton Jon No. 2 is a powerful liver medicine with double quick action on the bowels.

WHAT TON JON NO. 3 WILL DO— KIDNEYS—PROSTATE

This treatment aids nature by flushing out the impurities, giving complete relief from bladder irritation and weakness, dull and sharp pains in the back, stiffness, dull and lower limbs, frequent getting up during the night, dizziness, spots before the eyes, swelling of the feet and lower limbs, puffs and dark circles beneath the eyes. Ton Jon No. 3 is nature's favorite means of correcting: prostatitis—inflammation of the prostate gland, the small organ surrounding the bladder.

* * * So if you want relief from long-time suffering bring in the coupon below. No matter what your ailment may be or how many medicines you have tried, be sure to read this offer for your benefit * * *.

Ton Jon No. 1. Stomach- Bowels

Indigestion.
Gas.
Bloat.
Dyspepsia.
Pain in Chest.
Pain in Stomach.
Heart Palpitation.
Headaches.
Loss of Weight.
Loss of Strength.

Ton Jon No. 2. Liver

Lazy Liver.
Sick Headaches.
Billousness.
Constipation.
Dizzy Spells.
Lazy Spells.
Drowsy, Tired Feeling.
Foul Breath.
Unsightly Complexion.
Sallowness or
Muddiness.

Ton Jon No. 3

Bladder Irritation.
Bladder Weakness.
Dull and Sharp Pain in
Back.
Stiffness in Back and
Lower Limbs.
Frequent Getting up
Nights.
Spots Before Eyes.
Swelling of the Feet and
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<i>Ton Jon No. 1. Stomach-</i>	<i>Ton Jon No. 2. Liver—Con.</i>	<i>Ton Jon No. 3—Continued</i>
<i>Bowels—Continued</i>	Belching.	Puffed or Dark Circles Beneath the Eyes.
Sour Stomach.	Acid Rising.	Nephritis.
Cramps.	Gall Bladder.	Cystitis.
Spitting Up Food.	Gallstones.	Urethritis.
Sour Liquids.	Stagnant Bile.	Prostatitis.
Acid Rising.	Bad Blood.	Sexual Power Weakened.
Belching.	High-blood Pressure.	Nervousness
Nervousness.		Irritability.
Skin Eruptions.		Mental Depression.
Bloated Feeling.		Forgetfulness.
Coated Tongue.		Melancholia.
Foul Breath.		Neurasthenia.
Sleeplessness.		Pains in the Lower Back.
Tired Feeling.		Pain in the Hips and Legs.
Constipation.		Sleeplessness.
		Tiredness.
		Inability to Stand Work
		Low Blood Pressure.
		Low Temperature.
		Pains in Testicles.
		Pains in Penis.
		Pains in Rectum.
		Difficult Bowel Movement.
		Dribbling.
		Pain in Nape of Neck.
		Sudden Urination.
		Irritation.

Many of respondent's advertisements have appeared and now appear in the form of testimonials allegedly given by users and former users of respondent's products, accompanied by the photograph of the person purporting to give such testimonial. Such testimonial advertising contained many exaggerated statements of claimed benefits received from using said medicinal preparations, written in the first person, under prominent introductory headlines.

Among and typical of the false statements and representations contained in the headings of said newspaper testimonial advertisements disseminated and caused to be disseminated by the respondent, are the following:

No dread of gallstones after suffering 10 years.

Endorses Ton Jon No. 3, as the only treatment in many for prostate trouble.

Ton Jon worth twenty times the price. Gave lasting relief.

Years of suffering ended.

Says kidney stones came out like sand.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and other statements and representations similar thereto, not set forth herein, all of which purport to be descriptive of the therapeutic properties of the preparations "Ton Jon No. 1," "Ton Jon No. 2," and "Ton Jon No. 3," respondent represents, directly and by implication:

That his preparation designated as "Ton Jon No. 1" is an effective treatment for ailments and diseases of the stomach and bowels which will bring complete relief from indigestion, gas, bloat, dyspepsia, pain in chest, pain in stomach, heart palpitation, headaches, loss of weight, loss of strength, sour stomach, cramps, spitting up food, sour liquids, acid rising, belching, nervousness, skin eruptions, bloated feeling, coated tongue, foul breath, sleeplessness, tired feeling, and constipation.

That his preparation designated as "Ton Jon No. 2" is a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder which will bring relief from impurities of the blood and inner organs of the body, lazy liver, sick headaches, biliousness, constipation, dizzy spells, lazy spells, drowsy, tired feeling, foul breath, unsightly complexion, sallowness or muddiness, belching, acid rising, gall bladder, gallstones, stagnant bile, bad blood, and high-blood pressure.

That his preparation designated as "Ton Jon No. 3" is an effective treatment for ailments and disorders of the kidneys and prostrate gland which will give complete relief from bladder irritation, bladder weakness, dull and sharp pain in back, stiffness in back and lower limbs, frequent getting up nights, spots before eyes, swelling of the feet and lower limbs, puffed or dark circles beneath the eyes, nephritis, cystitis, urethritis, prostatitis, sexual power weakened, nervousness, irritability, mental depression, forgetfulness, melancholia, neurasthenia, pains in the lower back, pains in the hips and legs, sleeplessness, tiredness, inability to stand work, low-blood pressure, low temperature, pains in testicles, pains in penis, pains in rectum, difficult bowel movement, dribbling, pain in nape of neck, sudden urination, irritation.

PAR. 4. The foregoing statements and advertisements of the respondent are grossly exaggerated, false and misleading.

In truth and in fact, respondent's preparation designated as "Ton Jon No. 1" is not an effective treatment for ailments and diseases of the stomach and bowels and will not bring effective relief or complete relief from indigestion, gas, bloat, dyspepsia, pain in chest, pain in stomach, heart palpitation, headaches, loss of weight, loss of strength,

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sour stomach, cramps, spitting up food, sour liquids, acid rising, belching, nervousness, skin eruptions, bloated feeling, coated tongue, foul breath, sleeplessness, tired feeling, and constipation.

In truth and in fact respondent's preparation designated as "Ton Jon No. 2" is not a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder and will not bring relief from impurities of the blood and inner organs of the body, lazy liver, sick headaches, biliousness, constipation, dizzy spells, lazy spells, drowsy, tired feeling, foul breath, unsightly complexion, sallowness or muddiness, belching, acid rising, gall bladder, gallstones, stagnant bile, bad blood, high-blood pressure.

In truth and in fact respondent's preparation designated as "Ton Jon No. 3" is not an effective treatment for ailments and disorders of the kidneys and prostate gland and will not give effective relief or complete relief from bladder irritation and weakness, dull and sharp pain in back, stiffness in back and lower limbs, frequent getting up nights, spots before eyes, swelling of the feet and lower limbs, puffed or dark circles beneath the eyes, nephritis, cystitis, urethritis, prostatitis, sexual power weakened, nervousness, irritability, mental depression, forgetfulness, melancholia, neurasthenia, pains in the lower back, pains in the hips and legs, sleeplessness, tiredness, inability to stand work, low-blood pressure, low temperature, pains in testicles, pains in penis, pains in rectum, difficult bowel movement, dribbling, pains in nape of neck, sudden urination, and irritation; and said preparation will not accomplish better results in the treatment of prostate gland and kidney disorders than any medicine has ever done before.

PAR. 5. The respondent's advertisements, disseminated as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the preparations to which the advertisements relate under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

In truth and in fact, respondent's preparations designated "Ton Jon No. 1" and "Ton Jon No. 2" are cathartics and their use, by one suffering from nausea, vomiting, abdominal pains or other symptoms of appendicitis, is dangerous.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations, and others of similar nature, disseminated as aforesaid, has had, and now has, the tendency and capacity to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such false state-

ments, representations and advertisements are true, and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said preparations.

PAR. 7. The aforesaid 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 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 31, 1941, issued and thereafter served its complaint in this proceeding upon respondent, Grant T. Whiteside, an individual, trading as Grant Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 20, 1941, the respondent filed his answer, in which answer he admitted all the material allegations of fact set out in said complaint to be true. In his supplemental answer of September 24, 1941, the respondent waived all intervening procedure and further hearing as to the facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answers thereto, 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, Grant T. Whiteside, is an individual, trading and doing business under the name of Grant Co., with his office and principal place of business located in the city of Sabina, State of Ohio.

Respondent is now and for more than one year last past has been engaged in the preparation, offering for sale, sale, and distribution of certain medicinal preparations designated as "Ton Jon No. 1," "Ton Jon No. 2," and "Ton Jon No. 3."

PAR. 2. Respondent, in the course and conduct of his aforesaid business, has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said medicinal preparations designated "Ton Jon No. 1," "Ton Jon No. 2" and "Ton Jon No. 3" by the United States mails and by various means in commerce, as commerce is defined by the Federal Trade Commission Act, which are likely to induce, directly, or indirectly, the

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purchase of said preparations. The respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations in commerce, as commerce is defined by the Federal Trade Commission Act.

Among and typical of the false representations contained in said advertisements disseminated and caused to be disseminated by respondent, as aforesaid, are the following:

WHAT IT WILL DO

Ton Jon gets at the seat of common afflictions by aiding nature in throwing off toxic poisons, thus your nervousness and rheumatic aches and pain will disappear, you will feel full of pep like you never felt before in your life. So, if you are run down and any of the common ailments named above are ruining your life it would certainly be a mistake not to get Ton Jon and take it.

**WHAT TON JON NO. 1 WILL DO—
STOMACH AND BOWELS**

Ton Jon No. 1 will aid nature in throwing off poisons that foster stomach trouble, bringing complete relief from indigestion, gas, bloat feeling like a rock in stomach, dyspepsia, pain in the chest and stomach, wild heart palpitation, awful headaches, loss of weight and strength, sour stomach, cramps, spitting up bits of foods and sour liquids, acid rising and belching and all-gone, tired feeling. It will give you an appetite like you never had before in your life. Ton Jon. No. 1 will cleanse your bowels (not drastic or severe) as they were never cleansed before, producing proper elimination, giving them a daily natural action, thus cleansing and toning your blood, giving the nerves a new tingle.

**WHAT TON JON NO. 2 WILL DO—
LIVER—GALL BLADDER**

Ton Jon No. 2 will wake up that lazy liver, frequently clearing out impurities that may have contaminated your blood and inner organs for a long time, bringing relief from sick headaches that may last for days, attacks of billousness, constipation, dizzy spells, lazy spells, drowsy tired feeling, relieving such embarrassing conditions as foul breath, unsightly complexion, sallowness or mud-diness, and will in place give you a glowing complexion, one which the highest cosmetics cannot equal. When the liver bile fails to flow or food backs up into the stomach, causing pain and distress like stomach trouble. This bile must flow to prevent gall stones. Ton Jon No. 2 is a powerful liver medicine with double quick action on the bowels.

**WHAT TON JON NO. 3 WILL DO—
KIDNEYS—PROSTATE**

This treatment aids nature by flushing out the impurities, giving complete relief from bladder irritation and weakness, dull and sharp pains in the back,

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stiffness, dull and lower limbs, frequent getting up during the night, dizziness, spots before the eyes, swelling of the feet and lower limbs, puffs and dark circles beneath the eyes. Ton Jon No. 3 is nature's favorite means of correcting: prostatitis—inflammation of the prostate gland, the small organ surrounding the bladder.

* * * So if you want relief from long-time suffering bring in the coupon below. No matter what your ailment may be or how many medicines you have tried, be sure to read this offer for you benefit * * *.

<i>Ton Jon No. 1</i>	<i>Ton Jon No. 2</i>	<i>Ton Jon No. 3</i>
<i>Stomach-Bowels</i>	<i>Liver</i>	
Indigestion.	Lazy Liver.	Bladder Irritation.
Gas.	Sick Headaches.	Bladder Weakness.
Bloat.	Biliousness.	Dull and Sharp Pain in Back.
Dyspepsia.	Constipation.	Stiffness in Back and Lower Limbs.
Pain in Chest.	Dizzy Spells.	Frequent Getting Up Nights.
Pain in Stomach.	Lazy Spells.	Spots Before Eyes.
Heart Palpitation.	Drowsy, Tired Feeling.	Swelling of the Feet and Lower Limbs.
Headaches.	Foul Breath.	Puffed or Dark Circles Beneath the Eyes.
Loss of Weight.	Unsightly Complexion.	Nephritis.
Loss of Strength.	Sallowiness or Muddiness.	Cystitis.
Sour Stomach.	Belching.	Urethritis.
Cramps.	Acid Rising.	Prostatitis.
Spitting Up Food.	Gall Bladder.	Sexual Power Weakened.
Sour Liquids.	Gallstones.	Nervousness.
Acid Rising.	Stagnant Bile.	Irritability.
Belching.	Bad Blood.	Mental Depression.
Nervousness.	High-blood Pressure.	Forgetfulness.
Skin Eruptions.		Melancholia.
Bloated Feeling.		Neurasthenia.
Coated Tongue.		Pains in the Lower Back.
Foul Breath.		Pains in the Hips and Legs.
Sleeplessness.		Sleeplessness.
Tired Feeling.		Tiredness.
Constipation.		Inability to Stand Work.
		Low Blood Pressure.
		Low Temperature.
		Pains in Testicles.
		Pains in Penis.
		Pains in Rectum.
		Difficult Bowel Movement.
		Dribbling.
		Pain in Nape of Neck.
		Sudden Urination Irritation.

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Many of respondent's advertisements have appeared and now appear in the form of testimonials allegedly given by users and former users of respondent's products, accompanied by the photograph of the person purporting to give such testimonial. Such testimonial advertising contained many exaggerated statements of claimed benefits received from using said medicinal preparations, written in the first person, under prominent introductory headlines.

Among and typical of the false statements and representations contained in the headings of said newspaper testimonial advertisements, disseminated and caused to be disseminated by the respondent, are the following:

No dread of gallstones after suffering 10 years.

Endorses Ton Jon No. 3, as the only treatment in many for prostate trouble.

Ton Jon worth twenty times the price. Gave lasting relief.

Years of suffering ended.

Says kidney stones came out like sand.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and other statements and representations similar thereto, not set forth herein, all of which purport to be descriptive of the therapeutic properties of the preparations "Ton Jon No. 1," "Ton Jon No. 2," and "Ton Jon No. 3," respondent represents, directly and by implication:

That his preparation designated as "Ton Jon No. 1" is an effective treatment for ailments and diseases of the stomach and bowels which will bring complete relief from indigestion, gas, bloat, dyspepsia, pain in chest, pain in stomach, heart palpitation, headaches, loss of weight, loss of strength, sour stomach, cramps, spitting up food, sour liquids, acid rising, belching, nervousness, skin eruptions, bloated feeling, coated tongue, foul breath, sleeplessness, tired feeling, and constipation.

That his preparation designated as "Ton Jon. No. 2" is a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder which will bring relief from impurities of the blood and inner organs of the body, lazy liver, sick headaches, biliousness, constipation, dizzy spells, lazy spells, drowsy, tired feeling, foul breath, unsightly complexion, sallowness or muddiness, belching, acid rising, gall bladder, gallstones, stagnant bile, bad blood, and high-blood pressure.

That his preparation designated as "Ton Jon No. 3" is an effective treatment for ailments and disorders of the kidneys and prostate gland which will give complete relief from bladder irritation, bladder weakness, dull and sharp pain in back, stiffness in back and lower limbs, frequent getting up nights, spots before eyes, swelling of the

feet and lower limbs, puffed or dark circles beneath the eyes, nephritis, cystitis, urethritis, prostatitis, sexual power weakened, nervousness, irritability, mental depression, forgetfulness, melancholia, neurasthenia, pains in the lower back, pains in the hips and legs, sleeplessness, tiredness, inability to stand work, low-blood pressure, low temperature, pains in testicles, pains in penis, pains in rectum, difficult bowel movement, dribbling, pain in nape of neck, sudden urination, irritation.

PAR. 4. The foregoing statements and advertisements of the respondent are grossly exaggerated, false, and misleading.

In truth and in fact, respondent's preparation designated as "Ton Jon No. 1" is not an effective treatment for ailments and diseases of the stomach and bowels and will not bring effective relief or complete relief from indigestion, gas, bloat, dyspepsia, pain in chest, pain in stomach, heart palpitation, headaches, loss of weight, loss of strength, sour stomach, cramps, spitting up food, sour liquids, acid rising, belching, nervousness, skin eruptions, bloated feeling, coated tongue, foul breath, sleeplessness, tired feeling, and constipation.

In truth and in fact respondent's preparation designated as "Ton Jon No. 2" is not a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder and will not bring relief from impurities of the blood and inner organs of the body, lazy liver, sick headaches, biliousness, constipation, dizzy spells, lazy spells, drowsy, tired feeling, foul breath, unsightly complexion, sallowness or muddiness, belching, acid rising, gall bladder, gallstones, stagnant bile, bad blood, high blood pressure.

In truth and in fact respondent's preparation designated as "Ton Jon No. 3" is not an effective treatment for ailments and disorders of the kidneys and prostate gland; will not give effective relief or complete relief from bladder irritation and weakness, dull and sharp pain in back, stiffness in back and lower limbs, frequent getting up nights, spots before eyes, swelling of the feet and lower limbs, puffed or dark circles beneath the eyes, nephritis, cystitis, urethritis, prostatitis, sexual power weakened, nervousness, irritability, mental depression, forgetfulness, melancholia, neurasthenia, pains in the lower back, pains in the hips and legs, sleeplessness, tiredness, inability to stand work, low blood pressure, low temperature, pains in testicles, pains in penis, pains in rectum, difficult bowel movement, dribbling, pain in nape of neck, sudden urination, and irritation; and said preparation will not accomplish better results in the treatment of prostate gland and kidney disorders than any medicine has ever done before.

PAR. 5. The respondent's advertisements, disseminated as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the preparations to which the advertisements relate under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

In truth and in fact, respondent's preparations designated "Ton Jon No. 1" and "Ton Jon No. 2" are cathartics and their use, by one suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis, is dangerous.

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

CONCLUSION

The aforesaid 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 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 answers respondent admits all of 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 conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Grant T. Whiteside, individually, and trading as Grant Co., or trading under any other name or names, his agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of the medicinal preparations designated as hereinafter set forth, or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar properties, whether

sold under the same names or any other name or names, do forthwith cease and desist from:

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, or 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 such commerce of the medicinal preparation designated as "Ton Jon No. 1," which advertisement—

(A) Represents, directly or through inference, that said preparation—

(a) Is an effective treatment for ailments and diseases of the stomach and bowels.

(b) Will bring effective relief or complete relief from indigestion, gas, bloat, dyspepsia, pain in chest, pain in stomach, heart palpitation, headache, loss of weight, loss of strength, sour stomach, cramps, spitting up food, sour liquids, acid rising, belching, nervousness, skin eruptions, bloated feeling, coated tongue, foul breath, sleeplessness, tired feeling, and constipation.

(B) Fails to reveal that said preparation may be dangerous when used by persons suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis: *Provided, however,* That such advertisement need contain only the statement, "Caution, use only as directed," if and when the directions for use wherever they appear on the label, in the labeling, or both, contain a warning to the above effect.

2. 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, or 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 such commerce of the medicinal preparation designated as "Ton Jon No. 2," which advertisement—

(A) Represents, directly or through inference, that said preparation—

(a) Is a powerful liver medicine and an effective treatment for ailments and disorders of the liver and gall bladder.

(b) Will bring relief from impurities of the blood and inner organs of the body, lazy liver, sick headache, biliousness, constipation, dizzy spells, lazy spells, drowsy, tired feeling, foul breath, unsightly complexion, sallowness or muddiness, belching, acid rising, gall bladder, gallstones, stagnant bile, bad blood, and high blood pressure.

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(B) Fails to reveal that said preparation may be dangerous when used by persons suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis: *Provided, however,* That such advertisement need contain only the statement, "Caution, use only as directed," if and when the directions for use wherever they appear on the label, in the labeling, or both, contain a warning to the above effect.

3. 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, or 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 such commerce of the medicinal preparation designated as "Ton Jon No. 3," which advertisement represents, directly or through inference, that said preparation—

(A) Is an effective treatment for ailments and disorders of the kidneys and prostate gland.

(B) Will give effective relief or complete relief from bladder irritation and weakness, dull and sharp pains in back, stiffness in back and lower limbs, frequent getting up nights, spots before eyes, swelling of the feet and lower limbs, puffed or dark circles beneath the eyes, nephritis, cystitis, urethritis, prostatitis, sexual power weakened, nervousness, irritability, mental depression, forgetfulness, melancholia, neurasthenia, pains in the lower back, pains in the hips and legs, sleeplessness, tiredness, inability to stand work, low blood pressure, low temperature, pains in testicles, pains in penis, pains in rectum, difficult bowel movement, dribbling, pain in nape of neck, sudden urination, and irritation.

(C) Will accomplish better results in the treatment of prostate gland and kidney disorders than any medicine has ever done before.

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

Syllabus

IN THE MATTER OF
A. S. ALOE COMPANY

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

Docket 3820. Complaint, June 14, 1939—Decision, Dec. 15, 1941

Where a corporation engaged in the manufacture and competitive interstate purchase, sale and distribution of surgical equipment, instruments, and supplies, including pressure and suction pumps, sterilizers, thermometers, syringes, and blood pressure measuring instruments, with principal place of business in St. Louis and branch distributing houses in Kansas City and Los Angeles, constituting one of the largest retail dealers in such products in the United States, and an important outlet therefor for manufacturers, jobbers, importers and distributors, and facilitating sales through its said two branches, a staff of approximately 100 traveling salesmen and general distribution to physicians, surgeons, hospitals, laboratories and others of a large number of catalogs, whereby it secured many mail orders;

Knowingly induced and received, through a studied and persistent course of action to induce sellers to grant to it favorable discriminatory prices, the benefit of differentials between the prices paid by it and those paid by its competitors for surgical products, varying from 10 to 40 percent less for such products of like grade and quality than paid by certain of its competitors to such sellers;

With result that the sum of such differentials in price might be to enable it—

1. To issue and distribute, through use of such sum to a substantial degree, large numbers of elaborate catalogs with each issue "larger and more complete than its predecessor" leading to its receiving many mail orders, and serving to introduce and lend prestige to its sales force;

2. To employ a larger and better qualified staff of traveling salesmen and to increase its sales force materially, or to remunerate such salesmen by very liberal commissions based on sales of surgical products, and to enable such salesmen to effect sales by granting excessive trade-in allowances, the used surgical products so traded in becoming the property of the salesman and the allowance being charged against salesman's commission;

3. To build up a demand for its surgical products by presenting free surgical products to the heads of medical departments, and to allow some of its salesmen to grant purchasers discounts from its regular list prices for certain products;

4. To sell a large percentage of its surgical products on liberal credit terms and to advertise such favorable terms, requiring only a small down payment with no interest on deferred payments, which were generally extended from 10 to 18 months and, in some instances, longer periods;

Effect of which discriminations in price, benefits whereof, thus received by it, were denied its competitors, might be substantially to lessen competition and tend to create a monopoly in it in the line of commerce concerned, and to injure, destroy or prevent competition with it in the resale of said surgical products of like grade and quality purchased from said sellers:

Held, That said corporation, in knowingly inducing and receiving such differentials in price which were prohibited by section 2 (a) of the Clayton