

Syllabus

IN THE MATTER OF

AL MODEY LOUGHNEY, TRADING UNDER THE NAME OF
DR. A. M. LOUGHNEY, AND ROGER G. LOUGHNEYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4531. Complaint, July 7, 1941—Decision, Apr. 20, 1942*

Where two individuals, engaged under trade name Dr. A. M. Loughney, in interstate sale and distribution of a "Regimen" for the treatment of asthma, hay fever, constipation, and various other diseases and disorders, which consisted of a mimeographed brochure and supplemental inserts containing a regimen entitled "Dr. A. M. Loughney's Dependable Guide to Self-Help," and two medicinal preparations respectively designated "Dr. Loughney's Special Compound of Disinfectant Oils" (sometimes referred to as "Intra-Lung Medicant" and "Anti-Spsthma-Oyl"), and "Dr. Loughney's Natural Bowel and Intestinal Cleanser" (referred to also as "Tonic Normalizer," "Good Botanical Remedy," "Mother Nature's Own and Best Tonic Normalizer" and "Bowelkleen"); in advertisements through the mails, in newspapers, circulars, form letters, testimonials, pamphlets, and other advertising media, directly and by implication—

- (a) Represented that said "Regimen" and the individual items thereof, separately or in combination, constituted a cure or remedy and safe and effective treatment for asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus colitis, stomach and bowel troubles, high blood pressure, weight control, acute diabetes and nephritis, and would eradicate and cause asthma and hay-fever symptoms lastingly to "disappear as if by Magic in 36 hours;"

The facts being said "Regimen" and items, used separately or in combination, were not a cure or remedy for aforesaid ailments and conditions, and would not eradicate or cause hay-fever symptoms to disappear;

- (b) Falsely represented that their said "Anti-Spsthma-Oyl" was a cure and remedy for, and constituted a safe and effective treatment for, asthma, hay fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest colds, head colds and pneumonia, and would protect the mucus membrane against such diseases, cleanse and disinfect the head cavities, and was an intralung medicant possessing sedative, healing, and disinfecting properties;

The facts being said preparation was nothing more than an emollient containing ineffectual amounts of volatile oils; and, whether used alone or in conjunction with said "Dependable Guide to Self-Help" and the preparation "Bowelkleen," was not a cure or remedy for the diseases listed;

- (c) Falsely represented that their said medicinal preparation "Bowelkleen" was a cure and remedy, and constituted a safe and effective treatment, for constipation; would eliminate gas, and act as a neutralizer and counteract gastric acidity; was a natural bowel and intestinal cleanser and eliminator; was a normalizer and natural blood remedy with tonic value; and would correct the cause of intestinal putrescence and aid digestion;

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The facts being said preparation was nothing more than a laxative cathartic; and used alone or in conjunction with said "Dependable Guide to Self-Help" and "Anti-Spasm-Oyl," had no therapeutic value in the treatment of constipation other than its temporary effect as a laxative-cathartic;

- (d) Represented that "sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin eruptions, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus colitis, and kindred ailments" are symptoms or manifestations of disease which may indicate constipation and intestinal putrescence, that the existence of one or more of such symptoms indicates constipation or intestinal putrescence as their basic cause, and that the preparation "Bowelkleen" would overcome or "clear up" constipation and intestinal putrescence;

The facts being that the disorders and conditions mentioned are not symptoms or manifestations of constipation or intestinal putrescence; catarrh, sinusitis, acne and unsightly skin eruptions and kindred ailments have no casual relationship to constipation, and said preparation would have no therapeutic effect in the treatment thereof; as respects mucus colitis, which may be caused by other conditions, a laxative would not be a safe or sufficient treatment, and said product might tend to aggravate same and prevent its successful treatment; when such disorders as nausea and upset stomach, which may and often do accompany appendicitis, are thus caused, a laxative is not a safe treatment, and use of "Bowelkleen" under such circumstances might be dangerous; when the disorders above mentioned, including coated tongue, indigestion, lack of energy, dizziness, and loss of or perverted appetite are due to other causes, "Bowelkleen" would have no therapeutic value in the treatment thereof, and, to the extent that constipation or intestinal putrescence was the cause of such disorders, it would have no value in the treatment thereof in excess of that furnished by a laxative-cathartic; and

- (e) Failed to reveal facts material in the light of representations in their said advertisements, and that use of their "Dependable Guide" or medicinal preparations, singly or in combination, might, under usual or prescribed conditions, result in serious injury to health in case of undernourished persons or those suffering from diabetes; frequent use of their "Anti-Spasm-Oyl" may cause oil pneumonia; and use of "Bowelkleen" as a treatment for nausea and upset stomach might result in serious injury to health in the event of appendicitis;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such statements were true, and that the contents of "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts and said medicinal preparations were safe for use and would accomplish the results claimed for them as above set forth, thereby inducing said public to purchase said "Regimen" and medicinal preparations because of such mistaken belief:

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. John W. Carter, Jr. 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 Al Modey Loughney, individually and trading under the name of Dr. A. M. Loughney, and Roger G. Loughney, 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, Al Modey Loughney, is an individual, trading under the name and style of Dr. A. M. Loughney, with his principal place of business located at 318-319 Henshaw Building, Fourteenth Street and Broadway, Oakland, Calif. Respondent, Roger G. Loughney, is an individual, and is secretary to the respondent, Al Modey Loughney, with the same place of business. Said respondents act in conjunction and in cooperation with each other with respect to the acts and practices hereinafter set forth.

PAR. 2. The respondents are now, and for more than one year last past, have been engaged in the advertising for sale, sale and distribution of a regimen for the treatment of asthma, hay fever, constipation, and various other diseases, disorders, and conditions, said treatment being variously designated as "Formula," "Treatment," "Home Self-Use Formula," "Technique," "Home Self-Help Treatment," "Asthma and Hay-Fever Technique" and "Mucus Membrane Formula," hereinafter referred to as "Regimen," consisting of the following items:

(a) A mimeographed brochure and supplement inserts containing, among other things, a detailed directional daily program and regimen entitled "Dr. A. M. Loughney's Dependable Guide to Self-Help."

(b) A medicinal preparation designated "Dr. Loughney's Special Compound of Disinfectant Oils" sometimes referred to as "Intra-Lung Medicant" and "Anti-Spasm-Oyl," hereinafter referred to as "Anti-Spasm-Oyl."

(c) a medicinal preparation designated "Dr. Loughney's Natural Bowel and Intestinal Cleanser" sometimes referred to as "Tonic Normalizer," "Good Botanical Remedy," "Mother Nature's Own and Best Tonic Normalizer," and "Bowelkleen," hereinafter referred to as "Bowelkleen."

Respondents are now, and for more than 1 year last past, have been also engaged in the advertising, sale, and distribution of their two medicinal preparations "Anti-Spasm-Oyl" and "Bowelkleen," as individual and separate items.

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PAR. 3. In the course and conduct of their business the said respondents, individually, and trading under the name of Dr. A. M. Loughney, caused their said "Regimen" and their said medicinal preparations "Anti-Spsthma-Oyl" and "Bowelkleen" when sold to be transported from their place of business in the State of California to purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said "Regimen" and their said medicinal preparations, designated as aforesaid, in commerce, between and among the various States of the United States.

PAR. 4. In the course and conduct of their aforesaid business respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their aforesaid "Regimen" and their said medicinal preparations, by the United States mails, and by various means in commerce, as commerce is defined by the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their aforesaid "Regimen" and their aforesaid medicinal preparations, by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said medicinal preparations, in commerce, as commerce is defined by 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, by advertisements in newspapers, by circulars, form letters, testimonials, pamphlets, and other advertising media, as aforesaid, are the following:

I have proven in thousands of supposedly hopeless cases that I know how to eradicate all the fearsome wheezing, all labored breathing of wretched Asthma sufferers within 36 hours and what is more I have taught and am teaching such sufferers to do the same thing for themselves, through the mail.

A cost, so low that even the very poor can be freed of Asthma and Hay Fever symptoms.

* * * because I can teach you the principles that must be applied to lastingly eradicate all wheezing, all labored breathing, within 36 hours. You apply them in the privacy of your own home so that you may automatically get well.

ASTHMA AND HAY FEVER

Symptoms Lastingly Disappear as if by Magic. All I ask is that you give me 36 hours trial! Make me prove that my discovery works! You be the sole judge. If you are satisfied, treatments will cost you \$1.00.

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AILMENTS SUCCESSFULLY TREATED—

Asthma, Hay-Fever, Neuritis, Rheumatism, Impaired Circulation, Catarrh, Bronchitis, Sinusitis, Mucus Colitis, Stomach and Bowel Troubles, High Blood Pressure, Weight Control, Acute Diabetes and Nephritis.

Two months' supply of natural blood remedy given to each patient free of charge.

Asthma and Hay-Fever successfully treated by mail. Write to me for full information how you can be quickly and lastingly freed of all wheezing—all asthma and hay-fever symptoms without leaving home.

Every week a goodly number of sufferers are restored to lasting freedom from these afflictions.

Specializing in Asthma, Hay-Fever and allied Mucous Membrane ailments, namely, Sinusitis, Bronchitis, Mucus Colitis, Catarrh, Stomach and Bowel Troubles, Blood Pressure Normalizing and Weight Control.

Eradicate all of the fearsome wheezing, all labored breathing of wretched Asthma sufferers within 36 hours.

Dr. Loughney's special compound of disinfectant oils, known as "Anti-Spsthma-Oyl" is an intra-lung medicant of oily consistency, and is nonnarcotic, mildly though positively disinfectant.

"Anti-Spsthma-Oyl" * * * is dependable and quickly effective. It may be used conveniently by Asthma, Hay-Fever, Bronchitis, Sinusitis or Pneumonia sufferers, in the privacy of their own home.

This procedure forces the "Anti-Spsthma-Oyl" well up into the head cavities, and tends to cleanse and disinfect the head cavities.

How Dr. Loughney's "Anti-Spsthma-Oyl" assists in eliminating the symptoms of Asthma, Hay-Fever, Bronchitis, Sinusitis, Pharyngitis and Laryngitis.

"Anti-Spsthma-Oyl" is at once disinfecting, soothing and healing.

Dr. Loughney's "Anti-Spsthma-Oyl" is a gentle remedy, a home self-help remedy, protects the mucous membrane of your breathing passages against such disabling diseases as Asthma, Hay-Fever, Bronchitis and Sinusitis with Anti-Spsthma-Oyl. It is at once soothing and healing to the sensitive mucous membrane.

Feel the irritation fade away. It is noteworthy how quickly the patient can obtain relief from the symptoms of recurrent, painful, Sinusitis with "Anti-Spsthma-Oyl," and from the fearful symptoms of Asthma, and Hay-Fever, and from the annoying symptoms of Bronchitis, Pharyngitis, Laryngitis, Rhinitis, from Chestcolds and from the common Head-Cold.

Dr. Loughney's Anti-Spsthma-Oyl is offered as a practical, safe and dependable remedy.

First thing you do, take "Dr. Loughney's Natural Bowel and intestinal Cleanser," to counteract gastric acidity—and chase that sickish feeling quickly.

DR. LOUGHNEY'S "NATURAL BOWEL AND INTESTINAL CLEANSER" * * * IS not an extract from drugs. Instead it is a blend of aromatic herbs and vegetable compounds, blended, perfected and prepared by Dr. Loughney * * * It is surprisingly efficient, not only as a laxative, for it contains Herbs which have medicinal and tonic values that assist in chasing away that tired and worn out feeling, as well as the blues.

Dr. Loughney's "Natural Bowel and Intestinal Cleanser" eliminates the gas and acts as a neutralizer, consequently your food is more completely and properly digested. It acts to correct the cause of intestinal putrescence.

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Dr. Loughney's "Natural Bowel and Intestinal Cleanser" is compounded * * * for people who want the pure, wholesome, and most natural, and dependable eliminator.

Any and all of the following symptoms or manifestations of disease may indicate constipation and intestinal putrescence, sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin eruptions, lack of energy, headache, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus colitis and kindred ailments.

CLEAR UP CONSTIPATION * * * and intestinal putrescence.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic value of respondent's aforesaid "Regimen" including the medicinal preparations "Anti-Spasm-Oyl" and "Bowelkleen," disseminated as aforesaid, the respondents represent directly and by implication, that said "Regimen" including said medicinal preparations, either separately or in combination one with the other, is a cure or remedy, and constitutes a safe and effective treatment for asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus-colitis, stomach and bowel troubles, high blood pressure, weight control, acute diabetes and nephritis, and that said "Regimen" will eradicate and cause asthma and hay fever symptoms lastingly to "disappear as if by magic in thirty-six hours."

PAR. 6. Through the use of the aforesaid statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic properties of respondents' medicinal preparation "Anti-Spasm-Oyl," respondents further represent, directly and by implication, that said preparation is a cure and remedy, and constitutes a safe and effective treatment for asthma, hay-fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest colds, head colds, and pneumonia, and that it will protect the mucous membrane against such diseases; that it will cleanse and disinfect the head cavities; that it is an intra-lung medicant possessing sedative, healing and disinfecting properties.

PAR. 7. Through the use of the aforesaid statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic properties of respondents' aforesaid medicinal preparation "Bowelkleen," respondents further represent, directly or by implication, that said preparation is a cure and remedy, and constitutes a safe and effective treatment for constipation; that it will eliminate gas, and act as a neutralizer and counteract gastric acidity; that it is a natural bowel and intestinal cleanser and eliminator;

that it is a normalizer and natural blood remedy with tonic value; that it will correct the cause of intestinal putrescence and aid digestion.

PAR. 8. Respondents further represent by the means and in the manner aforesaid, that "sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin eruptions, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus-colitis and kindred ailments" are symptoms or manifestations of disease which may indicate constipation and intestinal putrescence, and that the existence of one or more of such symptoms indicates that constipation or intestinal putrescence is generally the basic cause of such symptoms, disorders or conditions, and that their medicinal preparation "Bowelkleen" will overcome or "clear up" constipation and intestinal putrescence.

PAR. 9. The foregoing representations and advertisements and others similar thereto but not specifically set out herein, are grossly exaggerated, false, and misleading.

Respondents' aforesaid "Regimen," including their medicinal preparation "Anti-Spasm-Oyl," and their medicinal preparation "Bowelkleen," used separately, or in any combination of one with the other, is not a cure or remedy, and does not have sufficient therapeutic value to justify use for Asthma, Hay-Fever, Neuritis, Rheumatism, Impaired Circulation, Catarrh, Bronchitis, Sinusitis, Mucus-Colitis, Stomach and Bowel Troubles, High Blood Pressure, Weight Control, Acute Diabetes and Nephritis. They will not jointly, separately or in combination of any one with the other, eradicate and cause Asthma and Hay-Fever symptoms lastingly to disappear.

PAR. 10. The contents of respondents' "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts" when used alone or in conjunction with either one or both of respondents' aforesaid medicinal preparations, is not a cure or remedy for, nor an effective treatment for any of the diseases, disorders or conditions set forth in paragraph 5 hereof.

PAR. 11. Respondents' preparation "Anti-Spasm-Oyl" is nothing more than an emollient containing ineffectual amounts of certain volatile oils. Said medicinal preparation "Anti-Spasm-Oyl" used alone, or in conjunction with respondents' "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts" and the medicinal preparation "Bowelkleen" separately, or in conjunction of one or both with the other, is not a cure or remedy for, and has no generally recognized therapeutic value in the treatment of asthma, hay fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest colds, head colds, and pneumonia. It will not protect the

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mucous membrane against such diseases. It will not cleanse and disinfect the head cavities. It is not a safe and effective intralung medicant and it does not possess sedative, healing or disinfectant properties.

PAR. 12. Respondents' medicinal preparation "Bowelkleen" is nothing more than a laxative-cathartic. This preparation used alone or in conjunction with respondents' items "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts," and the medicinal preparation "Anti-Spasm-Oyl," separately, or in conjunction of one or both with the other, is not a cure or remedy for and has no generally recognized therapeutic value in the treatment of constipation other than the temporary effect it might have as a laxative-cathartic. It is not a competent and effective treatment for constipation. It will not eliminate gas. It will not act as a neutralizer and will not counteract gastric acidity. It is not a natural bowel and intestinal cleanser or eliminator. It is not a normalizer. It is not a natural blood remedy. It does not have any tonic value. It will not correct the cause of intestinal putrescence and it will not aid digestion.

PAR. 13. The disorders and conditions such as "sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin eruptions, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus-colitis and kindred ailments" are not symptoms or manifestations of constipation and intestinal putrescence, and the existence of one or more of such symptoms are not generally, as the respondents represent, symptoms or manifestations of constipation or intestinal putrescence or the basic cause of such symptoms, disorders or conditions.

Catarrh, sinusitis, acne, unsightly skin eruptions, and kindred ailments, are diseases having no causal relationship to constipation and respondents' medicinal preparation "Bowelkleen" will have no generally recognized therapeutic effect in the treatment of any of these disorders and diseases.

The disease mucus-colitis may be caused by conditions other than constipation, but whatever the underlying factor causing this disease, a laxative is not a safe or sufficient treatment therefor. The use of respondents' medicinal preparation "Bowelkleen" would have no generally recognized beneficial value in the treatment of this disease, but may tend to aggravate it and prevent the successful treatment thereof.

The disorders such as nausea and upset stomach may and often do accompany an attack of appendicitis. When such disorders are

caused by such an attack, a laxative is not a safe treatment therefor and the use of respondents' medicinal preparation "Bowelkleen" under such circumstances may be dangerous.

When the disorders such as sour breath, nausea, coated tongue, indigestion, upset stomach, gas and bloating, headaches, dizziness, loss of appetite or perverted appetite, are due to causes other than constipation or intestinal putrescence, the use of respondents' medicinal preparation "Bowelkleen" in the treatment thereof, would have no therapeutic value. To the extent that constipation or intestinal putrescence is the contributing factor to, or the basic cause of, these disorders, respondents' medicinal preparation "Bowelkleen" would have no generally accepted therapeutic value in the treatment thereof in excess of that furnished by a laxative-cathartic.

PAR. 14. The advertisements disseminated by the respondents as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained in such advertisements and fail to reveal that the use of their "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts" under the conditions prescribed in said advertisements or under such conditions as are customary or usual, and the use of said medicinal preparation "Anti-Spasm-Oyl" or "Bowelkleen" singly or in combination with the aforesaid "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts," as directed, may result in serious injury to health.

The use of respondents' "Dependable Guide to Self-Help and Supplemental Mimeographed Inserts," alone or in combination with one or both of said medicinal preparations may, in case of undernourished persons or those suffering from "Acute Diabetes," result in injury to health.

The use of respondents' "Anti-Spasm-Oyl" as prescribed by respondents may result in introducing and injecting small quantities of oil into the lower respiratory tract and its frequent use may cause oil pneumonia and injury to health.

Furthermore, the advertisements of respondents' medicinal preparation "Bowelkleen" as a treatment for "Nausea" and "Upset Stomach" is false in that said advertisements fail to reveal that such disorders may, and often do, accompany an attack of appendicitis, and that its use under such conditions may result in serious injury to health.

PAR. 15. The use by said respondents of the foregoing false, deceptive and misleading representations and advertisements, and others of similar nature disseminated as aforesaid, has had and now has the

tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations and advertisements are true, and that said "Dependable Guide to Self-Help" and said medicinal preparations are safe for use, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' "Regimen" and to purchase their said medicinal preparations "Anti-Spasm-Oyl" and "Bowel-kleen."

PAR. 16. The aforesaid acts and practices of the said respondents 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 July 7, 1941, issued, and on July 14, 1941, served its complaint in this proceeding upon the respondents, Al Modey Loughney and Roger G. Loughney, charging them with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of answer by respondent, Al Modey Loughney, the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure, further hearing as to said facts, oral argument, and filing of brief, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, 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. Respondents, Al Modey Loughney and Roger G. Loughney, are individuals, trading under the name of Dr. A. M. Loughney, with their principal place of business located at 318-319 Henshaw Building, Fourteenth Street and Broadway, Oakland, Calif.

These respondents acted in conjunction and in cooperation with each other with respect to the acts and practices hereinafter set forth.

PAR. 2. The respondents, are now, and for more than 1 year last past, have been engaged in the advertising, sale, and distribution in commerce between and among the various States of the United States of a regimen for the treatment of asthma, hay fever, constipation, and various other diseases, disorders, and conditions, said treatment being variously designated as "Formula," "Treatment," "Home Self-Use Formula," "Technique Home Self-Help Treatment," "Asthma and Hay-Fever Technique," and "Mucous Membrane Formula," consisting of the following items:

(a) A mimeographed brochure and supplemental inserts containing, among other things, a detailed directional daily program and regimen entitled "Dr. A. M. Loughney's Dependable Guide to Self-Help."

(b) A medicinal preparation designated "Dr. Loughney's Special Compound of Disinfectant Oils," sometimes referred to as "Intra-Lung Medicant" and "Anti-Spsthma-Oyl."

(c) A medicinal preparation designated "Dr. Loughney's Natural Bowel and Intestinal Cleanser," sometimes referred to as "Tonic Normalizer," "Good Botanical Remedy," "Mother Nature's Own and Best Tonic Normalizer," and "Bowelkleen."

hereinafter referred to as "Regimen," and of the two medicinal preparations designated "Anti-Spsthma-Oyl" and "Bowelkleen," as individual and separate items.

Respondents cause their said "Regimen" and their said medicinal preparations "Anti-Spsthma-Oyl" and "Bowelkleen" when sold, to be transported from their place of business in the State of California to purchasers thereof located in various other States of the United States.

Respondents maintain and at all times mentioned herein have maintained a course of trade in their said "Regimen" and in their said medicinal preparations, designated as aforesaid, in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their aforesaid business respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their aforesaid "Regimen" and their said medicinal preparations, by the United States mail, and by various means in commerce, as commerce is defined in the Federal Trade Commission Act, and have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their aforesaid "Regimen" and their aforesaid medicinal preparations, by various means for the purpose of inducing and which are likely

to induce, directly or indirectly, the purchase of their said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act.

PAR. 4. 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, by advertisements in newspapers, by circulars, form letters, testimonials, pamphlets and other advertising mediums, as aforesaid, are the following:

I have proven in thousands of supposedly hopeless cases that I know how to eradicate all the fearsome wheezing, all labored breathing of wretched Asthma sufferers within 36 hours and what is more I have taught and am teaching such sufferers to do the same thing for themselves, through the mail.

A cost, so low that even the very poor can be freed of Asthma and Hay Fever symptoms.

* * * because I can teach you the principles that must be applied to lastingly eradicate all wheezing, all labored breathing, within 36 hours. You apply them in the privacy of your own home so that you may automatically get well.

ASTHMA AND HAY FEVER

Symptoms Lastingly Disappear as if by Magic. All I ask is that you give me 36 hours trial! Make me prove that my discovery works! You be the sole judge. If you are satisfied, treatments will cost you \$1.00.

AILMENTS SUCCESSFULLY TREATED—

Asthma, Hay-Fever, Neuritis, Rheumatism, Impaired Circulation, Catarrh, Bronchitis, Sinusitis, Mucus Colitis, Stomach and Bowel Troubles, High Blood Pressure, Weight Control, Acute Diabetes and Nephritis.

Two months' supply of natural blood remedy given to each patient free of charge.

Asthma and Hay-Fever successfully treated by mail. Write to me for full information how you can be quickly and lastingly freed of all wheezing—all asthma and hayfever symptoms without leaving home.

Every week a goodly number of sufferers are restored to lasting freedom from these afflictions.

Specializing in Asthma, Hay-Fever and allied Mucous Membrane ailments, namely, Sinusitis, Bronchitis, Mucus Colitis, Catarrh, Stomach and Bowel Troubles, Blood Pressure, Normalizing and Weight Control.

Eradicate all of the fearsome wheezing, all labored breathing of wretched Asthma sufferers within 36 hours.

Dr. Loughney's special compound of disinfectant oils, known as "Anti-Spsthma-Oyl" is an Intralung medicant of oily consistency, and is non-narcotic, mildly though positively disinfectant.

"Anti-Spsthma-Oyl" * * * is dependable and quickly effective. It may be used conveniently by Asthma, Hay-Fever, Bronchitis, Sinusitis or Pneumonia sufferers, in the privacy of their own home.

This procedure forces the "Anti-Spsthma-Oyl" well up into the head cavities, and tends to cleanse and disinfect the head cavities.

How Dr. Loughney's "Anti-Spasm-Oyl" assists in eliminating the symptoms of Asthma, Hay-Fever, Bronchitis, Sinusitis, Pharyngitis and Laryngitis.

"Anti-Spasm-Oyl" is at once disinfecting, soothing and healing.

Dr. Loughney's "Anti-Spasm-Oyl" is a gentle remedy, a home self-help remedy, protects the mucous membrane of your breathing passages against such disabling diseases as Asthma, Hay-Fever, Bronchitis and Sinusitis with Anti-Spasm-Oyl. It is at once soothing and healing to the sensitive mucous membrane.

Feel the irritation fade away. It is noteworthy how quickly the patient can obtain relief from the symptoms of recurrent, painful, Sinusitis with "Anti-Spasm-Oyl," and from the fearful symptoms of Asthma, and Hay-Fever, and from the annoying symptoms of Bronchitis, Pharyngitis, Laryngitis, Rhinitis, from Chestcolds and from the common Head-Cold.

Dr. Loughney's Anti-Spasm-Oyl is offered as a practical, safe and dependable remedy.

First thing you do, take "Dr. Loughney's Natural Bowel and Intestinal Cleanser," to counteract gastric acidity—and chase that sickish feeling quickly.

DR. LOUGHNEY'S "NATURAL BOWEL AND INTESTINAL CLEANSER" * * * Is not an extract from drugs. Instead it is a blend of aromatic herbs and vegetable compounds, blended, perfected and prepared by Dr. Loughney * * * It is surprisingly efficient, not only as a laxative, for it contains Herbs which have medicinal and tonic values that assist in chasing away that tired and worn out feeling, as well as the blues.

Dr. Loughney's "National Bowel and Intestinal Cleaner" eliminates the gas and acts as a neutralizer, consequently your food is more completely and properly digested. It acts to correct the cause of intestinal putrescence.

Dr. Loughney's "Natural Bowel and Intestinal Cleanser" is compounded * * * for people who want the pure, wholesome, and most natural, and dependable eliminator.

Any and all of the following symptoms or manifestations of disease may indicate constipation and intestinal putrescence, sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin eruptions, lack of energy, headache, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus colitis and kindred ailments.

CLEAR UP CONSTIPATION * * * and intestinal putrescence.

PAR. 5. Through the use of the statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic value of respondents' aforesaid "Regimen," the respondents represent directly and by implication, that said "Regimen" and the individual items thereof, either separately or in combination of one with the other, is a cure or remedy, and constitutes a safe and effective treatment for asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus colitis, stomach and bowel troubles, high blood pressure, weight control, acute diabetes, and nephritis, and will eradicate and cause asthma and hay fever symptoms lastingly to "disappear as if by Magic in 36 hours."

PAR. 6. Through the use of the aforesaid statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic properties of respondents' medicinal preparation, "Anti-Spasm-Oyl," respondents further represent, directly and by implication, that said preparation is a cure and remedy and constitutes a safe and effective treatment for asthma, hay fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest colds, head colds, and pneumonia, and that it will protect the mucus membrane against such diseases; that it will cleanse and disinfect the head cavities; that it is an intralung medicant possessing sedative, healing, and disinfecting properties.

PAR. 7. Through the use of the aforesaid statements and representations hereinabove set forth, and other similar statements and representations not specifically set out herein, which purport to be descriptive of the therapeutic properties of respondent's aforesaid medicinal preparation "Bowelkleen," respondents further represent, directly or by implication, that said preparation is a cure and remedy, and constitutes a safe and effective treatment for constipation; that it will eliminate gas, and act as a neutralizer and counteract gastric acidity; that it is a natural bowel and intestinal cleanser and eliminator; that it is a normalizer and natural blood remedy with tonic value; that it will correct the cause of intestinal putrescence and aid digestion.

PAR. 8. Respondents further represent, by the means and in the manner aforesaid, that "sour breath, coated tongue, indigestion, nausea, gas and bloating, acne, and unsightly skin eruptions, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus colitis, and kindred ailments" are symptoms or manifestations of disease which may indicate constipation and intestinal putrescence, and that the existence of one or more of such symptoms indicates that constipation or intestinal putrescence is generally the basic cause of such symptoms, disorders, or conditions, and that their medicinal preparation "Bowelkleen" will overcome or "clear up" constipation and intestinal putrescence.

PAR. 9. The foregoing representations and advertisements and others similar thereto, but not specifically set out herein, are grossly exaggerated, false, and misleading.

Respondents' aforesaid "Regimen" or the individual items thereof, used separately or in any combination one with the other, is not a cure or remedy, and does not have sufficient therapeutic value to justify use for asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus colitis, stomach and bowel troubles, high blood pressure, weight control, diabetes, and nephritis. The

items constituting the treatment will not separately, jointly or in combination of any one with the other, eradicate and cause asthma and hay fever symptoms to disappear.

PAR. 10. The contents of respondents' brochure "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts when used alone or in conjunction with either one or both of respondents' aforesaid medicinal preparations, is not a cure or remedy, nor an effective treatment for asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus colitis, stomach and bowel troubles, high blood pressure, weight control, diabetes, and nephritis, and will not eradicate and cause asthma and hay fever symptoms to disappear.

PAR. 11. Respondents' medicinal preparation "Anti-Spasm-Oyl" is nothing more than an emollient containing ineffectual amounts of certain volatile oils. This medicinal preparation used alone or in conjunction with the contents of respondents' item "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts and the medicinal preparation "Bowelkleen," separately, or in conjunction of one or both with the other, is not a cure or remedy for, and has no generally recognized therapeutic value in the treatment of asthma, hay fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest cold, head cold, and pneumonia. It will not protect the mucous membrane against such diseases. It will not cleanse and disinfect the head cavities. It is not a safe and effective intralung medicant and it does not possess sedative, healing or disinfectant properties.

PAR. 12. Respondents' medicinal preparation "Bowelkleen" is nothing more than a laxative-cathartic. This medicinal preparation used alone or in conjunction with the contents of respondents' item "Dr. A. M. Loughney's Dependable Guide to Self-Help" and the supplemental mimeographed inserts, and the medicinal preparation "Anti-Spasm-Oyl," separately or in conjunction of one or both with the other, is not a cure or remedy for, and has no generally recognized therapeutic value in the treatment of, constipation other than the temporary effect it might have as a laxative-cathartic. It is not a competent and effective treatment for constipation. It will not eliminate gas. It will not act as a neutralizer and will not counteract gastric acidity. It is not a natural bowel and intestinal cleanser or eliminator. It is not a normalizer. It is not a natural blood remedy. It does not have any tonic value. It will not correct the cause of intestinal putrescence and it will not aid digestion.

PAR. 13. The disorders and conditions such as "sour breath, coated tongue, indigestion, nausea, gas and bloating, acne and unsightly skin

eruptions, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite, catarrh, sinusitis, mucus colitis and kindred ailments" are not symptoms or manifestations of constipation or intestinal putrescence, and the existence of one or more of such disorders are not generally symptoms or manifestations that constipation or intestinal putrescence is the basic cause of such disorders or conditions.

Catarrh, sinusitis, acne and unsightly skin eruptions, and kindred ailments, are diseases having no casual relationship to constipation and respondents' medicinal preparation "Bowelkleen" will have no generally recognized therapeutic effect in the treatment of any of these disorders and diseases.

The disease "mucus-colitis" may be caused by conditions other than constipation, but whatever the underlying factor causing this disease, a laxative is not a safe or sufficient treatment therefor. The use of respondents' medicinal preparation "Bowelkleen" would have no generally recognized beneficial value in the treatment of this disease, but may tend to aggravate it and prevent the successful treatment thereof.

The disorders, such as nausea and upset stomach may, and often do, accompany an attack of appendicitis. When such disorders are caused by appendicitis, a laxative is not a safe treatment therefor, and the use of respondents' medicinal preparation "Bowelkleen" under such circumstances, may be dangerous.

When the disorders, such as sour breath, nausea, coated tongue, indigestion, upset stomach, gas and bloating, headaches, lack of energy, dizziness, loss of appetite or perverted appetite, are due to causes other than constipation or intestinal putrescence, respondents' medicinal preparation "Bowelkleen" would have no therapeutic value in the treatment thereof. To the extent that constipation or intestinal putrescence is the contributing factor to, or the basic cause of, these disorders, respondents' medicinal preparation "Bowelkleen" would have no generally accepted therapeutic value in the treatment thereof in excess of that furnished by a laxative-cathartic.

PAR. 14. The advertisements disseminated by the respondents, as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations therein contained and fail to reveal that the use of their "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts under the conditions prescribed in said advertisements or under such conditions as are customary or usual, or the use of said medicinal preparations "Anti-Spasm-Oyl" or "Bowelkleen" singly or in combination with the aforesaid "Dr. A. M. Loughney's

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Dependable Guide to Self-Help" and supplemental mimeographed inserts may result in serious injury to health.

The use of respondents' "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts, alone or in combination with either or both of said medicinal preparations, may, in case of undernourished persons or those suffering from diabetes, result in injury to health.

The use of respondents' "Anti-Spasm-Oyl" as prescribed may result in introducing or injecting small quantities of oil into the lower respiratory tract, and its frequent use may cause oil pneumonia and injury to health.

Respondents' advertisements of the medicinal preparation "Bowelkleen" as a treatment for nausea and upset stomach are false in that said advertisements fail to reveal that such disorders may, and often do, accompany an attack of appendicitis and that the use of said medicinal preparation "Bowelkleen" under such conditions may result in serious injury to health.

PAR. 15. The use by said respondents of the foregoing false, deceptive and misleading representations and advertisements and others of similar nature, disseminated as aforesaid, has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations and advertisements are true, and that the contents of "Dr. A. M. Loughney's Dependable Guide to Self-Help" and supplemental mimeographed inserts and said medicinal preparations are safe for use and will accomplish the results claimed for them as found in paragraphs 5, 6, 7, and 8 hereof, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' "Regimen" and to purchase their said medicinal preparations "Anti-Spasm-Oyl" and "Bowelkleen."

CONCLUSION

The aforesaid acts and practices of the said respondents as herein set forth 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 respondents, in which answer respondents admit all the material alle-

gations of fact set forth in said complaint and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, Al Modey Loughney and Roger G. Loughney, their agents, representatives and employees, individually or when trading under any trade name or through any corporate or other device, in connection with the offering for sale, sale or distribution of a treatment for asthma, hay fever, constipation or various other diseases, disorders or conditions, consisting of the medicinal preparations "Anti-Spasm-Oyl" and "Bowelkleen," or any other preparations, possessing substantially similar properties or substantially similar ingredients, to be used separately or in conjunction with the program set forth in the brochure and supplemental inserts entitled "Dr. A. M. Loughney's Dependable Guide to Self-Help," or in any other literature containing a substantially similar program, under whatever name or names designated, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mail or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisement represents directly, indirectly or through inference:

(A) That respondents' treatment, or the medicinal preparations "Anti-Spasm-Oyl" or "Bowelkleen" used separately, jointly or in any combination with the program set out in "Dr. A. M. Loughney's Dependable Guide to Self-Help:"

(a) is a cure or remedy for, or has any therapeutic value in the treatment of, or constitutes a safe or effective treatment for, asthma, hay fever, neuritis, rheumatism, impaired circulation, catarrh, bronchitis, sinusitis, mucus-colitis, stomach trouble, bowel trouble, high blood pressure, weight control, diabetes, or nephritis.

(b) has any therapeutic value in the treatment of the symptoms of asthma or hay fever, or will cause such symptoms to disappear.

(B) That respondents' medicinal preparation "Anti-Spasm-Oyl" used alone or in any combination with the medicinal preparation "Bowelkleen" and the program set out in the brochure "Dr. A. M. Loughney's Dependable Guide to Self-Help:"

(a) is a cure or remedy for, or has any therapeutic value in the treatment of, or constitutes a safe or effective treatment for, pharyngitis, laryngitis, rhinitis, chest cold, head cold or pneumonia.

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(b) will protect mucous membrane against asthma, hay fever, bronchitis, sinusitis, pharyngitis, laryngitis, rhinitis, chest cold, head cold or pneumonia.

(c) will cleanse or disinfect the head cavities; or,

(d) is a safe or effective intralung medicant, possessing sedative, healing or disinfectant properties.

(C) That respondents' medicinal preparation "Bowelkleen" used alone or in any combination with the medicinal preparation "Anti-Spasm-Oyl" and the program set out in the brochure "Dr. A. M. Loughney's Dependable Guide to Self-Help:"

(a) is a cure or remedy for or has any therapeutic value in the treatment of constipation or intestinal putrescence other than the temporary evacuation of the bowels.

(b) will eliminate gas, counteract gastric acidity, act as a normalizer, aid indigestion or correct the cause of intestinal putrescence.

(c) is a normalizer, a natural bowel or intestinal cleanser or eliminator, a natural bowel remedy or has any tonic value whatever.

(d) will have any therapeutic value whatever in the treatment of catarrh, sinusitis, acne and unsightly skin eruptions, mucus colitis or kindred ailments or that such conditions or ailments are symptoms or manifestations of constipation or intestinal putrescence.

(e) is a safe treatment for nausea or upset stomach.

(f) has any therapeutic value in the treatment of sour breath, coated tongue, indigestion, gas and bloating, headaches, lack of energy, dizziness, loss of appetite or perverted appetite except in those cases where constipation or intestinal putrescence is the basic cause of, or a contributing factor to, the disorder causing such symptoms in which event the therapeutic value must be limited to that furnished by a laxative-cathartic.

(D) That the existence of such symptoms as sour breath, coated tongue, indigestion, gas and bloating, nausea, lack of energy, headaches, dizziness, upset stomach, loss of appetite or perverted appetite are generally symptomatic of and indicate that constipation or intestinal putrescence is the basic cause of such symptoms.

2. Disseminating or causing to be disseminated, by means of the United States mail or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, any advertisement:

(A) of the preparation "Anti-Spasm-Oyl," which advertisement fails to reveal that the frequent use of such preparation may cause oil pneumonia, provided, however, that if the directions for use, wherever they appear on the label, in the labeling, or both on the

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label and in the labeling, contain a warning of the potential dangers in the use of said preparation as herein set forth, such advertisement need contain only the cautionary statement: "CAUTION, USE ONLY AS DIRECTED."

(B) of the preparation "Bowelkleen" which advertisement fails to reveal that such preparation should not be used by persons suffering from abdominal pains, nausea, vomiting, or other symptoms of appendicitis, provided, however, that if the directions for use, wherever they appear on the label, in the labeling, or both on the label and in the labeling, contain a warning of the potential dangers involved in the use of said preparation as herein set forth, such advertisement need contain only the cautionary statement: "CAUTION, USE ONLY AS DIRECTED."

(C) of the Brochure "Dr. A. M. Loughney's Dependable Guide to Self-Help" and the supplemental inserts for use in the treatment of any disease or as a system to be followed in restoring or regaining health, which advertisement fails to reveal that the program should not be used or followed by persons suffering from undernourishment or from diabetes.

3. 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 respondents' "treatment" or the individual items or medicinal preparations of which said "treatment" is composed, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or fails to contain the affirmative warnings or cautionary statements required in paragraph 2 hereof.

It is further ordered, That the respondents shall within 10 days after 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.

FREEMAN'S PRODUCTS

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Complaint