

Syllabus

IN THE MATTER OF

CHARLES ROEHM, TRADING AS CHUMANIE MEDICINE
COMPANY

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

Docket 4530. Complaint, July 7, 1941—Decision, May 11, 1942

Where an individual, engaged in interstate sale and distribution of his "Chumanie's Triple XXX Tablets," "Chumanie's Iron Tonic Pills," and various other medicinal preparations; by means of advertisements in newspapers, periodicals, circulars, and other advertising literature—

- (a) Represented, directly and by implication, that his said "Triple XXX Tablets" constituted an effective treatment for irregular and delayed menstruation, and aided functioning when there was delay due to cold feet, nutritional lack of iron, or functional inactivity;

The facts being it was not a competent treatment for said condition, and cold feet or lack of iron have no substantial influence in delaying or preventing menstruation;

- (b) Failed to reveal facts material in the light of the representations contained in said advertisements, and with respect to consequences which might result from use of said tablets under usual or prescribed conditions, in that they contained extract of ergot and oil of savin in quantities sufficient, if used as aforesaid by nonpregnant women, to cause gastrointestinal disturbances, such as catharsis, enteritis, nausea, and vomiting with pelvic congestion, and lead to excessive uterine hemorrhages; while use thereof by pregnant women might result in abortion or miscarriage, which might be followed by local or systemic infection;

- (c) Represented that his said "Iron Tonic Pills" were an effective treatment for anemia which would build rich blood and afford relief to the person who felt old, played out, or who was nervous or looked anemic; and that his "Yellow Jacket Pills" were a "diuretic * * * stimulant to the kidneys" and an effective treatment for kidney and bladder disorders, nagging backache, leg pains, and eye puffing;

The facts being "Iron Tonic Pills" were not such a treatment except in the comparatively rare cases of anemia resulting from deficiency of iron in the diet, which symptoms of feeling tired, played out or nervous do not indicate; and except as a mild diuretic, said "Yellow Jacket" preparation was not such a stimulant or effective treatment for ailments mentioned; and, contrary to implication of his said advertisements, only in exceptional cases are backache, pains in the leg and swollen eyes caused by kidney and bladder disorders; and

- (d) Represented that his "Double RR Tablets" constituted an effective treatment for rheumatism and inflamed, painful joints, and would mitigate the distress and discomfort of rheumatism; and that his "Plantation C. M. Q. Capsules" were an effective treatment for the common cold;

The facts being said "Double RR Tablets" preparation would have no therapeutic effect in treatment of aforesaid conditions in excess of mitigating

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their distress and discomforts; stiff or painful joints may not be identified in all instances with a rheumatic condition, and not all of the great number of human ailments commonly embraced by use of term "rheumatism" may be safely or effectively treated alike; and aforesaid capsules were not a treatment for the common cold;

With effect of causing a substantial portion of the purchasing public to believe, contrary to fact, that preparations in question possessed certain therapeutic properties and values and that certain of them were safe for use; and inducing said public, as a result of such belief, to purchase substantial quantities thereof:

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.

Before *Mr. William C. Reeves* and *Mr. Lewis C. Russell*, trial examiners.

Mr. J. V. Buffington and *Mr. John W. Carter, Jr.*, for the Commission.

Mr. Jack Glenn Williams, of Cincinnati, Ohio, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Charles Roehm, individually, and trading under the name Chumanie Medicine 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 in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Charles Roehm, is an individual, trading under the name Chumanie Medicine Co., with his principal place of business located in New Richmond, Ohio. Said respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of various medicinal preparations. Among such preparations are the following: Chumanie's Triple XXX Tablets; Chumanie's Iron Tonic Pills; Chumanie's Yellow Jacket Pills; Chumanie's Double RR Tablets; and Chumanie's Plantation C. M. Q. Capsules.

PAR. 2. Respondent causes said preparations, when sold, to be transported from his place of business in the State of Ohio to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in his said preparations in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said preparations by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and 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 his said preparations in commerce, as commerce is defined in the Federal Trade Commission Act.

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

Women! Periods irregular? Delayed? Chumanie Triple XXX Aids Functioning, \$2 (3 boxes \$5).

PERIOD DELAY Try Chumanie's Triple XXX Capsules. The action of these capsules is such that they tend to increase menstruation when there is delay due to cold feet, nutritional lack of iron, or functional inactivity.

Feel Old? Played out, Nervous, Look anemic?—Iron Tonic Pills Relieve or Money Back. \$2 (3 boxes \$5).

Anemia? Rundown? Lack Vigor?—Iron Tonic Pills Build Rich Blood or Money Back. \$2 (3 boxes \$5).

Kidney & Bladder Disorder? Nagging Backache? Leg Pains? Eye Puffiness? Up nights?—Yellow Jacket Tab's relieve or money back. \$2 (3 boxes \$5).

KIDNEY & BLADDER DISORDER. Try Chumanie's Yellow Jacket Capsules. A Diuretic (increase renal secretion) Stimulant to the Kidneys. Order a box by mail today! Price \$1 per box (3 boxes, \$2.00).

Rheumatism! Inflamed, Painful Joints?—Get Double RR Tablets and Get Relief, 25¢ (6 boxes \$1).

RHEUMATISM. Try Chumanie's Double RR Tablets for Mitigating the Distress and Discomfort of Rheumatism. Order a box by mail today! Price \$1 per box (3 boxes, \$2).

MALARIA AND COMMON COLD. Try Chumanie's Plantation C. M. Q. (Malaria and Common Cold) * * * Also for the Common Cold. Order a box by mail today! Price \$1 per box (3 boxes, \$2.00).

PAR. 4. Through the use of the foregoing statements and representations, and others similar thereto not specifically set forth herein, the respondent represents and has represented, directly and by implication:

That respondent's preparation Chumanie's Triple XXX Tablets is an effective treatment for irregular menstruation and delayed men-

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struation which aids functioning and a treatment which tends to increase menstruation when there is delay due to cold feet, nutritional lack of iron, or functional inactivity;

That Chumanie's Iron Tonic Pills is an effective treatment for anemia and that said treatment will build rich blood and afford relief to the person who feels old, played out, or who is nervous, or who looks anemic;

That respondent's preparation Chumanie's Yellow Jacket Pills is a "diuretic * * * stimulant to the kidneys" and an effective treatment for kidney and bladder disorders, nagging backache, leg pains, and eye puffing;

That respondent's preparation Chumanie's Double RR Tablets is an effective treatment for rheumatism and inflamed, painful joints which will mitigate the distress and discomfort of rheumatism; and

That respondent's preparation Chumanie's Plantation C. M. Q. Capsules is an effective treatment for the relief of the Common Cold.

PAR. 5. The foregoing representations and advertisements are grossly exaggerated, false, and misleading, and constitute false advertisements.

In truth and in fact respondent's preparation Chumanie's Triple XXX Tablets is not an effective treatment for irregular menstruation periods and delayed periods which aids functioning, and it is not a treatment which tends to increase menstruation which is delayed due to cold feet, nutritional lack of iron, or functional inactivity.

Furthermore, cold feet, nutritional lack of iron, or functional inactivity have little or no influence in delaying or preventing the onset of menstruation.

In truth and in fact respondent's preparation Chumanie's Iron Tonic Pills is not an effective treatment for anemia and said preparation will not build rich blood and will not afford relief to persons who feel old, played out, or who are nervous, or who look anemic.

In truth and in fact respondent's preparation Chumanie's Yellow Jacket Pills is not a diuretic * * * stimulant to the kidneys and is not a treatment for kidney and bladder disorders, nagging backache, leg pains, and eye puffing.

Respondent's advertisements with respect to said Yellow Jacket Pills are further false and misleading for the reason that they carry the implication that backache, pains in the legs, and swollen eyes are caused in all instances by kidney or bladder disorders, whereas in truth and in fact such conditions are often the result of diseases entirely dissociated from kidney and bladder disorders.

In truth and in fact respondent's preparation Chumanie's Double RR Tablets is not an effective treatment for rheumatism and inflamed, painful joints.

Respondent's advertisements with respect to said Double RR Tablets are false and misleading for the further reason that the term "rheumatism" is commonly used to designate a very great number of human ailments, all of which may not be safely or effectively treated alike, and because stiff or painful joints may not be identified in all instances with a rheumatic condition of the human body.

In truth and in fact respondent's preparation Chumanie's Plantation C. M. Q. Capsules is not a treatment for the relief of the common cold.

PAR. 6. The aforesaid advertisements and representations with respect to respondent's preparation Chumanie's Triple XXX Tablets constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained in said advertisements and material with respect to consequences which may result from the use of said preparation under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

The said preparation is not safe or harmless to take because it contains the drugs extract of black hellebore, aloes, extract of cotton-root bark, extract of ergot, and oil of savin in quantities sufficient to cause serious and irreparable injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual if used in connection with delayed menstruation.

The use of the aforesaid preparation by nonpregnant women as a treatment for delayed menstruation, as prescribed in the aforesaid advertisements, or its use under such conditions as are customary or usual, may result in gastrointestinal disturbances such as catharsis, enteritis, nausea and vomiting, with pelvic congestion and may lead to excessive uterine hemorrhages.

The use of the aforesaid preparation by pregnant women may result in abortion or miscarriage which may be followed by infection which may remain local to the pelvic organs or become systemic as in "blood poison."

PAR. 7. The use by the respondent of said false advertisements has the tendency and capacity to, and does, cause a substantial portion of the purchasing public to believe that respondent's preparations possess therapeutic properties and values which they do not in fact possess, and

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that certain of said preparations are safe for use, when such is not the fact, and has the tendency and capacity to, and does, induce the purchasing public to purchase substantial quantities of respondent's said preparations as a result of such mistaken and erroneous belief.

PAR. 8. The acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 7, 1941, issued and on July 11, 1941, served its complaint in this proceeding upon respondent, Charles Roehm, individually, and trading under the name Chumanie Medicine Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On July 29, 1941, the respondent filed his answer in this proceeding. Thereafter, a stipulation was entered into by and between counsel for the Commission and counsel for the respondent whereby it was stipulated and agreed that, subject to the approval of the Commission, a statement of facts stipulated into the record may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved and accepted, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Charles Roehm is an individual trading under the name "Chumanie Medicine Co.," with his principal place of business located in New Richmond, Ohio, and is the respondent in this case.

Said respondent is now, and for more than 1 year past has been engaged in the sale and distribution of various medicinal preparations. Among such preparations are the following: Chumanie's

Triple XXX Tablets; Chumanie's Iron Tonic Pills; Chumanie's Yellow Jacket Pills; Chumanie's Double RR Tablets.

Said respondent, until May 1, 1941, was also engaged in the sale and distribution of another medicinal preparation designated: Chumanie's Plantation C. M. Q. Capsules.

PAR. 2. Respondent causes said preparations, when sold, to be transported from his place of business, in the State of Ohio, to the purchasers thereof, located in various other States of the United States.

Respondent maintains, and at all times mentioned herein has maintained a course of trade in the said preparations in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and has caused the dissemination of certain advertisements, hereinafter referred to, concerning the said preparations, by the United States mails, and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act. And respondent has also disseminated and has caused the dissemination of certain advertisements, hereinafter referred to, 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 in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in said advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers, and other periodicals, and by circulars and other advertising literature, are the following:

WOMEN! Periods irregular? Delayed. Chumanie's Triple XXX aids functioning. (\$2.) (3 boxes, \$5.)

PERIOD DELAY? Try Chumanie's Triple XXX Capsules. The action of these capsules is such that they tend to increase menstruation when there is delay due to cold feet, nutritional lack of iron or functional inactivity.

FEEL OLD? Played out? Nervous, Look Anemic? Iron Tonic Pills relieve or money back. \$2. (3 boxes \$5.)

ANEMIA? Run down? Lack vigor? Iron Tonic Pills build rich blood or money back. \$2. (3 boxes, \$5.)

KIDNEY and Bladder Disorders? Nagging Backache? Leg Pains? Eye Puffiness? Up nights? Yellow Jacket Tablets, relieve or money back. \$2. (3 boxes, \$5.)

KIDNEY AND BLADDER DISORDER? Try Chumanie's Yellow Jacket Capsules: a diuretic (Increases renal secretion) stimulant to the kidneys. Order a box by mail today! Price, \$1 per box; (3 boxes, \$2).

RHEUMATISM? Inflamed, painful joints? Get Chumanie's Double RR Tablets and get relief. (25 cents; 6 boxes \$1.)

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RHEUMATISM? Try Chumanie's Double RR Tablets for mitigating the distress and discomfort of Rheumatism. Order a box by mail today! Price \$1 per box. (3 boxes for \$2.)

MALARIA AND COMMON COLD? Try Chumanie's Plantation C. M. Q. (Malaria and Common Cold) * * * Also for the Common Cold. Order a box by mail today! Price \$1 per box, 3 boxes, \$2.

PAR. 4. Through the use of the foregoing statements and representations, the respondent represents, and has represented, directly and by implication:

That respondent's preparation Chumanie's Triple XXX Tablets is effective treatment for irregular menstruation and delayed menstruation which aids functioning and treatment which tends to increase menstruation when there is delay due to cold feet, nutritional lack of iron or functional inactivity.

That Chumanie's Iron Tonic Pills, is an effective treatment for anemia and that said treatment will build rich blood and afford relief to the person who feels old, played out, or who is nervous or who looks anemic.

That respondent's preparation, Chumanie's Yellow Jacket Pills is a "diuretic * * * stimulant to the kidneys" and an effective treatment for kidney and bladder disorders, nagging backache, leg pains, and eye puffing.

That respondent's preparation Chumanie's Double RR Tablets is an effective treatment for Rheumatism and inflamed, painful joints, which will mitigate the distress and discomfort of Rheumatism.

That Respondent's preparation, Chumanie's Plantation C. M. Q. Capsules, is an effective treatment for the relief of Common Cold.

PAR. 5. The foregoing representations, statements, and advertisements are grossly exaggerated, false, and misleading.

In truth and in fact, respondent's preparation, Chumanie's Triple XXX Tablets, each of which contains the following:

Iron Sulphate Dried, 1 gr.
Extract Black Hellebore, 1 gr.
Aloes, 1 gr.
Extract cotton-root bark, 1 gr.
Extract Ergot, 1 gr.
Oil of Savin, one-fourth min.

is not a competent treatment for irregular or delayed menstruation and is not a safe treatment for such condition. Cold feet or nutritional lack of iron has no substantial influence in delaying or preventing the onset of menstruation.

In truth and in fact, respondent's preparation, Chumanie's Iron Tonic Pills, is not an effective treatment for anemia or the condition

of looking anemic, except in cases of anemia resulting from a deficiency of iron in the diet. Anemia, or a lack of rich blood resulting from a deficiency of iron in the diet, is a comparatively rare condition; and the symptoms of feeling old, played out, or nervousness do not indicate a deficiency of iron in the diet.

In truth and in fact, respondent's preparation, Chumanie's Yellow Jacket Pills, is not a stimulant to the kidneys, except as a mild diuretic, and is not an effective treatment for kidney or bladder disorders, nagging backache, leg pains, or eye puffing. Respondent's advertisements with respect to said Yellow Jacket Pills carry the implication that backache, pains in the legs, and swollen eyes are caused by kidney or bladder disorders, it is only in exceptional cases that such conditions are caused by kidney or bladder disorders.

In truth and in fact, respondent's preparation Chumanie's Double RR Tablets, is not an effective treatment for rheumatism and inflamed, painful joints, and will have no therapeutic effect in the treatment of said maladies, in excess of mitigating the distress and discomforts thereof.

Respondent's advertisements with respect to said Double RR Tablets are misleading for the further reason that the term "Rheumatism," used alone, is commonly employed to designate a very great number of human ailments, all of which may not be safely or effectively treated alike, and because stiff or painful joints may not be identified, in all instances, with a Rheumatic condition of the human body.

In truth and in fact, respondent's preparation, Chumanie's Plantation C. M. Q. Capsules, is not a treatment for the relief of the common cold.

PAR. 6. The aforesaid advertisements and representations with respect to respondent's preparation, Chumanie's Triple XXX Tablets, fail to reveal facts, hereinafter mentioned, material in the light of the representations contained in said advertisements, and material with respect to consequences which may result from the use of said preparation under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

The said preparation is not harmless to take because it contains the drug extract of ergot, and the drug oil of savin, in quantities sufficient to cause possible serious and irreparable injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual if used in connection with delayed menstruation.

The use of the aforesaid preparation by nonpregnant women as treatment for delayed menstruation as prescribed in the aforesaid

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advertisements, or its use under such conditions as are customary or usual, may result in gastrointestinal disturbances, such as catharsis, enteritis, nausea, and vomiting with pelvic congestion, and may lead to excessive uterine hemorrhages.

The use of the aforesaid preparation by pregnant women may result in abortion or miscarriage, which may be followed by infection, which may remain local, to the pelvic organs, or become systemic, as in "blood poison."

PAR. 7. The use by the respondent of said advertisements has the tendency and capacity to, and does, cause a substantial portion of the purchasing public to believe that respondent's preparations possess certain therapeutic properties and values which they do not in fact possess, and that certain of said preparations are safe for use in cases when such is not the fact, and has the tendency and capacity to, and does, induce the purchasing public to purchase substantial quantities of respondent's said preparations as a result of such belief.

CONCLUSION

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

ORDER TO CEASE AND DESIST ¹

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into by and between counsel for the Commission, and counsel for the respondent,

¹ Above order was modified slightly in Commission order dated July 1, 1942, which granted in part and denied in part respondent's motion to modify said order, as follows:

This matter coming on to be heard by the Commission upon the respondent's motion to modify the order to cease and desist heretofore issued by the Commission on May 11, 1942, and the Commission having duly considered said motion and the record herein and being now fully advised in the premises;

It is ordered, That respondent's motion for an order modifying the order to cease and desist be, and the same hereby is, granted insofar as said motion moves the deletion of the words "or nutritional lack of iron" in lines 4 and 5 or printed line 3 of subsection (a) of paragraph 1 of the order to cease and desist issued on May 11, 1942.

It is further ordered, That respondent's motion be, and the same hereby is, denied insofar as it moves the deletion of the word "competent" from the second line of subsection (a) of paragraph 1 and the insertion of the clause "or that the nutritional lack of iron has any influence in delaying or preventing the onset of menstruation other than confined to certain well defined limits" immediately preceding the semicolon in line 7 of subsection (a) of paragraph 1.

It is still further ordered, That except as hereinabove modified the order to cease and desist issued by the Commission on May 11, 1942, remain in full force and effect.

which stipulation provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Charles Roehm, individually, and trading under the name Chumanie Medicine Co., or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation now known as Chumanie's Triple XXX Tablets, Chumanie's Iron Tonic Pills, Chumanie's Yellow Jacket Pills, Chumanie's Double RR Tablets, and Chumanie's Plantation C. M. Q. Capsules, or of any other preparations of substantially similar properties, whether sold under the same names or under any other name, do forthwith cease and desist from directly or indirectly:

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

(a) That the preparation, Chumanie's Triple XXX Tablets, is a safe or competent treatment for irregular or delayed menstruation; or that cold feet or nutritional lack of iron has any substantial influence in delaying or preventing the onset of menstruation; or which advertisement fails to reveal that the use of said preparation may cause gastrointestinal disturbances, pelvic congestion, excessive uterine hemorrhages and, in cases of pregnancy, infection of the pelvic organs and blood poisoning.

(b) That said preparation Chumanie's Iron Tonic Pills, is an effective treatment for anemia, except in cases of anemia resulting from a deficiency of iron in the diet; or that the symptoms of feeling old, played out, or nervousness indicate a deficiency of iron in the diet.

(c) That said preparation, Chumanie's Yellow Jacket Pills, is a stimulant to the kidneys, except as a mild diuretic, or is an effective treatment for kidney or bladder disorders, or for such symptoms as backache, leg pains, puffy or swollen eyes, or that such symptoms indicate kidney or bladder disorders.

(d) That said preparation Chumanie's Double RR Tablets is an effective treatment for rheumatism or inflamed, painful joints or that

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it will have any therapeutic effect in the treatment of said conditions in excess of mitigating the distress and discomforts thereof; or that stiff or painful joints are caused only by a rheumatic condition of the human body.

(e) That said preparation Chumanie's plantation C. M. Q. Capsules is a treatment for the relief of the common cold.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, or any of them, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement with respect to the preparation Chumanie's Triple XXX Tablets fails to reveal the dangerous consequences which may result from the use of said preparation, as required in paragraph 1 hereof.

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

Syllabus

IN THE MATTER OF

BLUE RIBBON HATCHERIES CORPORATION, TRADING
AS BOCKENSTETTE'S BLUE RIBBON FARMS, AND AS
SUBSTITUTED RESPONDENTS THEREFOR, J. A. BOCK-
ENSTETTE AND ROSE BOCKENSTETTE, TRADING AS
AFORESAIDCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4537. Complaint, July 10, 1941—Decision, May 11, 1942*

Where two individuals, successors to the corporate business which they theretofore owned and conducted, engaged in breeding and hatching and in the interstate sale and distribution of baby chicks; by means of advertisements in newspapers and trade journals, folders, pamphlets, circular letters, and other advertising matter, directly or by implication—

- (a) Falsely represented that they were "R. O. P." poultry breeders, and operated a poultry farm under the supervision of an official from the agency supervising "U. S. Record of Performance" work of the Department of Agriculture; and
- (b) Represented that the average production of hens grown from their chicks exceeded that of hens generally, by 94 eggs per annum; that each hen grown from their chicks could be depended upon to lay an egg daily and produced eggs at from one-third to one-half the cost of producing them from birds of ordinary breeding; and
- (c) Represented that they would fully indemnify purchasers of baby chicks against all losses for 4 weeks from date of shipment;

The facts being the average egg production of such hens did not exceed by 94 per annum, or by any appreciable number, the average production of hens generally; such hens would not lay for any considerable period of time, nor were their eggs produced at appreciably less cost than average cost of eggs laid by hens of so-called ordinary breeding; and said individuals did not replace, without charge, chicks which died after 3 days after shipment, but beyond that time and up to 4 weeks made replacement only if buyer paid half the purchase price;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such advertisements were true, thereby inducing it, because of such belief, to purchase substantial quantities of said poultry products:

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

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

Mr. Jesse D. Kash for the Commission.

Wheeler, Brewster, Hunt & Goodell, of Topeka, Kans., for respondents.