

IN THE MATTER OF

W. A. HOUSTON, TRADING AS HOUSTON'S MINERAL
WELL

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

Docket 4567. Complaint, Aug. 14, 1941—Decision, June 2, 1942

Where an individual, engaged in interstate sale and distribution of a mineral water; by means of advertisements in newspapers and other periodicals, and by circular letters, pamphlets, and other advertising literature, directly and by implication—

- (a) Represented that his said "Houston's Mineral Water" constituted an effective treatment for and control of diabetes, use of which would enable person suffering therefrom to discontinue use of insulin;

The facts being his said water had no therapeutic value whatever in the treatment or control of said condition, and contained no ingredient which could in any way supply a deficiency of insulin, the only treatment for diabetes known to modern medicine; while use thereof by a sufferer would be exceedingly dangerous in that failure or delay in supplying insulin might increase the severity of the condition and result in diabetic coma or death;

- (b) Represented falsely that his said mineral water was an effective treatment for disorders of the kidneys, kidney stones, and gall bladder disorders;

When, in fact, it had no therapeutic value in treatment thereof, and its use in the large quantities recommended might be definitely harmful where a dropsical condition existed, in aggravating it to the point where circulation was impeded, with possibly fatal results:

- (c) Represented that its said water was an effective treatment for stomach disorders, indigestion, and ulcerated stomach;

The facts being it had no therapeutic value for such purposes and, as respects last named condition, lacked sufficient sodium, calcium, and magnesia to neutralize the acid of the stomach juices;

- (d) Represented that said water was an effective treatment for high blood pressure, general run-down condition and ailments of the prostate gland, aided in building up the blood, and would restore health and supply most of the minerals required by the body to sustain good health;

The facts being it contained no minerals in quantities sufficient to build up the blood or benefit any general run-down condition, and no ingredient which would have any therapeutic effect upon the prostate gland; and use thereof would not restore health or supply needed minerals, and it had no greater therapeutic value than ordinary potable water; and

- (e) Represented directly that his said water contained various minerals in quantities sufficient to be effective in the treatment of a large number of diseases, ailments, and conditions, listed with the minerals required therefor in parallel columns;

When in fact the minerals contained in said water were in too minute quantities to be of any therapeutic value;

With tendency and capacity of causing purchasing public to believe said water possessed therapeutic properties and values which it did not possess, there-

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by inducing it to purchase substantial quantities thereof 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.

Before *Mr. James A. Purcell*, trial examiner.

Mr. J. V. Buffington, *Mr. D. C. Daniel* and *Mr. Carrel F. Rhodes* for the Commission.

Mr. Forrest Andrews, of Knoxville, Tenn., 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 W. A. Houston, individually and trading under the name Houston's Mineral Well, 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, W. A. Houston, is an individual, trading under the name Houston's Mineral Well, with his principal places of business located at New Market, Tenn. Said respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a mineral water, so-called, intended for use in the treatment of certain ailments of the human body.

PAR. 2. Respondent has caused and now causes said water, when sold, to be transported from his place of business in the State of Tennessee to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein, has maintained a course of trade in his said products 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 product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act.

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

ATTENTION DIABETICS!

LEARN how to control diabetes in your own home. No need to use a needle. Write for news of this most marvelous discovery today! At **NO COST TO YOU.**

DIABETICS

It costs you nothing to learn how to control diabetes in your own home without needle. Information on request.

REBUILD YOUR HEALTH WITH NATURE'S MINERAL WATER.

I have a Mineral Water that will stop Diabetes.

Houston's Mineral Water is a Natural Mineral Water. I know it will stop Sugar Diabetes.

DO YOU SUFFER FROM

DIABETES—Thousands of persons are suffering from this most dreaded disease. If you are one of the many, try drinking this wonderful water. We can furnish you copies of testimonials as to this water in the treatment of Diabetes.

KIDNEYS—The kidneys are one of the most important organs of the human system; they throw off and eliminate the impurities that have gathered in your system; they do their work with water. Houston's Mineral Water helps the kidneys do their work.

KIDNEY STONES—If you are one who suffers from kidney stones, give this water a trial. We feel that you, too, should be benefited as others have. Also **GALL BLADDER.**

STOMACH—In the case of stomach disorder, and **ULCERED STOMACH**, people who drink the water for these ailments report benefited in a short period of time.

BLOOD BUILDING—Houston's Mineral Water is an aid in building up the blood. It gives you the minerals needed to build the blood.

Indigestion—If you suffer from this common ailment, give this water a trial. You will notice improvement in a short period of time.

Prostate Trouble—We find that this water in the treatment of prostate trouble is wonderful. If you suffer from this ailment try the water a short period of time and notice improvement.

High Blood Pressure—If you suffer from this ailment we feel that it is caused from the kidneys and the condition of your blood. This water has benefited many who have suffered from this ailment.

General Run-Down Condition—That simply means down and out if you are in that state of health. Why not try this mineral water just as in all cases. Drink it instead of your regular drinking water.

So as to obtain the required minerals for the body, the easiest and most satisfactory way is to drink Houston's Mineral Water, which contains the majority of the minerals required by the human body to sustain good health.

PAR. 4. Through the use of the aforesaid representations, and others similar thereto not specifically set out herein, the respondent has represented, and now represents, directly and by implication, that his said water constitutes an effective treatment for the control of diabetes; that its use will enable a person suffering from diabetes to discontinue the use of insulin, and that it will stop sugar diabetes; that said water is an effective treatment for disorders of the kidney, kidney stones, indigestion, gall bladder, ailments of the prostate gland, high blood pressure, ulcered stomach, other stomach disorders and general run-down condition of the body; and that it aids in building up the blood and will rebuild health, and that it is a mineral water and contains a majority of the minerals required or needed by the body to sustain good health.

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

In truth and in fact, respondent's said water is not an effective treatment for or control of diabetes. It will not enable a person suffering from diabetes to discontinue the use of insulin in the treatment of said disease, and will not stop sugar diabetes. Respondent's said water is not an effective treatment for disorders of the kidney, kidney stones, indigestion, gall bladder, ailments of the prostate gland, high blood pressure, ulcered stomach, or even any other stomach disorder or general run-down condition of the body. It will not aid in the building up of the blood, and it will not rebuild health. Said water contains minerals in such insignificant amounts that it may not properly be termed a mineral water. It does not contain a majority of the minerals required or needed for the sustaining of good health. Said water is of no therapeutic value in excess of ordinary potable water.

PAR. 6. Respondent's advertisements disseminated as aforesaid are false and misleading 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 preparation to which the advertisements, or under such conditions as are scribed in said advertisements, or under such conditions as are customary or usual.

In truth and in fact, respondent's advertisements fail to reveal that the only treatment for diabetes which has been accepted by the medical profession consists in the use of insulin and the regulation of diet. If the accepted treatment for insulin is carefully followed, a diabetic person may live out his normal life expectancy. On the other hand, if a diabetic person is induced by false and misleading

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advertisements, or otherwise, to abandon the accepted treatment, or fail to take advantage thereof, and to take in place of said accepted treatment respondent's so-called mineral water, he may expect to meet an untimely death.

PAR. 7. The use by the respondent of the aforesaid false and misleading advertisements has had, and now has, the tendency and capacity to, and does, cause a substantial portion of the purchasing public to believe the respondent's said water possesses therapeutic properties and values which it does not in fact possess, and has had, and now has, the tendency and capacity to, and does, induce the purchasing public to purchase substantial quantities of said water 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 August 14, 1941, issued and subsequently served its complaint upon the respondent, W. A. Houston, individually, and trading under the name of Houston's Mineral Well, charging him with the use of 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 respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by D. C. Daniel, attorney for the Commission, and in opposition to the allegations of the complaint by Forrest Andrews, attorney for the respondent, before James A. Purcell, a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, and briefs in support of the complaint and in opposition thereto (oral argument not having been requested); 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, W. A. Houston, is an individual, trading under the name Houston's Mineral Well, with his principal place of business located at Newmarket in the State of Tennessee.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the sale and distribution of a mineral water designated "Houston's Mineral Water" among and between the various States of the United States. Respondent causes said mineral water, when sold, to be transported from his place of business in the State of Tennessee to 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 said mineral water 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, false advertisements concerning his said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated, and has caused the dissemination of, false advertisements concerning his said product by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of his said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

ATTENTION DIABETICS!

LEARN how to control diabetes in your own home. NO need to use a needle. Write for news of this most marvelous discovery today! AT NO COST TO YOU.

* * * * *

DIABETICS

It costs you nothing to learn how to control diabetes in your own home without needle. Information on request.

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In drinking Houston's Mineral Water you get the essential minerals which go to make up the human body—get a real MINERAL water. Hundreds have been helped back to health by drinking this wonderful water.

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DO YOU SUFFER FROM

DIABETES—Thousands of persons are suffering from this most dreaded disease. If you are one of the many, try drinking this wonderful water. We can furnish you copies of testimonials as to this water in the treatment of Diabetes.

KIDNEYS—The kidneys are one of the most important organs of the human system; they throw off and eliminate the impurities that have gathered in your system; they do their work with water. Houston's Mineral Water helps the kidneys do their work.

KIDNEY STONES—If you are one who suffers from kidney stones, give this water a trial. We feel that you, too, should be benefited as others have. Also **GALL BLADDER**.

STOMACH—In the case of stomach disorder, and **ULCERED STOMACH**, people who drink the water for these ailments report benefited in a short period of time.

BLOOD BUILDING—Houston's Mineral Water is an aid in building up the blood. It gives you the minerals needed to build the blood.

Indigestion—If you suffer from this common ailment, give this water a trial. You will notice improvement in a short period of time.

Prostate Trouble—We find that this water in the treatment of prostate trouble is wonderful. If you suffer from this ailment, try the water a short period of time and notice improvement.

High Blood Pressure—If you suffer from this ailment, we feel that it is caused from the kidneys and the condition of your blood. This water has benefited many who have suffered from this ailment.

General Run-Down Condition—That simply means down and out if you are in that state of health. Why not try this mineral water just as in all cases. Drink it instead of your regular drinking water.

So as to obtain the required minerals for the body, the easiest and most satisfactory way is to drink Houston's Mineral Water, which contains the majority of the minerals required by the human body to sustain good health.

* * * * *

REBUILD YOUR HEALTH WITH NATURE'S MINERAL WATER

PAR. 4. Through the use of the aforesaid representations, and others similar thereto not specifically set out herein, the respondent has represented, directly and by implication, that his said mineral water constitutes an effective treatment for, and control of, diabetes; that its use will enable a person suffering from diabetes to discontinue the use of insulin; that said mineral water is an effective treatment for disorders of the kidneys, kidney stones, gall bladder disorders, stomach disorders, ulcerated stomach, indigestion, ailments of the prostate gland, high blood pressure, and general run-down condition

of the body; that said mineral water aids in building up the blood; and that its use will restore health and supply most of the minerals required by the human body to sustain good health.

PAR. 5. Respondent's mineral water contains the following ingredients, as indicated by an analysis of said mineral water set out by respondent in his advertising circulars, copy of which has been received in evidence as Commission Exhibit No. 5:

	Parts per million	Grains per gallon		Parts per million	Grains per gallon
Turbidity.....	none	none	Sulphate.....	11.5	.66
Silica.....	9.0	0.52	Chlorine.....	3.0	.17
Iron and Aluminum.....	.5	.03	Lithium.....	trace	trace
Calcium.....	53.5	3.10	Strontium.....	trace	trace
Magnesium.....	25.2	1.46			
Sodium and Potassium.....	5.4	.30	Total.....	260.0	15.8
Alkalinity.....	146.0	8.46			

The minerals in respondent's mineral water are present in such insignificant amounts that it has no therapeutic value or any beneficial effect upon any condition of the human body in excess of that which might be supplied through the use of ordinary drinking water.

PAR. 6. The aforesaid representations are grossly exaggerated, false, and misleading, and constitute false advertisements.

Respondent's mineral water has no therapeutic value whatever in the treatment or control of diabetes. Diabetes is a disturbance of carbohydrate metabolism in which the blood sugar is elevated to abnormally high levels due to decrease in the internal secretion of the pancreas, among the most serious complications of which are acidosis, perforated ulcers of the bowel, and gangrene, often leading to diabetic coma and sometimes death.

The pancreas is a secreting gland which secretes insulin into the blood stream for the handling of carbohydrates through the body. This insulin is produced by certain small structures in the pancreas known as Islands of Langerhans, which are part of the endocrine system of the body. Failure of the pancreas to secrete a sufficient amount of insulin for the purposes of the body results in the condition known as diabetes; and where there has been deterioration in the pancreas by reason of destruction of all or a part of the Islands of Langerhans, it is necessary that needed insulin be supplied artificially.

There are various degrees of diabetes, depending upon the extent of the deterioration of the pancreas or its ability to function. In mild cases the condition can usually be controlled by diet. However, when the extent of the destruction of the Islands of Langerhans is such that sufficient insulin cannot be supplied for the needs of the body,

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there is only one treatment known to modern medicine, which is the artificial supplying of needed insulin. The treatment of diabetes with insulin does not affect the structure of the pancreas or restore the activity of the Islands of Langerhans. Respondent's mineral water preparation contains no ingredient which can in any way supply a deficiency of insulin or have any therapeutic value in the treatment of diabetes.

In addition to being valueless in the treatment of diabetes, the use of this mineral water preparation by a person suffering from diabetes is exceedingly dangerous in that the failure or delay in supplying needed insulin might increase the severity of the diabetic condition and result in diabetic coma or death.

PAR. 7. Respondent's said mineral water preparation has no therapeutic value in the treatment of disorders of the kidneys, kidney stones, or disorders of the gall bladder. In certain diseased conditions of the kidneys the water control of the body is interfered with and the water, instead of passing out through the kidneys, bowels, and skin, begins to pass out through the blood vessels into the tissues of the body, resulting in a dropsical condition. In such circumstances it is necessary to limit the intake of water. The use of respondent's mineral water in the large quantities recommended might be definitely harmful where a dropsical condition exists, resulting in aggravating such condition to the point where the circulation cannot carry on, with possible fatal results.

PAR. 8. Respondent's mineral water has no therapeutic value in the treatment of stomach disorders, indigestion, or ulcerated stomach. In the case of ulcerated stomach, neutralizing of the acid of the stomach juices is a treatment generally used to heal the ulcer. In order to obtain a sufficient amount of sodium, calcium, and magnesia to accomplish such results through the use of respondent's mineral water would require the intake of approximately a bathtub full daily.

PAR. 9. Respondent's mineral water has no value in the treatment of high blood pressure and contains no minerals in quantities sufficient to have any effect in building up the blood. In fact, the minerals in respondent's water which might have any beneficial action on the condition of the blood are present in such insignificant amounts that an ingestion of 50 gallons of this water a day would be necessary to secure the required amount of minerals.

For the same reason the use of this water will have no beneficial effect upon any general run-down condition of the body. There is no ingredient or property of this water which will have any therapeutic value or beneficial effect upon ailments of the prostate gland.

The use of respondent's mineral water will not restore health or supply the minerals required or needed for the sustaining of health. It has no greater therapeutic value than that of ordinary potable water.

PAR. 10. In connection with respondent's representation that his mineral water will supply most of the minerals required or needed by the body to restore and sustain good health, the respondent placed the following statement in his circular disseminated as above described:

MINERALS ARE REQUIRED TO TREAT AILMENTS OF THE HUMAN BODY

Through chemistry, the medical authorities have learned that in order to treat the various ailments, we must treat them with the different minerals which go to make up our body.

Below is a list of some of the various ailments, also a list containing the various minerals required in the treatment of these ailments; also a list of the minerals our water contains. In this list you will notice that HOUSTON'S MINERAL WATER is 100% in the various minerals required.

<i>Ailments</i>	<i>Minerals required</i>
Acidity-----	Potassium, Magnesium, Iron, Chlorine.
Acne-----	Iron, Chlorine, Sodium, Magnesium, Potassium.
Apoplexy-----	Iron, Calcium, Sodium.
Anemia-----	Chlorine, Iron, Magnesium, Sodium, Potassium.
Bed Wetting-----	Potassium, Chlorine, Iron.
Blood Building-----	Calcium, Iron, Sodium, Potassium, Chlorine.
Bright's Disease-----	Potassium, Sodium, Calcium, Chlorine.
Colitis-----	Potassium, Chlorine, Sodium, Magnesium.
Constipation-----	Magnesium, Chlorine, Potassium, Sodium.
Cystitis-----	Potassium.
Diabetes-----	Magnesium, Potassium, Calcium, Iron.
Diarrhoea-----	Magnesium.
Epilepsy-----	Calcium, Iron, Chlorine, Magnesium.
Gall Bladder-----	Chlorine, Iron, Sodium, Potassium, Magnesium.
Gall Stones-----	Magnesium, Iron, Chlorine, Potassium, Sodium.
Indigestion-----	Magnesium, Sodium, Potassium, Iron, Chlorine.
Jaundice-----	Sodium, Chlorine, Silicon, Iron, Magnesium, Potassium.
Jerking in Limbs-----	Potassium, Silicon.
Liver Enlarged-----	Iron, Potassium, Silicon, Sodium, Chlorine, Magnesium.

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<i>Ailments</i>	<i>Minerals required</i>
Liver Trouble-----	Potassium, Iron, Silicon, Sodium, Chlorine, Magnesium.
Liver Tumors-----	Chlorine, Iron, Sodium, Silicon, Magnesium.
Lumbago-----	Calcium, Chlorine, Iron, Sodium, Potassium.
Low Blood Pressure-----	Potassium, Iron, Sodium.
Nerve Nourishment-----	Sodium, Iron.
Neuritis-----	Potassium, Magnesium, Chlorine, Sodium.
Stools Bloody-----	Iron, Silicon; Potassium, Sodium.
Acid Stomach-----	Magnesium, Potassium, Chlorine, Iron, Sodium.
Cannot Digest-----	Potassium, Sodium, Chlorine.
Under Weight-----	Magnesium, Chlorine, Potassium, Sodium.
Weakness-----	Magnesium, Potassium, Chlorine, Sodium.

In This List Houston's Mineral Water Contains the Greater Percent of Minerals Needed.

<i>Ailments</i>	<i>Minerals required</i>
Arthritis-----	Magnesium, Potassium, Silicon, Fluorine, Sodium, Chlorine.
Bone Building-----	Calcium, Silicon, Phosphorus.
Complexion-----	Iron, Fluorine, Silicon, Chlorine, Sulphur.
Eczema-----	Silicon, Fluorine, Iodine, Calcium, Chlorine.
Gas and Gastritis-----	Magnesium, Potassium, Iron, Sulphur, Silicon.
Goitre-----	Chlorine, Iodine, Iron, Magnesium, Potassium.
Heart Trouble-----	Iodine, Potassium, Magnesium, Iron, Chlorine, Calcium, Sodium.
Insomnia-----	Magnesium, Sodium, Fluorine, Silicon.
Kidney Stones-----	Sodium, Potassium, Chlorine, Silicon, Fluorine.
Kidney Trouble-----	Sodium, Fluorine, Chlorine.
Rheumatism-----	Chlorine, Sodium, Manganese, Silicon, Fluorine.
Tumors (Intestinal)-----	Chlorine, Sodium, Manganese, Silicon, Fluorine.

By means of the above statements the respondent represents that his mineral water contains various minerals in quantities sufficient to be effective in the treatment of the above-listed diseases and conditions, when in truth and in fact the minerals contained in respondent's mineral water are in such minute quantities that the use of said water has no value in supplying such minerals, and said mineral water has no therapeutic value in the treatment of any of the diseases and conditions above listed.

PAR. 11. The use by the respondent of the aforesaid false and misleading advertisements has the tendency and capacity to cause a substantial portion of the purchasing public to believe the respondent's

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said water possesses therapeutic properties and values which it does not in fact possess, and to induce the purchasing public to purchase substantial quantities of said water as a result of such mistaken and erroneous 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

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, testimony and other evidence taken before James A. Purcell, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiner upon the evidence, and briefs filed in support of the complaint and in opposition thereto; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, W. A. Houston, and individual trading as Houston's Mineral Well, or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his mineral water known as Houston's Mineral Well, or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name 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 advertisement represents, directly or through inference,

(a) That respondent's mineral water has any therapeutic value in the treatment or control of diabetes, or that said mineral water contains any ingredient which can in any way supply a deficiency of insulin or enable a person suffering from diabetes to discontinue the use of insulin.

(b) That respondent's mineral water has any therapeutic value in the treatment of disorders of the kidneys, kidney stones, disorders

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of the gall bladder, stomach disorders, indigestion, ulcerated stomach, or any general run-down condition of the body.

(c) That respondent's mineral water has any value in the treatment of high blood pressure or that its use will have any effect in building up the blood.

(d) That respondent's mineral water has any therapeutic value or beneficial effect in the treatment of ailments of the prostrate gland.

(e) That the use of respondent's mineral water will restore health or supply any minerals needed for the sustaining of health.

(f) That respondent's mineral water contains any minerals in quantities sufficient to be of any value in the treatment of acidity, acne, apoplexy, anemia, bed wetting, bright's disease, colitis, constipation, cystitis, diarrhea, epilepsy, jaundice, jerking in limbs, enlarged liver, liver trouble, liver tumors, lumbago, low blood pressure, nerve nourishment, neuritis, bloody stools, acid stomach, inability to digest food, underweight, weakness, arthritis, bone building, bad complexion, eczema, gas and gastritis, goiter, heart trouble, insomnia, rheumatism, or intestinal tumors.

(g) That the respondent's mineral water has any therapeutic value in the treatment of any disease or condition of the human body in excess of that afforded through the use of ordinary drinking water.

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 respondent's mineral water, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

It is further ordered, That the respondent shall, within 60 days after 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

THE THOMAS MANAGEMENT CORPORATION, ET AL.

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

Docket 4422. Complaint, Dec. 18, 1940—Decision, June 5, 1942

Where two organizations and six individuals, engaged in sale and distribution of hair preparations for external and internal use, to wit—

I. A corporation to which, in consideration of certain payments, a common law trust granted the exclusive right to manufacture and sell all chemicals, products, and supplies used in the administration of the so-called "The Thomas Hair and Scalp Treatment," and which, in turn, agreed to sell and deliver supplies to any one licensed or authorized by said trust to give such treatments, and to no other, excepting sales by mail to individuals for home treatment; and which, furthermore, prepared newspaper advertisements to be purchased and used by owners of the various hair treatment offices, and, when desired, for a fee also performed services of selecting advertising media, selecting advertisements to be run, preparing financial statements, and buying certain supplies for such owners;

II. Said common law trust, owner of all the stock of said corporation and holder also of certain trade names, copyrights, formulae, and secret processes used by its licensees in the treatment of the hair and scalp according to "The Thomas" system, and which, as above noted, granted said corporation exclusive right to manufacture and sell all chemicals, etc. used in administration of hair and scalp treatment in question, and which also granted to others the exclusive right in designated territories to use said formulae, etc., in the administration of the treatment to the purchasing public; and

III. Six individuals, namely, the president of said corporation and life beneficiary of said trust, and five others, i. e., his wife, two sons and two daughters-in-law, themselves engaged, either separately or with others, in operating hair treatment offices in various cities under the name "The Thomas," which offices bought from said corporation all their supplies and all the home treatment kits which they sold;

In advertisements purchased by said individuals and widely disseminated through the mails, in newspapers and periodicals, by radio continuities, and by circulars, leaflets, pamphlets, and other advertising literature, directly and by implication—

(a) Represented that said preparations and treatments constituted a cure or remedy for dandruff or itching scalp and were effective in destroying the "fask bacillus of Unna," which was responsible for dandruff; would stop abnormal loss of hair, cause new hair to grow, and promote hair growth on thin and bald spots, preventing and curing baldness;

The facts being they had no therapeutic value in treatment of dandruff in excess of removal of dandruff scales, were not an effective treatment except in furnishing relief in cases which were not caused in systemic or constitutional conditions; would not destroy the germ in question, which,