

## Complaint

## IN THE MATTER OF

IRVIN A. WILLAT, TRADING AS HEATLESS PERMANENT  
WAVE COMPANY, AND ARNOLD F. WILLAT, TRADING  
AS WILLAT PRODUCTION COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4663. Complaint, Jan. 2, 1942—Decision, Sept. 21, 1942*

Where an individual, engaged in the interstate sale and distribution of a method of heatless permanent waving which, for a time, included an ammonium hydrogen sulphide curling solution circulated through rubber tubing attached to perforated curlers around which the hair had been rolled or wrapped; by means of advertisements in periodicals, pamphlets, and leaflets—

(a) Represented that said method of heatless permanent waving constituted a competent, successful, and scientific means of producing permanent waves in the hair which was safe and harmless, eliminated all hazards, and would have no ill effects upon the body;

The facts being solution of ammonium hydrogen sulphide, employed as above indicated, was not safe, scientific or harmless; was capable of causing local skin irritations, nausea and vomiting, and in absence of ventilation, convulsions, asphyxiation, and collapse; and if introduced into the circulatory system through skin absorption or respiration in sufficient quantities and strength might also result in systemic poisoning and death; and

(b) Failed to reveal all facts material in the light of such representations and with respect to consequences which might result from the application of said curling solution under the prescribed conditions, and that use thereof might in some instances result in serious and irreparable injury to health;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such advertisements were true, thereby inducing purchase by it of said permanent wave in beauty parlors and salons wherein ammonium hydrogen sulphide curling solution was supplied:

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. Lewis C. Russell*, trial examiner.

*Mr. Merle P. Lyon* for the Commission.

*Mr. William S. Graham*, of San Francisco, Calif., for respondents.

## 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 Irvin A. Willat, an

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individual, trading as Heatless Permanent Wave Co., and Arnold P. Willat, an individual, trading as Willat Production Co., hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Irvin A. Willat and Arnold F. Willat, are individuals, respectively, trading as Heatless Permanent Wave Co., and as Willat Production Co., with their office and principal place of business at 1122 Folsom Street, San Francisco, Calif., from which address they transact business under the above trade names.

Respondents, Irvin A. Willat and Arnold F. Willat, trading as aforesaid, act and have acted in conjunction and in cooperation with each other in performing the acts and practices hereinafter alleged.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of the Willat Method of Heatless Permanent Waving.

The said method embraces cosmetic preparations, among which is a curling solution composed of ammonium hydrogen sulfide, designated as Willat Wave DeLuxe Curling Solution and as Willat Sulfonene Curling Solution, and patented appliances and devices. The said implements are leased under license agreements with, and the cosmetic preparations are sold to, operators of beauty salons.

The said operators and their employees are instructed by said respondents in the operation and application of said method in producing permanent waves, advertised as the Willat Wave, in the hair of human subjects.

In the course and conduct of their business, the respondents cause said cosmetics and equipment, when sold and licensed, to be transported from their place of business in the State of California, to the purchasers and licensees thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain and at all times mentioned herein, have maintained, a course of trade in said products, in commerce, between and among the various States of the United States and in the District of Columbia.

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

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dissemination of, false advertisements concerning their said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said products 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 periodicals and by pamphlets and leaflets, are the following:

For A Loveller You!

Willat Wave

The *Only* Heatless Permanent

Entirely Different—Truly Magical—Sensational

Relax while you receive a Willat Wave Countless innovations mark this latest contribution of science to the beauty of women. \* \* \* The permanent of the future \* \* \* eliminates all hazards, discomforts, and inconveniences \* \* \*

\* \* \* You can ask for a Willat Wave with perfect confidence \* \* \* This method waves all hair regardless of texture, or your physical condition.

\* \* \* This method waves \* \* \* hair with perfect success.

The procedure is simple and comfortable. You relax in a reclining chair and rest \* \* \* getting a permanent becomes a pleasure—with the Willat Wave.

One of the most exciting features of this new permanent is the condition in which it leaves the hair and scalp.

All guess work has been eliminated in permanent waving by Willat Wave. The whole operation is thoroughly scientific, from the test curl to the last rinse. A testing laboratory has predetermined all technical data used in making these waves.

Willat Wave is truly a product of the test tube \* \* \* scientifically accurate and certain \* \* \* no shocks or burns.

Recline, relax, enjoy \* \* \* this entirely different permanent. Results are predetermined by a \* \* \* scientific test. Descriptive booklet on request.

Rest \* \* \* while the magical, cool solution is sprayed gently through your hair. One pleasant visit to your beauty salon and you have the loveliest of waves.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondents represent that their method, advertised as the Willat Wave, constitutes a competent, successful, and scientific means of producing permanent waves in the hair of human subjects; that said method is safe and harmless, eliminates all hazards and will have no ill effects upon the human body.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact the said method consists, among

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other operations, of spraying the said curling solution of ammonium hydrogen sulfide into the hair through rubber tubes attached to perforated curlers around which said perforated curlers the hair has been wrapped.

To prevent said solution from flowing into the eyes and over the face and neck and to further prevent the escape of toxic gases therefrom, the aforesaid operation is performed under a rubber cap sealed around the head of said human subjects below the hair line.

The said solution of ammonium hydrogen sulfide is not safe, scientific or harmless when applied in connection with said method and may result in serious and irreparable injury to health when used under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

The said curling solution may cause local skin irritation, nausea, vomiting, convulsions, asphyxiation, and collapse. By its introduction into the circulatory system through skin absorption or through the respiratory system, it may also result in systemic poisoning and death.

PAR. 6. In addition to the representations hereinabove set forth, the respondents have also engaged in the dissemination of false advertisements in that respondents' advertisements of said product, disseminated in the manner hereinabove described, fail to reveal all facts material in the light of such representations or material with respect to consequences which may result from the application of said ammonium hydrogen sulfide curling solution, designated as Willat Wave DeLuxe Curling Solution and as Willat Sulfolene Curling Solution, under the conditions prescribed in said advertisements, or under such conditions as are customary or usual, and failed to reveal that the use of said solution may result in serious and irreparable injury to health.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading advertisements with respect to said Willat Wave, disseminated as aforesaid, has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such advertisements are true and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the respondents' said product.

PAR. 8. The foregoing acts and practices of the 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.

## Findings

## REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 2nd day of January 1942 issued and subsequently served its complaint in this proceeding upon said respondents, Irvin A. Willat, an individual, trading as Heatless Permanent Wave Co., and Arnold F. Willat, an individual, trading as Willat Production Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On February 13, 1942, the respondents filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by William S. Graham, counsel for the respondents, and Richard P. Whiteley, Assistant Chief Council for the Federal Trade Commission, subject to the approval of the Commission, 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. In said stipulation respondents expressly waived the filing of a report upon the evidence by a trial examiner. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed, 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. Respondents, Irvin A. Willat and Arnold F. Willat, are individuals, respectively, trading as Heatless Permanent Wave Co. and as Willat Production Co., with their office and principal place of business at 1122 Folsom Street, San Francisco, Calif., from which address they transact business under the above trade names. Each of said individuals maintains his respective business independently of the other, and neither has any interest in the business of the other, other than that Irvin A. Willat is the son of Arnold F. Willat and that they have a very close personal relationship to the extent of mutual assistance rendered between independent individuals engaged in commercial exploitations of closely related independent businesses. Separate books of account are kept by each respondent.

PAR. 2. Respondent, Irvin A. Willat, is now, and for more than 2 years last past has been, engaged in the distribution of a method of heatless permanent waving which includes a curling solution, and certain devices, appliances and implements, and in the advertising and promotion thereof in commerce, as commerce is defined in the Federal Trade Commission Act. Respondent, Arnold F. Willat, trading as Willat Production Co., manufactures the solution distributed by Irvin A. Willat, trading as Heatless Permanent Wave Co., and the apparatus, devices, or implements used in connection therewith; and sells and has sold the solution, and has loaned the apparatus, devices, and implements exclusively to the said Irvin A. Willat for use in connection with his business as Heatless Permanent Wave Co., at San Francisco, Calif.

For the period of approximately 1 year, to wit, from about April 1, 1940, to April 1, 1941, the curling solution manufactured by said Arnold F. Willat and sold and advertised by said Irvin A. Willat was composed of an ammonium hydrogen sulphide solution. Neither of said respondents now employs in the said method of heatless permanent waving a curling solution composed of ammonium hydrogen sulphide. Prior to April 1, 1941, the appliances and devices manufactured by the said Arnold F. Willat for use in connection with the said method of heatless permanent waving were loaned or leased by the said Irvin A. Willat under nonexclusive license agreements with, and the ammonium hydrogen sulphide curling solution was sold to, operators of beauty salons.

The said operators and their employees were instructed or were caused to be instructed by the said Irvin A. Willat in the operation and application of said advertised method in producing permanent waves in the hair of human subjects, and a printed instruction book was furnished to each beauty salon licensee.

In the course and conduct of business, the respondent Irvin A. Willat caused said curling solution and equipment, when sold and licensed, to be transported from his place of business in the State of California, to the purchasers and licensees thereof located in various other States of the United States and in the District of Columbia. Sales were made exclusively to beauty salons instructed as aforesaid.

Respondent, Irvin A. Willat, during the period hereinabove named, maintained a course of trade in said products, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business as Heatless Permanent Wave Co., the respondent, Irvin A. Willat, during the period from April 1, 1940, to April 1, 1941, disseminated and caused the

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dissemination of advertisements concerning the aforesaid method of heatless permanent waving by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and said respondent during said period disseminated and caused the dissemination of advertisements concerning the said method of heatless permanent waving, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase thereof 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 periodicals and by pamphlets and leaflets, are the following:

For a Lovelier You! \* \* \*

The *Only* Heatless Permanent

Entirely Different—Truly Magical—Sensational \* \* \*

Countless innovations mark this latest contribution of science to the beauty of women \* \* \* The permanent of the future \* \* \* eliminates all hazards, discomforts and inconveniences. \* \* \*

\* \* \* This method waves all hair regardless of texture, or your physical condition.

\* \* \* This method waves \* \* \* hair with perfect success.

The procedure is simple and comfortable. You relax in a reclining chair and rest \* \* \* getting a permanent becomes a pleasure \* \* \*.

One of the most exciting features of this new permanent is the condition in which it leaves the hair and scalp.

The whole operation is thoroughly scientific, from the test curl to the last rinse. A testing laboratory has predetermined all technical data used in making these waves.

Truly a product of the test tube \* \* \* Scientifically accurate and certain \* \* \* no shocks or burns.

Recline, relax, enjoy \* \* \* this entirely different permanent. Results are predetermined by a \* \* \* scientific test. Descriptive booklet on request.

Rest \* \* \* while the magical, cool solution is sprayed gently through your hair. One pleasant visit to your beauty salon and you have the loveliest of waves.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondent, Irvin A. Willat, represented that the method of heatless permanent waving so advertised constitutes a competent, successful, and scientific means of producing permanent waves in the hair of human subjects; that said method is safe and harmless, eliminates all hazards and will have no ill effects upon the human body.

PAR. 5. From approximately April 1, 1940, to April 1, 1941, the curling solution furnished and sold to beauty salons for use in said permanent wave, so advertised, contained ammonium hydrogen sul-

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phide, the use of which was discontinued approximately April 1, 1941. Said ammonium hydrogen sulphide solution was employed as a curling solution circulated through rubber tubing attached to perforated curlers around which the hair has been rolled or wrapped. In the practice of the said advertised method of heatless permanent waving a rubber cap is employed sealed around the head below the hair line to prevent the curling solution and other solutions from flowing beyond the confines of said cap and to eliminate the objectionable characteristic rotten-egg odor of ammonium hydrogen sulphide solution, and an electric-fan blower was employed, connected with a hood adjacent the customer's head and with a pipe vented to the exterior of the beauty salon.

The said solution of ammonium hydrogen sulphide is not safe, scientific, or harmless when applied under some conditions in connection with said advertised method, since it may in some instances be capable of resulting in serious and irreparable injury to health, when used under the conditions prescribed in said advertisements.

There is accepted authority that the use of said curling solution, consisting of ammonium hydrogen sulphide, advertised as aforesaid, may in some instances be capable of causing local skin irritation, nausea, and vomiting. In the absence of ventilation it is capable of causing convulsions, asphyxiation, and collapse. If introduced into the circulatory system through skin absorption or through the respiratory system in sufficient quantities and strength, it may also result in systemic poisoning and death.

PAR. 6. The advertisements of the method of heatless permanent waving, disseminated in the manner hereinabove described, fail to reveal all facts material in the light of such representations, or material with respect to consequences which in some instances may result from the application of said ammonium hydrogen sulphide curling solution under the conditions prescribed in said advertisements, in that said advertisements fail to reveal that the use of said solution may in some instances result in serious and irreparable injury to health.

PAR. 7. Where the said advertised method of heatless permanent waving was used in connection with the ammonium hydrogen sulphide curling solution, as during the period from April 1, 1940, to April 1, 1941, aforesaid, the said advertising representations were false and misleading as "false advertisement" is defined in the Federal Trade Commission Act. The use of said false and misleading advertisements during the period when the ammonium hydrogen sulphide curling solution was employed as a part of said advertised method of heatless permanent waving had the tendency and capacity to mislead and de-

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ceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such advertisements were true, and induced a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the said permanent wave in beauty parlors and salons wherein ammonium hydrogen sulphide curling solution was supplied by respondents and employed and used by the said beauty parlors and salons in performing said advertised method of heatless permanent waving.

## CONCLUSION

The aforesaid acts and practices of the respondent, Irvin A. Willat, an individual, trading as Heatless Permanent Wave Co., 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.

The Commission finds, however, that the complaint should be dismissed as to the respondent, Arnold F. Willat, an individual, trading as Willat Production Co., since there is no evidence that he participated in the dissemination of the false advertisements forming the basis for this proceeding.

## 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 respondents, and a stipulation as to the facts entered into between William S. Graham, counsel for the respondents and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents 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 the respondent, Irvin A. Willat, an individual, trading as Heatless Permanent Wave Co., has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That the respondent, Irvin A. Willat, individually, and trading as Heatless Permanent Wave Co., or under any other name or names, his agents, servants, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of a method of heatless permanent waving which includes a curling solution composed of ammonium hydrogen sulphide, or any product of substantially similar composition or possessing substantially similar properties, whether described by the same name or

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by any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that any method of heatless permanent waving which includes the use of a curling solution of ammonium hydrogen sulphide constitutes a competent, safe, or scientific means of producing permanent waves in the hair of human subjects or that its use is harmless and will have no ill effects upon the human body; or which advertisement fails to reveal that the use of a curling solution of ammonium hydrogen sulphide in connection with any method of heatless permanent waving may cause local skin irritation, nausea, or vomiting or may cause convulsions, asphyxiation, or collapse in the absence of ventilation, and if introduced into the circulatory system in sufficient quantities and strength may result in systemic poisoning and death.

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 method of heatless permanent waving when used with a curling solution of ammonium hydrogen sulphide, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal that the use of a curling solution of ammonium hydrogen sulphide in connection with any method of heatless permanent waving may cause local skin irritation, nausea, or vomiting or may cause convulsions, asphyxiation, or collapse in the absence of ventilation, and if introduced into the circulatory system in sufficient quantities and strength may result in systemic poisoning and death.

*It is further ordered*, That said respondent, Irvin A. Willat, 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.

*It is further ordered*, That the complaint herein be, and the same hereby is, dismissed as to respondent, Arnold F. Willat.

## Syllabus

## IN THE MATTER OF

## BEWLEY MILLS

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

*Docket 4739. Complaint, Mar. 23, 1942—Decision, Sept. 21, 1942*

Where a corporation, engaged in interstate sale and distribution of its "Red Anchor" poultry and stock feeds; by means of advertisements in newspapers and periodicals, radio continuities, and circulars, leaflets, pamphlets, and other advertising literature—

(a) Falsely represented and implied that its "Broiler Starter" and "Broiler Finisher" chick feed gave better and more economical results than other feeds; that its said "Starter" feed was perfectly balanced and contained every food element essential to insure a healthy start for baby chicks, and that, containing Vitamin D elements, it insured lower mortality, more rapid growth, sturdier and stronger chicks than other starter feeds;

(b) Represented that its "Egg Mash" feed, in combination with its "Hen Scratch," contained every essential food element, gave the highest feeding results, produced eggs of the highest quality, contained a greater proportion of essential ingredients than did other commercial feeds, increased hatchability of eggs and vigor and vitality of laying hens, and insured stronger chicks; contained all the essential food elements for greater production and was higher in Vitamin G content than were competitive products; and that numerous tests disclosed that it took less of said product to produce a given number of eggs than of other feeds, and that the amount used could be reduced and still produce more eggs than other egg mash feeds;

The facts being growing chicks do not need the extra vitamins and other extra ingredients purportedly found in its said growing mash unless such chicks have been receiving food deficient therein; and its various representations, as above set forth, were false;

(c) Falsely represented that better cattle and sheep were produced by feeding its "Cattle and Sheep Chunkets" than by feeding other products; and that its "All Mash Turkey Starter" contained a special mineral balance and a greater quantity of Vitamins A and D than other mashes, and that it would produce more No. 1 turkeys than others; and

(d) Represented that the use of its said feeds would result in highest production at lowest cost, and that they were perfectly balanced and thoroughly tested under actual feeding conditions so as to insure better and more economical results regardless of feeding conditions; and that they would give maximum production for the least cost over a long period of time;

The facts being its products were not perfectly balanced feeds for general use under all and any conditions, and use thereof would not bring such results; many elements such as location, air, water, soil, runs, housing, sunshine, cleanliness, and regularity in care and feeding contribute to the quality of poultry and eggs; growth and production of flocks and maximum results could not be "insured" or "guaranteed" through such use; compound and prepare a balanced feed for particular flock deficiencies, which may vary mate-

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rially, must be known, and the feed prepared accordingly; and its said products had not been thoroughly tested scientifically under actual feeding conditions by any system meeting requirements of State or Federal officials, or by experienced and competent poultrymen;

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

*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. Jesse D. Kash* 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 Bewley Mills, a corporation, 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. The respondent, Bewley Mills, is a corporation, organized and existing under and by virtue of the laws of the State of Texas and having its office and principal place of business at Fort Worth, Tex.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of poultry and stock feeds designated Bewley's Red Anchor Feeds. Respondent causes its said products, when sold, to be transported from its aforesaid place of business in the State of Texas to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent at all times mentioned herein has maintained a course of trade in said poultry and stock feeds 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 its aforesaid business, the respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning its products, hereinafter named, by the United States mail and by various other means in commerce, as commerce is defined in

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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 said products by various means for the purpose of inducing, which are likely to induce, directly or indirectly, the purchase of its said products in commerce as defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations, relating to the specific product hereinafter indicated, contained in said false advertisements disseminated and caused to be disseminated, as hereinabove set forth, by the United States mail, by advertisements in newspapers and periodicals, by radio continuities and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

*Red Anchor Broiler Starter and Broiler Finisher*

This high quality growing feed is a favorite among many poultrymen in the Southwest who look ahead for future poultry profits. If you raise your chicks for broilers, try Red Anchor Broiler Starter and Broiler Finisher and see if you don't get better and more economical results.

Chicks may be held on Red Anchor Broiler Starter until ready for market with outstanding results. We recommend, however, that at the age of 6 to 7 weeks, chicks be changed to Red Anchor Broiler Finisher. This method of feeding lowers total feed cost and insures a better finished broiler.

Perfectly balanced and thoroughly tested under actual feeding conditions, Red Anchor Starting Feeds give the baby chicks everything they need to insure a healthy start in life; \* \* \*.

*Bewley's Anchor Feeds*

Bewley's Anchor Feeds Maximum Production at Minimum Cost.

Red Anchor Feeds are perfectly balanced and thoroughly tested under actual feeding conditions to insure better results for you regardless of your feeding need.

Haphazard feeding may produce eggs over a short period; but to get maximum production for least cost over a long period the Bewley's Anchor Feed route is the sure way.

*Red Anchor Chick Starter*

Anchor Chick Starter contains dried milk, cod liver oil, potassium iodine, manganese sulphate, insures lower mortality, more rapid growth, sturdier chicks.

*Red Anchor Egg Mash*

In addition to this quality Breeder Mash these birds should be fed a well balanced scratch feed, such as Red Anchor Hen Scratch. We believe that Red Anchor Egg Mash for Breeders contains every essential food element for maximum feeding results in producing hatching eggs of highest quality when fed in combination with Red Anchor Hen Scratch.

This quality feed contains increased proportions of certain feed ingredients, as compared to feeds we recommend for commercial egg production, that will increase hatchability, increase the vigor and vitality of the producer, and insure stronger chicks.

This quality mash feed contains both the scratch and mash ingredients, and we believe contains all essential food elements for maximum production.

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We suggest that baby chicks be secured from breeding flocks that have been fed Red Anchor Egg Mash for Breeders, as we believe this quality feed will insure stronger chicks.

Red Anchor Egg Mash insures more eggs . \* \* eggs higher in quality; eggs with increased hatchability that will produce stronger chicks.

Red Anchor Egg Mash—high in Vitamin G content, which increases hatchability, insures stronger chicks and faster growth.

And in addition, numerous tests have proven that it requires less Bewley's Anchor Egg Mash to produce a given number of eggs than other egg mashes—that over a definite period the total amount of mash consumed will be cut down materially, and still production will be increased.

*Cattle and Sheep Chunkets*

For better results in the feed lot and on the range buy Red Anchor Cattle and Sheep Chunkets.

*Bewley's Red Anchor All Mash Turkey Starter*

It contains a high milk content and a special mineral balance; increased Vitamins A and D; and is guaranteed to insure more #1 birds for the market.

PAR. 4. Through the use of the statements and representations used in said false advertisements, as aforesaid, and others similar thereto not specifically set out herein, respondent has represented and implied:

1. That its products designated Red Anchor Broiler Starter and Broiler Finisher as feed for chicks raised for broilers gives better and more economical results than can be obtained from the use of other feeds; that its said product Red Anchor Broiler Finisher as a feed for chicks 6 to 7 weeks old, theretofore fed its product Red Anchor Broiler Starter, will cause total feed cost to be lower and produce better broilers than will other feeds; that its product Red Anchor Starter Feed is perfectly balanced and contains every food element essential to insure a healthy start in life for baby chicks.

2. That the use of its products designated Red Anchor Feeds will result in the highest production at the lowest cost for poultry; that said feeds are perfectly balanced, thoroughly tested under actual feeding conditions so as to insure better and more economical results regardless of feeding conditions; and that they will give maximum production for the least cost over a long period of time.

3. That its product Red Anchor Chick Starter, containing Vitamin D elements, insures lower mortality, more rapid growth, sturdier and stronger chicks than that obtained through the use of other starter feeds.

4. That its product Red Anchor Egg Mash Feed, in combination with its product Red Anchor Hen Scratch, contains every essential food element, gives the highest feeding results, and produces eggs of the highest quality; that it contains a greater proportion of certain essential feed ingredients than do other commercial feeds sold for egg

production; that it increases hatchability of eggs, the vigor and vitality of laying hens, and insures stronger chicks; that it contains all the essential food elements for greater production and is higher in vitamin G content than are competitive products; that numerous tests disclose that it takes less of said product to produce a given number of eggs than it takes of other feeds; and that the amount of such product used may be reduced and still produce more eggs than would be produced by other egg mash feeds.

5. That better cattle and sheep are produced by feeding its product Red Anchor Cattle and Sheep Chunkets than are produced by feeding other products.

6. That its product All Mash Turkey Starter contains a special mineral balance and a greater quantity of vitamins A and D than do other mashes, and that it will produce more No. 1 turkeys than will be produced through the use of other turkey mashes.

PAR. 5. The foregoing statements and representations contained in said advertisements aforesaid are grossly exaggerated, false, and misleading. In truth and in fact, better and more economical results are not obtained through the use of respondent's products Red Anchor Broiler Starter and Red Anchor Broiler Finisher than are obtained through feeding chicks other similar feed products. The use of its product Red Anchor Broiler Finisher as a feed for chicks which have been fed its product Red Anchor Broiler Starter will not lower feed costs and will not produce better broilers than will be produced through the use of other similar feed products. Respondent's Starter Feed products are not perfectly balanced and have not been thoroughly tested under all actual feeding conditions, and they do not give baby chicks everything needed to insure a healthy start in life.

The use of respondent's products will not result in the highest production at the lowest cost for poultry; they are not perfectly balanced feeds for general use under all and any conditions, as there are many elements besides feed that are important in raising and handling poultry, such as location, air, water, soil, runs, housing, sunshine, cleanliness, and regularity in care and feeding, all of which contribute to the quality of poultry and eggs. The growth and production of flocks and maximum results cannot be "insured" or "guaranteed" through the use of respondent's said products. To compound and prepare a balanced feed for poultry, flock deficiencies must be known and the feed prepared to supply such deficiencies as exist in a particular flock. The deficiencies in a particular flock may vary materially from other flocks and require a different balance or different quantities of the essential ingredients. Such feed products have not been thoroughly tested scientifically under actual feeding conditions by any

system of tests meeting the requirements of State or Federal officials or by experienced and competent poultrymen.

The use of respondent's product Red Anchor Chick Starter will not result in a lower mortality rate, a more rapid growth, or sturdier or stronger chicks than will result from the feeding of other commercial poultry feeds.

Respondent's product Red Anchor Egg Mash Feed, used in combination with respondent's product Red Anchor Hen Scratch, does not contain every essential food element necessary to produce the highest feeding results, and it does not produce eggs of the highest quality. It does not contain a greater proportion of certain essential food ingredients than do other commercial feeds sold for egg production. It will not increase the hatchability of eggs, the vigor and vitality of laying hens or insure or produce stronger chicks. It does not contain all of the scratch and mash ingredients and essential food elements necessary to cause the highest egg production possible. Its use does not result in a higher egg production than that obtained through the use of other commercial poultry feeds. It does not take less of said product to produce a given number of eggs than it does of other commercial feeds.

Growing chicks do not need the extra vitamins and other extra ingredients purportedly found in respondent's product Red Anchor Growing Mash unless such chicks have been and are receiving food that is deficient in the vitamins and other extra ingredients purportedly found in respondent's said product.

Better cattle and sheep will not be produced through using respondent's product Red Anchor Cattle and Sheep Chunkets than will be produced by feeding other commercial feeds.

Respondent's Red Anchor All Mash Turkey Starter will not produce more No. 1 turkeys than will be produced through feeding other commercial turkey feeds.

PAR. 6. The use by the respondent of the aforesaid false, deceptive, and misleading statements, representations and advertisements disseminated as aforesaid with respect to its said poultry and stock feeds has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and induces a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's said products.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and constitute

unfair and deceptive acts and practices 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 March 23, 1942, issued and thereafter served its complaint in this proceeding upon the respondent, Bewley Mills, a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 13, 1942, the respondent filed its answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts, signed and executed by the respondent and Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, 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 said Commission may proceed on said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon (including inferences which it may draw from said stipulated facts), and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. The respondent expressly waived the filing of report upon the evidence by the trial examiner. Thereafter this proceeding came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed; 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 this its findings as to the facts and its conclusion drawn therefrom.

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Bewley Mills, is a corporation, organized and existing under and by virtue of the laws of the State of Texas and having its office and principal place of business at Fort Worth, Tex.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of poultry and stock feeds designated Bewley's Red Anchor Feeds. Respondent causes its said products, when sold, to be transported from its aforesaid place of business in the State of Texas to

purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent at all times mentioned herein has maintained a course of trade in said poultry and stock feeds 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 its aforesaid business the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, various advertisements concerning its products, hereinafter named, by the United States mail 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, various advertisements concerning said products by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the various misleading and deceptive statements and representations, relating to the specific product hereinafter indicated, contained in said various advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mail, by advertisements in newspapers and periodicals, by radio continuities and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

*Red Anchor Broiler Starter and Broiler Finisher*

This high quality growing feed is a favorite among many poultrymen in the Southwest who look ahead for future poultry profits. If you raise your chicks for broilers, try Red Anchor Broiler Starter and Broiler Finisher and see if you don't get better and more economical results.

Chicks may be held on Red Anchor Broiler Starter until ready for market with outstanding results. We recommend, however, that at the age of 6 and 7 weeks, chicks be changed to Red Anchor Broiler Finisher. This method of feeding lowers total feed cost and insures a better finished broiler.

Perfectly balanced and thoroughly tested under actual feeding conditions, Red Anchor Starting Feeds give the baby chicks everything they need to insure a healthy start in life; \* \* \*

*Bewley's Anchor Feeds*

Bewley's Anchor Feeds Maximum Production at Minimum Cost.

Red Anchor Feeds are perfectly balanced and thoroughly tested under actual feeding conditions to insure better results for you regardless of your feeding need.

Haphazard feeding may produce eggs over a short period; but to get maximum production for least cost over a long period the Bewley's Anchor Feed route is the sure way.

*Red Anchor Chick Starter*

Anchor Chick Starter contains dried milk, cod liver oil, potassium iodine, manganese sulphate, insures lower mortality, more rapid growth, sturdier chicks.

*Red Anchor Egg Mash*

In addition to this quality Breeder Mash these birds should be fed a well balanced scratch feed, such as Red Anchor Hen Scratch. We believe that Red Anchor Egg Mash for Breeders contains every essential food element for maximum feeding results in producing hatching eggs of highest quality when fed in combination with Red Anchor Hen Scratch.

This quality feed contains increased proportions of certain feed ingredients, as compared to feeds we recommend for commercial egg production, that will increase hatchability, increase the vigor and vitality of the producer, and insure stronger chicks.

This quality mash feed contains both the scratch and mash ingredients, and we believe contains all essential food elements for maximum production.

We suggest that baby chicks be secured from breeding flocks that have been fed Red Anchor Egg Mash for Breeders, as we believe this quality feed will insure stronger chicks.

Red Anchor Egg Mash insures more eggs \* \* \* eggs higher in quality; eggs with increased hatchability that will produce stronger chicks.

Red Anchor Egg Mash—high in Vitamin G content, which increases hatchability, insures stronger chicks and faster growth.

And in addition, numerous tests have proven that it requires less Bewley's Anchor Egg Mash to produce a given number of eggs than other egg mashes—that over a definite period the total amount of mash consumed will be cut down materially, and still production will be increased.

*Cattle and Sheep Chunkets*

For better results in the feed lot and on the range buy Red Anchor Cattle and Sheep Chunkets.

*Bewley's Red Anchor All Mash Turkey Starter*

It contains a high milk content and a special mineral balance; increased Vitamins A and D; and is guaranteed to insure more #1 birds for the market.

PAR. 4. Through the use of the statements and representations used in said advertisements, as aforesaid, and others similar thereto not specifically set out herein, respondent has represented and implied:

1. That its products designated Red Anchor Broiler Starter and Broiler Finisher as feed for chicks raised for broilers give better and more economical results than can be obtained from the use of other feeds; that its said product Red Anchor Broiler Finisher as a feed for chicks 6 to 7 weeks old, theretofore fed its product Red Anchor Broiler Starter, will cause total feed cost to be lower and produce better broilers than will other feeds; that its product Red Anchor Starter Feed is perfectly balanced and contains every food element essential to insure a healthy start in life for baby chicks.

2. That the use of its products designated Red Anchor Feeds will result in the highest production at the lowest cost for poultry; that said feeds are perfectly balanced, thoroughly tested under actual

purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent at all times mentioned herein has maintained a course of trade in said poultry and stock feeds 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 its aforesaid business the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, various advertisements concerning its products, hereinafter named, by the United States mail 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, various advertisements concerning said products by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the various misleading and deceptive statements and representations, relating to the specific product hereinafter indicated, contained in said various advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mail, by advertisements in newspapers and periodicals, by radio continuities and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

*Red Anchor Broiler Starter and Broiler Finisher*

This high quality growing feed is a favorite among many poultrymen in the Southwest who look ahead for future poultry profits. If you raise your chicks for broilers, try Red Anchor Broiler Starter and Broiler Finisher and see if you don't get better and more economical results.

Chicks may be held on Red Anchor Broiler Starter until ready for market with outstanding results. We recommend, however, that at the age of 6 and 7 weeks, chicks be changed to Red Anchor Broiler Finisher. This method of feeding lowers total feed cost and insures a better finished broiler.

Perfectly balanced and thoroughly tested under actual feeding conditions, Red Anchor Starting Feeds give the baby chicks everything they need to insure a healthy start in life; \* \* \*

*Bewley's Anchor Feeds*

Bewley's Anchor Feeds Maximum Production at Minimum Cost.

Red Anchor Feeds are perfectly balanced and thoroughly tested under actual feeding conditions to insure better results for you regardless of your feeding need.

Haphazard feeding may produce eggs over a short period; but to get maximum production for least cost over a long period the Bewley's Anchor Feed route is the sure way.

*Red Anchor Chick Starter*

Anchor Chick Starter contains dried milk, cod liver oil, potassium iodine, manganese sulphate, insures lower mortality, more rapid growth, sturdier chicks.

*Red Anchor Egg Mash*

In addition to this quality Breeder Mash these birds should be fed a well balanced scratch feed, such as Red Anchor Hen Scratch. We believe that Red Anchor Egg Mash for Breeders contains every essential food element for maximum feeding results in producing hatching eggs of highest quality when fed in combination with Red Anchor Hen Scratch.

This quality feed contains increased proportions of certain feed ingredients, as compared to feeds we recommend for commercial egg production, that will increase hatchability, increase the vigor and vitality of the producer, and insure stronger chicks.

This quality mash feed contains both the scratch and mash ingredients, and we believe contains all essential food elements for maximum production.

We suggest that baby chicks be secured from breeding flocks that have been fed Red Anchor Egg Mash for Breeders, as we believe this quality feed will insure stronger chicks.

Red Anchor Egg Mash insures more eggs \* \* \* eggs higher in quality; eggs with increased hatchability that will produce stronger chicks.

Red Anchor Egg Mash—high in Vitamin G content, which increases hatchability, insures stronger chicks and faster growth.

And in addition, numerous tests have proven that it requires less Bewley's Anchor Egg Mash to produce a given number of eggs than other egg mashes—that over a definite period the total amount of mash consumed will be cut down materially, and still production will be increased.

*Cattle and Sheep Chunkets*

For better results in the feed lot and on the range buy Red Anchor Cattle and Sheep Chunkets.

*Bewley's Red Anchor All Mash Turkey Starter*

It contains a high milk content and a special mineral balance; increased Vitamins A and D; and is guaranteed to insure more #1 birds for the market.

PAR. 4. Through the use of the statements and representations used in said advertisements, as aforesaid, and others similar thereto not specifically set out herein, respondent has represented and implied:

1. That its products designated Red Anchor Broiler Starter and Broiler Finisher as feed for chicks raised for broilers give better and more economical results than can be obtained from the use of other feeds; that its said product Red Anchor Broiler Finisher as a feed for chicks 6 to 7 weeks old, theretofore fed its product Red Anchor Broiler Starter, will cause total feed cost to be lower and produce better broilers than will other feeds; that its product Red Anchor Starter Feed is perfectly balanced and contains every food element essential to insure a healthy start in life for baby chicks.

2. That the use of its products designated Red Anchor Feeds will result in the highest production at the lowest cost for poultry; that said feeds are perfectly balanced, thoroughly tested under actual

## Findings

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feeding conditions so as to insure better and more economical results regardless of feeding conditions; and that they will give maximum production for the least cost over a long period of time.

3. That its product Red Anchor Chick Starter, containing vitamin D elements, insures lower mortality, more rapid growth, sturdier and stronger chicks than that obtained through the use of other starter feeds.

4. That its product Red Anchor Egg Mash feed, in combination with its product Red Anchor Hen Scratch, contains every essential food element, gives the highest feeding results, and produces eggs of the highest quality; that it contains a greater proportion of certain essential feed ingredients than do other commercial feeds sold for egg production; that it increases hatchability of eggs, the vigor and vitality of laying hens, and insures stronger chicks; that it contains all the essential food elements for greater production and is higher in vitamin G content than are competitive products; that numerous tests disclose that it takes less of said product to produce a given number of eggs than it takes of other feeds; and that the amount of such product used may be reduced and still produce more eggs than would be produced by other egg mash feeds.

5. That better cattle and sheep are produced by feeding its product Red Anchor Cattle and Sheep Chunkets than are produced by feeding other products.

6. That its product All Mash Turkey Starter contains a special mineral balance and a greater quantity of vitamins A and D than do other mashes, and that it will produce more No. 1 turkeys than will be produced through the use of other turkey mashes.

PAR. 5. The foregoing statements and representations contained in said advertisements aforesaid are grossly exaggerated and misleading. In truth and in fact, better and more economical results are not obtained through the use of respondent's products Red Anchor Broiler Starter and Red Anchor Broiler Finisher than are obtained through feeding chicks other similar feed products. The use of its product Red Anchor Broiler Finisher as a feed for chicks which have been fed its product Red Anchor Broiler Starter will not lower feed costs and will not produce better broilers than will be produced through the use of other similar feed products. Respondent's Starter Feed products are not perfectly balanced and have not been thoroughly tested under all actual feeding conditions, and they do not give baby chicks everything needed to insure a healthy start in life.

The use of respondents' products will not result in the highest production at the lowest cost for poultry; they are not perfectly balanced feeds for general use under all and any conditions, as there are many

elements besides feed that are important in raising and handling poultry, such as location, air, water, soil, runs, housing, sunshine, cleanliness, and regularity in care and feeding, all of which contribute to the quality of poultry and eggs. The growth and production of flocks and maximum results cannot be "insured" or "guaranteed" through the use of respondent's said products. To compound and prepare a balanced feed for poultry, flock deficiencies must be known and the feed prepared to supply such deficiencies as exist in a particular flock. The deficiencies in a particular flock may vary materially from other flocks and require a different balance or different quantities of the essential ingredients. Said feed products have not been thoroughly tested scientifically under actual feeding conditions by any system of tests meeting the requirements of State or Federal officials or by experienced and competent poultrymen.

The use of respondent's product Red Anchor Chick Starter will not result in a lower mortality rate, a more rapid growth, or sturdier or stronger chicks than will result from the feeding of other commercial poultry feeds.

Respondent's product Red Anchor Egg Mash Feed, used in combination with respondent's product Red Anchor Hen Scratch, does not contain every essential food element necessary to produce the highest feeding results, and it does not produce eggs of the highest quality. It does not contain a greater proportion of certain essential food ingredients than do other commercial feeds sold for egg production. It will not increase the hatchability of eggs, the vigor and vitality of laying hens, or insure or produce stronger chicks. It does not contain all of the scratch and mash ingredients and essential food elements necessary to cause the highest egg production possible. Its use does not result in a higher egg production than that obtained through the use of other commercial poultry feeds. It does not take less of said product to produce a given number of eggs than it does of other commercial feeds.

Growing chicks do not need the extra vitamins and other extra ingredients purportedly found in respondent's product Red Anchor Growing Mash unless such chicks have been and are receiving food that is deficient in the vitamins and other extra ingredients purportedly found in respondent's said product.

Better cattle and sheep will not be produced through using respondent's product Red Anchor Cattle and Sheep Chunkets than will be produced by feeding other commercial feeds.

Respondent's Red Anchor All Mash Turkey Starter will not produce more No. 1 turkeys than will be produced through feeding other commercial turkey feeds.

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PAR. 6. The use by the respondent of the aforesaid deceptive and misleading statements, representations, and advertisements disseminated as aforesaid with respect to its said poultry and stock feeds has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations, and advertisements are true, and induces a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's said products.

## CONCLUSION

The Commission finds that the aforesaid acts and practices of the respondent 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 and a stipulation as to the facts entered into by counsel for respondent herein and counsel for the Commission, which 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 its conclusion based thereon and an order disposing of the proceeding, 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, Bewley Mills, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its poultry and stock feeds designated Red Anchor Feeds, whether sold under the same name or any other name, do forthwith cease and desist from:

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

- (a) That its products designated Red Anchor Broiler Starter and Broiler Finisher as feed for chicks raised for broilers give better and more economical results than can be obtained from the use of other feeds; that its said product Red Anchor Broiler Finisher as a feed for chicks 6 to 7 weeks old, theretofore fed its product Red Anchor Broiler Starter, will cause total feed cost to be lower and produce

better broilers than will other feeds; that its product Red Anchor Starter Feed is perfectly balanced and contains every food element essential to insure a healthy start in life for baby chicks.

(b) That the use of its products designated Red Anchor Feeds will result in the highest production at the lowest cost for poultry; that said feeds are perfectly balanced, thoroughly tested under actual feeding conditions so as to insure better and more economical results regardless of feeding conditions; and that they will give maximum production for the least cost over a long period of time.

(c) That its product Red Anchor Chick Starter, containing Vitamin D elements, insures lower mortality, more rapid growth, sturdier and stronger chicks than are obtained through the use of other starter feeds.

(d) That its product Red Anchor Egg Mash feed, in combination with its product Red Anchor Hen Scratch, contains every essential food element, gives the highest feeding results, and produces eggs of the highest quality, that it contains a greater proportion of certain essential feed ingredients than do other commercial feeds sold for egg production; that it increases hatchability of eggs, the vigor and vitality of laying hens, all insures stronger chicks; that it contains all the essential food elements for greater production and is higher in vitamin G content than are competitive products; that numerous tests disclose that it takes less of said product to produce a given number of eggs than it takes of other feeds; and that the amount of such product used may be reduced and still produce more eggs than would be produced by other egg mash feeds.

(e) That better cattle and sheep are produced by feeding its product Red Anchor Cattle and Sheep Chunkets than are produced by feeding other products.

(f) That its product All Mash Turkey Starter contains a special mineral balance and a greater quantity of Vitamins A and D than do other mashes, and that it will produce more No. 1 turkeys than will be produced through the use of other turkey mashes.

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 its said poultry and stock designated Bewley's Red Anchor Feeds, which advertisement contains any of the representations prohibited in paragraph 1.

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

## IN THE MATTER OF

## THE R. L. WATKINS COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

*Docket \$596. Complaint, Sept. 19, 1938—Decision, Sept. 28, 1942*

Where a corporation, engaged in the manufacture, among other things, of its "Dr. Lyon's Tooth Powder," and in the competitive interstate sale and distribution thereof; by advertisements in numerous newspapers and periodicals of wide interstate, and in some cases nation-wide circulation, and through radio broadcasts, advertising posters and billboards, and streetcar and subway cards—

- (a) Implied that its said "Dr. Lyon's Tooth Powder" was substantially similar to that used by dentists through featuring the statement "Do as Your Dentist Does—Use Powder," or "Do as your Dentist Does When He Cleans Your Teeth—Use Powder," and aforesaid name and product as therein depicted and set forth;

The facts being that while the majority of dentists probably do use powder in cleaning their patients' teeth, such powder is almost invariably pumice or silic which are both highly abrasive and, if used regularly, would result in serious damage to the teeth; calcium carbonate, active ingredient of its said powder—used only in exceptional instances by dentists to polish the teeth after cleaning with pumice or silic—is much less abrasive and effective for cleaning the teeth; and product therefore is not comparable to powder used by dentists, either as to composition or effectiveness;

- (b) Falsely represented that its said powder was an effective antacid and would correct acid mouth; and

- (c) Represented that its product was free from all grit and could not possibly injure or scratch the tooth enamel;

The facts being that said representations were exaggerated and misleading, its said product, occasionally at least, containing particles of quartz or grit which might scratch the enamel;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that said powder possessed properties which it did not, and of thereby causing its purchase because of such belief; whereby trade was diverted unfairly to it from competitors:

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

As respects a contention that the testimony of certain consumer witnesses, namely, 13 club women and housewives living in or near Washington, D. C., of whom 7 testified that seller's advertising, and particularly the slogan "Do As Your Dentist Does—Use Powder," implied that the powder used by dentists in cleaning their patients' teeth was substantially the same as seller's tooth powder, and in the case of some that they would understand from the advertising that the powder used by the dentist was in fact said powder, the others testifying to a contrary understanding—could not be accepted as indicative of the impression gathered from advertising in question by the public generally, in view of testimony of four professors of advertising