

Complaint

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IN THE MATTER OF
CORA LEE WILEYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914*Docket 4419. Complaint, Dec. 16, 1940—Decision, Nov. 2, 1942*

Where an individual, engaged in interstate sale and distribution of her "SNL" (Suffer No Longer) medicinal preparation; by means of advertisements in newspapers and other advertising literature, directly or by implication—
Represented that her said preparation was a cure or remedy for various diseases and disorders of the female organs, including gonorrhea, and constituted a competent and effective treatment therefor;

When in fact it had not therapeutic value in the treatment of aforesaid conditions or of gonorrhea; it being made up of an indiscriminate combination of drugs which in the proportions used and method of use had no basis in medical science;

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 its purchase of said preparation.

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. Arthur F. Thomas*, trial examiner.

Mr. William L. Taggart 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 Cora Lee Wiley, an individual, hereinafter referred to as respondent, has 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. Respondent, Cora Lee Wiley, is an individual, with her principal place of business at R. F. D. No. 2, Adel, Ga., from which address she transacts said business.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a certain medicinal preparation designated as SNL (Suffer No Longer).

In the course and conduct of her business, the respondent causes said medicinal preparation when sold, to be transported from her place

of business in the State of Georgia to purchasers thereof located in 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 said medicinal preparation, sold and distributed by her 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 her aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her 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 her said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purpose of her 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 and by advertisements in newspapers and other advertising literature, are the following:

In expensive Guaranteed female trouble treatment. 25c, 50c and \$1.00 sizes. Free Literature.

LADIES SNL Treatment. For Female Trouble is absorbed directly by sore congested organs. Relief Over Night. Complete relief guaranteed * * *.

SNL (Suffer No Longer) is a hope come true for female trouble sufferers. I have never known it to fail one woman yet, no matter how bad the condition. Fact is, poisons generated into the system from infected female organs cause most all of women's ailments. In trying to do something for myself, I found the very thing that can and will relieve all such suffering. I have an abundance of positive proof that SNL can and does relieve all such suffering. Its action is quick and thorough. Use SNL until you are feeling well, then discontinue. Three to seven treatments will relieve you entirely. No matter how bad your condition, don't despair. SNL is unconditionally guaranteed.

Body heat and SNL form a fume that starts penetrating the congested organs at once. SNL is very powerful yet mild enough to put into the sorest tenderest ear.

* * * the life wrecking tortures and consequences of gonorrhea have been completely relieved by SNL.

* * * SNL (Suffer No Longer) treatments have never failed one female trouble sufferer yet.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set forth herein, the respondent represents and has represented, directly and by implication, that her medicinal preparation designated as SNL (Suffer

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No Longer) is a cure or remedy for various diseases and disorders of the female organs, including gonorrhea, and constitutes a competent and effective treatment for such diseases and conditions.

PAR. 5. The respondent's foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondent's preparation is not a cure or remedy for various diseases and disorders of the female organs and has no therapeutic value in the treatment of any of such diseases and conditions. It has no value in the treatment of gonorrhea. Respondent's preparation is made up of an indiscriminate combination of drugs which in the proportions used and method of use has no basis in medical science.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to her preparation, 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 statements, representations, and advertisements are true, and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparation.

PAR. 7. The foregoing 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 December 16, 1940, issued, and on December 19, 1940, served, its complaint in this proceeding upon respondent, Cora Lee Wiley, an individual, charging her with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance and service of said complaint and after other proceedings herein, the Commission by order entered granted respondent's request to file answer out of time and on September 22, 1942, answer was filed by respondent admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts as well as trial examiner's report upon the evidence and briefs in support of and in opposition to the allegations of the complaint. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer and the Commission having duly considered the matter, and being

now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Cora Lee Wiley, is an individual, with her principal place of business at R. F. D. No. 2, Adel, Ga., from which address she transacts said business.

PAR 2. The respondent is now, and for more than 3 years last past has been, engaged in the sale and distribution of a certain medicinal preparation designated as SNL (Suffer No Longer).

In the course and conduct of her business, the respondent causes said medicinal preparation when sold, to be transported from her place of business in the State of Georgia to purchasers thereof located in 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 said medicinal preparation, sold and distributed by her 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 her aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her 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 her said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of her 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 and by advertisements in newspapers and other advertising literature, are the following:

Inexpensive Guaranteed female trouble treatment. 25¢, 50¢ and \$1.00 sizes. Free Literature.

LADIES SNL Treatment For Female Trouble is absorbed directly by sore congested organs. Relief Over Night. Complete relief guaranteed * * *

SNL (Suffer No Longer) is a hope come true for female trouble sufferers. I have never known it to fail one woman yet, no matter how bad the condition. Fact is, poisons generated into the system from infected female organs cause most all of women's ailments. In trying to do something for myself, I found the very thing that can and will relieve all such suffering. I have

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an abundance of positive proof that SNL can and does relieve all such suffering. Its action is quick and thorough. Use SNL until you are feeling well, then discontinue. Three to seven treatments will relieve you entirely. No matter how bad your condition, don't despair. SNL is unconditionally guaranteed.

Body heat and SNL form a fume that starts penetrating the congested organs at once. SNL is very powerful yet mild enough to put into the sorest tenderest ear.

* * * the life wrecking tortures and consequences of gonorrhea have been completely relieved by SNL.

* * * SNL (Suffer No Longer) treatments have never failed one female trouble sufferer yet.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set forth herein, the respondent represents and has represented, directly and by implication, that her medicinal preparation designated as SNL (Suffer No Longer) is a cure or remedy for various diseases and disorders of the female organs, including gonorrhea, and constitutes a competent and effective treatment for such diseases and conditions.

PAR. 5. The respondent's foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact respondent's preparation is not a cure or remedy for various diseases and disorders of the female organs and has no therapeutic value in the treatment of any of such diseases and conditions. It has no value in the treatment of gonorrhea. Respondent's preparation is made up of an indiscriminate combination of drugs which in the proportions used and method of use has no basis in medical science.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to her preparation, 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 statements, representations, and advertisements are true, and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparation.

CONCLUSION

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

Order

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that she waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Cora Lee Wiley, an individual, and her representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondent's medicinal preparation designated as SNL (Suffer No Longer), 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 (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 by implication, that said preparation constitutes a cure or remedy for, or possesses any therapeutic value in the treatment of, gonorrhea or any disease or disorder of the female organs.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

IN THE MATTER OF
ELECTRO-HEALTH APPLIANCE COMPANY

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

Docket 4501. Complaint, May 13, 1941—Decision, Nov. 2, 1942

Where a corporation, engaged in the rental and sale and distribution of its "Electro-Health Short Wave Diathermy" device for home use; by means of advertisements in local daily papers and by local radio broadcasts, which, respectively, circulated and were heard in other States, and by advertising folders and other material mailed to prospective purchasers therein—

- (a) Represented that its said device might be used safely by the unskilled lay public in the treatment of self-diagnosed diseases and ailments by individual self-application in the home without professional supervision;
- (b) Represented that it was a safe, harmless, and effective means for the treatment of rheumatism in various forms in all parts of the body, and for arthritis, sinus, hay fever, colds, neuritis, kidney troubles, prostatitis, asthma, high blood pressure, sciatica, lumbago, poor circulation, pneumonia, liver complaints, insomnia, and numerous other acute and chronic diseases and conditions; and that its use would have no ill effects;

The facts being that use thereof by the unskilled lay public, under prescribed or customary conditions, does not constitute a competent treatment for any of the diseases or conditions claimed, or for any in which an acute inflammatory process is present; the device is not a safe or harmless means of treating self-diagnosed diseases or ailments, but, when improperly used may result in serious burns or other injuries, and, in certain conditions, may increase congestion, aggravate inflammation, and spread infection, or induce hemorrhage; may lead to ulceration and gangrene and necessitate amputation, and delay diagnosis and proper treatment of underlying diseases, with serious or even fatal consequences, diathermy not being safe without diagnosis by competent medical authority and prescription by such authority of method, frequency, and rate of application, and user's thorough instruction by a physician or trained technician in the use of the device; and

- (c) Failed to reveal facts material in the light of the representations therein made and consequences which might result from the use of the device under prescribed or usual conditions; and that it might be used safely only after competent medical authority had determined, as noted above, that diathermy was indicated, and prescribed method, rate, and frequency of application and user had received adequate instruction in use of the device;

With tendency and capacity of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said device possessed therapeutic values which it did not and that it might be used by the lay public with safety, thereby inducing purchase of the device by such public because of such belief:

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

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Before *Mr. Miles J. Furnas*, trial examiner.

Mr. R. A. McOuat, Mr. James I. Rooney, and Mr. William M. King 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 Electro-Health Appliance Co., 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. Respondent, Electro-Health Appliance Co., is a corporation, organized, existing, and doing business under and by virtue of the law of the State of California and having its office and principal place of business at 2709½ West Seventh Street, Los Angeles, Calif.

PAR. 2. The respondent is now and has been for more than 2 years last past engaged in the business of selling and renting a device intended for use in the treatment of various diseases and conditions of the human body, such device being designated as "Electro-Health Short Wave Diathermy." Respondent sells and rents said device to members of the public situated in various States of the United States and in the District of Columbia, and causes said device when sold or rented by it, to be transported from its aforesaid place of business in the State of California to the purchasers or lessees thereof at their respective points of location 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 said device 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 its aforesaid business respondent has disseminated and is now disseminating and has caused and is now causing the dissemination of false advertisements concerning its said device by the United States mails and by various other means in commerce, as commerce is defined by 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 its device, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said device in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading, and deceptive statements are 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 advertising literature, and by radio continuities, are the following:

In newspaper advertisements:

THE MAGIC OF RADIO

Short Wave Diathermy for Home

Treatment of Arthritis, Sinus, Asthma, Prostate, Neuritis, Poor Circulation, Bronchitis, Kidneys and many other ailments.

In a booklet entitled "Care of the Body with the Aid of Electro-Health Short Wave Diathermy":

ELECTRO-HEALTH SHORT WAVE DIATHERMY OFFERS Hope for Sufferers from Acute and Chronic Agonizing Diseases * * *

It has proved especially effective in the relief of suffering from inflammatory pains, such as arthritis, neuritis, neuralgia, rheumatism, lumbago, sciatica, gout, sinus, etc. And its results when properly used in respiratory troubles, such as bronchitis, asthma, hay fever, etc., are little less than remarkable. * * *

HOME SHORT WAVE TREATMENTS ENTIRELY SAFE.

The Electro-Health Short Wave Diathermy is sufficiently limited in power as to be safe to use in the home and yet have sufficient deep heating effect to obtain beneficial results. The Radio Wave length is definitely set, and is your assurance that it will have quick enough sensory effect on the outer layers of the skin to protect the interior tissues from harm or overheating.

Many specialists in the Electro-Therapy field believe that the high frequency currents have other beneficial results—but in considering it for your own use you can safely assume that it is no more harmful than any other variety of heat treatments. * * *

TREATMENTS AT HOME BENEFICIAL.

The treatments you can give to yourself with an Electro-Health Short Wave Diathermy usually produces the same heat effects like the professional instrument in the practitioners office, and it is available when your ailment starts, its immediate application may prevent further progress of disease. * * *

All representatives of the Electro-Health Short Wave Diathermy equipment are experienced, and able to be of great assistance to users in advice and suggestions for the best results. * * *

Many men of forty feel old. Often the cause is prostate trouble. * * * Prostate trouble usually responds readily to this form of treatment. * * * Painful Menses—and other inflammatory complaints of the Vaginal area usually respond to Radio Short Wave Therapy * * *

The relief to sinus sufferers by Short Wave Diathermy is unparalleled by any other method.

Head colds, toothache, earache, tonsillitis and other head conditions usually respond to Short Wave treatments.

Short Wave Diathermy is a Home Necessity * * *

* * * It's frequent use by each member of the family is very inexpensive assurance in building up resistance to infectious conditions * * *

* * * Short Wave Diathermy has an analgesic effect, in addition to other beneficial results, and it is entitled to your fullest confidence.

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* * * The uses of Short Wave Diathermy are varied and multiform. It should always be tried where benefit may be derived from it.

* * * it's improvement (chronic arthritis) by diathermy has taken place so often that it should be given a trial in practically all cases of this disease.

* * * Users have reported favorable results from this method in the treatment of: Abscesses, Asthma, Bronchitis, Chilblains, Female Disorders, High Blood Pressure, Kidney Troubles, Lumbago, Neuralgia, Pneumonia, Peritonitis, Pleurisy, Sciatica, Sprains, Singers Throat, Adhesions, Ears, Foot Ailments, Hay Fever, Arthritis, Boils, Common Colds, Furuncle, Gastritis, Insomnia, Liver Complaints, Laryngitis, Neuritis, Pelvic Disorders, Prostate, Rheumatism, Sinus, Tonsils, Sore Throat, Respiratory Difficulties, Menstrual Pains, Colonic Disorders.

In general it may safely be assumed that relief may be expected from the application of heat to many of the inflammatory ailments to which man is heir, and "Radio Short Wave" (Diathermy) is outstanding in this field of Physiotherapy.

By radio broadcast:

Today, science is employing radio waves—extremely short waves—to generate heat deep within the tissues. Heat to ease the pain, heat to increase the circulation of blood in the inflamed area, heat to help the blood carry off the poisons of infection, heat to overcome these deep seated inflammations and do away with soreness and swelling. This comparatively new invention—Electro-Health Short Wave Diathermy—has given the medical world a new kind of therapy and a most effective treatment for a great many common ills and discomforts. And this is important: **THIS NEW SHORT WAVE DIATHERMY TREATMENT HAS BEEN MEDICALLY APPROVED AND ADOPTED GENERALLY THROUGHOUT THE WORLD!** Of equal importance is this fact: Electro-Health Appliance Company, 2709 W. 7th, has perfected a safe short-wave diathermy unit for home use. It's so simple that anyone can use it, without professional supervision. This perfected Electro-Health Short Wave Diathermy unit is a virtual necessity for every home—a good health necessity that will bring a million dollars worth of relief and comfort to sufferers from common colds, sinus trouble, rheumatism, ear ache, hay fever and a hundred other similar complaints.

If you've ever suffered the discomfort of a common cold, sore throat, sinus trouble, or any one of a hundred or more common ailments, you'll be interested in this. Science has harnessed radio short waves to relieve and protect against these common conditions * * * and the Electro-Health Appliance Company has perfected a short wave unit so safe and simple in operation, it can be used in the home without medical supervision. Here's the way it works: The Electro-Health Short Wave Diathermy machine has two electrodes or pads which are applied to opposite sides of the body wherever the trouble is located. When the switch is turned on high frequency radio waves flow from one electrode right through the body tissues to be received by the opposite electrode. The short waves create heat deep within the tissues, soothing any pain and at the same time stimulating the circulation of blood in that particular area. This friendly fever, generated by short radio waves, directs and reinforces the body healing powers. Electro-Health Short Wave diathermy for the home is safe, simple and amazingly inexpensive.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out

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herein, respondent has represented that its device or apparatus, advertised as Electro-Health Short Wave Diathermy, may safely be used by the unskilled lay public in the treatment of self-diagnosed diseases and ailments of the human body by individual self-application in the home without professional supervision; that said device is a scientific, safe, harmless and effective means and method for the treatment of the following diseases and pathologic conditions; rheumatism in its various forms in all parts of the body, arthritis, sinus, hay fever, colds, laryngitis, bronchitis, respiratory troubles, neuritis, kidney troubles, prostatitis, asthma, high blood pressure, sciatica, lumbago, poor circulation, pneumonia, liver complaints, insomnia, abscesses, gout, gastritis, pleurisy, constipation, colonic disorders, sprains, bruises and muscle soreness, chilbains and other foot ailments, bladder trouble, menstrual pains, female disorders, peritonitis, singers throat, adhesions, boils, furuncles, pelvic inflammations, neuralgia, tonsillitis, head colds, earache and toothache, and other acute and chronic diseases and conditions; that the use of said device will have no ill effects upon the user.

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

Respondent's device is composed of a high frequency generator in a cabinet; the power to the circuit is furnished by a transformer and the output is inductively coupled and tuned with a variable condenser; and the power is transmitted to the user by two insulated rubber conductor pads covered with felt.

The application to the patient is made by placing the electrodes in such position that a heat-generating electric current will pass between the electrodes through the affected area, thus inducing heat in the tissues of the area to which applied.

The individual self-application of said device by the unskilled members of the public in the home, either under the conditions prescribed in said advertisements or under such conditions as are customary or usual, will not accomplish the results claimed by the respondent and is not a scientific, safe, harmless, or effective means or method to be used in the treatment of the ailments or conditions referred to in paragraph 4 herein or any other self-diagnosed diseases or ailments of the human body. Prerequisites of the safe and effective use of such device are (1) complete history and physical examination of the user to determine his physical condition, (2) competent diagnosis of the user's condition and the effects of the application of heat to the user, (3) definite conception of the underlying pathology, (4) administration by a skilled technician, (5) adequate safeguarding against injury or harm by the device, such as the prevention of burns and injury to

the tissues, (6) definite control of the frequency and extent of administration.

There are many diseases and conditions, and certain stages of other diseases and conditions, in which diathermy is contra-indicated, and in which its use will aggravate the disease or condition and be injurious to health.

By way of illustration, but not to the exclusion of other instances of injurious results, the indiscriminate use of said device may result in further swelling of inflamed tissues, thereby increasing the congestion of the inflamed part and the spreading of the inflammation to adjacent tissues, and allowing the absorption of toxin, when present, in conditions of acute inflammation of the nerves, such as neuritis, in acute inflammation of the muscles, such as lumbago, in acute inflammation of the joints, such as acute inflammatory arthritis, and in rheumatic pains.

The application of diathermy in conditions of acute sinus trouble may result in further increasing congestion of the mucous membrane of the sinuses, nose, and throat, causing increased absorption of bacterial toxins.

Diathermy, when applied in the treatment of severe pains in the extremities in the presence of advanced blood-vessel changes in the legs or arms, may cause serious burns and may lead to gangrene and necessitate amputation of the legs or arms.

Application of diathermy to areas affected by malignant tumors may result in the stimulation of the growth of cancerous cells or in spreading the trouble to other tissues.

In those areas of the skin where the sense of heat has been lost due to injury or impairment of the peripheral nerves, the application of said device may result in tissue destruction and severe burns.

PAR. 6. The advertisements disseminated by respondent as aforesaid are also false in that they fail to reveal facts material in the light of the representations contained therein, or material with respect to consequences which may result from the use of said device, under the condition prescribed in said advertisements or under such conditions as are customary or usual, and fail to reveal that the use of said device may result in serious and irreparable injury to health.

Said advertisements are further false in that they also fail to conspicuously reveal that the device may be safely used only after a competent medical authority had determined, as a result of diagnosis, that diathermy is indicated, and has prescribed the frequency and amount of application of such diathermy treatments, and the user has been adequately instructed by a trained technician in the method of operating such device.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading representations and advertisements with respect to its device, 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 representations and advertisements are true, and to induce, because of such erroneous and mistaken belief, the purchase of the respondent's device.

PAR. 8. The aforesaid acts and practices of 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 May 13, 1941, issued and subsequently served its complaint in this proceeding upon respondent, Electro-Health Appliance Co., a corporation, charging it with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint (respondent not having filed any answer thereto), testimony and other evidence in support of the allegations of said complaint were introduced before an 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, the proceeding regularly came on for final hearing before the Commission on the said complaint, testimony and other evidence, report of the trial examiner, and brief in support of the complaint (respondent not having filed brief and 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, Electro-Health Appliance Co., is a corporation, organized and existing under and by virtue of the laws of the State of California, formerly having its office and principal place of business at 2709½ West Seventh Street, Los Angeles, Calif. For more than 1 year immediately preceding February 1941 it was engaged in the rental and in the sale and distribution of an electrical device or apparatus designated as "Electro-Health Short Wave Diathermy."

PAR. 2. Respondent's device or apparatus was offered for rental and for sale to members of the public for use in giving self-administered applications of short-wave diathermy in their homes. It is essentially a portable cabinet approximately 15 inches high, 14 inches wide, and $9\frac{3}{4}$ inches deep, which contains a transformer with tubes and electrical circuits for the generation of electrical short waves which are transmitted to the user by means of two insulated electrodes. The electrical energy necessary for the operation of this device is secured by attaching it to the usual domestic electrical circuits available in the user's home, and it has a power output of from 75 to 125 watts. When the electrodes are applied to the user's body and the device or apparatus put in operation, the passage of electrical short waves between the electrodes creates heat within the body tissues of the user because of their resistance to the passage of such electrical currents.

PAR. 3. In the course and conduct of the aforesaid business, respondent has caused advertisements to be inserted in the "Evening Herald and Express" and the "Los Angeles Examiner," daily newspapers published in Los Angeles, Calif., and having circulation in States other than California; has caused advertising continuities to be broadcast over radio station KFVD in Los Angeles, Calif., which broadcasts reach and may be received by radio receiving sets located in States other than California; and has caused copies of its various advertising folders and other material to be mailed to prospective purchasers in States other than California. Respondent, by means of the United States mails and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, has thus disseminated and has caused the dissemination of false advertisements concerning its "Electro-Health Short Wave Diathermy" device or apparatus; and respondent, by various means, has also disseminated and has caused the dissemination of false advertisements for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said device or apparatus 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 cause to be disseminated, as aforesaid, are the following:

In newspaper advertisements:

THE MAGIC OF RADIO

Short Wave Diathermy for Home Treatment of Arthritis, Sinus, Asthma, Prostate, Neuritis, Poor Circulation, Bronchitis, Kidneys, and many other ailments.

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In a booklet furnished to those who answer respondent's advertisements and which is entitled "Care of the Body with the Aid of Electro-Health Short Wave Diathermy":

Electro-Health Short Wave Diathermy

OFFERS

Hope for Sufferers from Acute and Chronic Agonizing Diseases

It has proved especially effective in the relief of suffering from inflammatory pains such as arthritis, neuritis, neuralgia, rheumatism, lumbago, sciatica, gout, sinus, etc. And its results when properly used in respiratory troubles, such as bronchitis, asthma, hay fever, etc., are little less than remarkable.

HOME SHORT WAVE TREATMENTS ENTIRELY SAFE

The Electro-Health Short Wave Diathermy is sufficiently limited in power as to be safe to use in the home and yet have sufficient deep heating effect to obtain beneficial results. The Radio Wave length is definitely set, and is your assurance that it will have quick enough sensory effect on the outer layers of the skin to protect the interior tissues from harm or overheating.

MANY specialists in the Electro-Therapy field believe that the high frequency currents have other beneficial results—but in considering it for your own use you can safely assume that it is no more harmful than any other variety of heat treatments.

TREATMENT AT HOME BENEFICIAL

The treatments you can give to yourself with an Electro-Health Short Wave Diathermy usually produces the same heat effects like the professional instrument in the practitioners office, and it is available when your ailment starts, its immediate application may prevent further progress of the disease.

All representatives of the Electro-Health Short Wave Diathermy equipment are experienced, and able to be of great assistance to users in advice and suggestions for the best results.

Many men of forty feel old. Often the cause is prostate trouble. Prostate trouble usually responds readily to this form of treatment.

Painful menses—and other inflammatory complaints of the Vaginal area usually respond to Radio Short Wave Therapy.

The relief of sinus sufferers by Short Wave Diathermy is unparalleled by any other method.

HEAD COLDS, TOOTHACHE, EARACHE, TONSILITIS, and other head conditions usually respond to Short Wave treatments.

SHORT WAVE DIATHERMY IS A HOME NECESSITY

Its frequent use by each member of the family is very inexpensive assurance in building up resistance to infectious conditions.

Short Wave Diathermy has an analgesic effect, in addition to other beneficial results, and it is entitled to your fullest confidence.

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* * * The uses of Short Wave Diathermy are varied and multiform. It should always be tried where benefit may be derived from it.

* * * its (chronic arthritis) improvement by diathermy has taken place so often that it should be given a trial in practically all cases of this disease.

* * * Users have reported favorable results from this method in the treatment of

Abcesses	Arthritis
Asthma	Boils
Bronchitis	Common Colds
Chilblains	Furuncle
Female Disorders	Gastritis
High Blood Pressure	Insomnia
Kidney Troubles	Liver Complaints
Lumbago	Laryngitis
Neuralgia	Neuritis
Pneumonia	Pelvic Disorders
Peritonitis	Prostate
Pleurisy	Rheumatism
Scoliosis	Sinus
Sprains	Tonsils
Singers Throat	Sore Throat
Adhesions	Respiratory Difficulties
Ears	Menstrual Pains
Foot Ailments	Colonic Disorders
Hay Fever	

In general it may safely be assumed that relief may be expected from the application of heat to many of the inflammatory ailments to which man is heir, and "Radio Short Wave" (Diathermy) is outstanding in this field of Physiotherapy

By radio broadcasts:

Today, science is employing radio waves—extremely short waves—to generate heat deep within the tissues. Heat to ease the pain, heat to increase the circulation of blood in the inflamed area, heat to help the blood carry off the poisons of infection, heat to overcome these deep-seated inflammations and do away with soreness and swellings. This comparatively new invention—Electro-Health Short Wave Diathermy—has given the medical world a new kind of therapy and a most effective treatment for a great many common ills and discomforts. And this is important: **THIS NEW SHORT WAVE DIATHERMY TREATMENT HAS BEEN MEDICALLY APPROVED AND ADOPTED GENERALLY THROUGHOUT THE WORLD!** Of equal importance is this fact: Electro-Health Appliance Company, 2709 W. 7th, has perfected a safe short-wave diathermy unit for home use. It's so simple that any one can use it without professional supervision. This perfected Electro-Health Short Wave Diathermy unit is a virtual necessity for every home—a good health necessity that will bring a million dollars worth of relief and comfort to sufferers from common colds, sinus troubles, rheumatism, ear ache, hay fever, and a hundred other similar complaints.

If you've suffered the discomfort of a common cold, sore throat, sinus trouble,

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or any one of a hundred or more common ailments, you'll be interested in this. Science has harnessed radio short wave to relieve and protest against these common conditions * * * and the Electro-Health Appliance Company has perfected a short wave unit so safe and simple in operation, it can be used in the home without medical supervision. Here's the way it works: The Electro-Health Short Wave Diathermy machine has two electrodes or pads which are applied to opposite sides of the body wherever the trouble is located. When the switch is turned on, high frequency radio waves flow from one electrode right through the body tissue to be received by the opposite electrode. The short waves create heat deep within the tissues, soothing any pain and at the same time stimulating the circulation of the blood in that particular area. This friendly fever, generated by short radio waves, directs and reinforces the body's healing powers. Electro-Health Short Wave Diathermy for the home is safe, simple and amazingly inexpensive.

PAR. 4. By the use of the foregoing representations, and others similar thereto but not specifically set out herein, respondent has represented that its device or apparatus designated as "Electro-Health Short Wave Diathermy" may be used safely by the unskilled lay public in the treatment of self-diagnosed diseases and ailments of the human body by individual self-application in the home without professional supervision; that said device is a safe, harmless, and effective means and method for the treatment of rheumatism in its various forms in all parts of the body, arthritis, sinus, hay fever, colds, laryngitis, bronchitis, respiratory troubles, neuritis, kidney troubles, prostatitis, asthma, high blood pressure, sciatica, lumbago, poor circulation, pneumonia, liver complaints, insomnia, abscesses, gastritis, pleurisy, colonic disorders, chilblains, bladder trouble, menstrual pains, female disorders, peritonitis, singer's throat, sore throat, adhesions, boils, furuncles, pelvic inflammations, neuralgia, tonsillitis, earache, and other acute and chronic diseases and conditions; and that the use of said device would have no ill effects upon the user.

PAR. 5. When used by unskilled members of the public, either under the conditions prescribed by respondent or under such conditions as are customary or usual respondent's short wave diathermy device is not a competent treatment for any of the diseases or conditions set forth in the preceding paragraph, or for any disease or condition in which an acute inflammatory process is present, or where the application of heat may induce hemorrhage, or where the condition treated is merely a symptom of some underlying disease, or where the disease to be treated is accompanied by other conditions such as those stated and in which the use of short-wave diathermy is contraindicated.

Respondent's device is not a safe or harmless means of treating self-diagnosed diseases or ailments of the human body. It has the capacity to, and when improperly used may, result in serious burns

and other injuries to the user. When used to treat conditions involving inflammation such as but not limited to acute arthritis, acute bursitis, or sinus, respondent's device is likely to increase congestion, aggravate the inflammation, and spread infection to other tissues. When used to treat conditions such as but not limited to gastritis due ulcers, pelvic disorders, or menstrual difficulties, it may induce hemorrhage. Conditions such as but not limited to neuritis and neuralgia are frequently symptoms of some underlying disease and competent treatment requires a determination of and treatment of the disease itself rather than a treatment of the symptoms. The excessive application of short-wave diathermy for the treatment of pains in the arms and legs in the presence of advanced blood vessel changes may lead to ulceration and gangrene and necessitate amputation. Cancer of the spine and tuberculosis of the spine may evidence themselves by pain in the knees or other parts of the body, and pain in the joints may be a symptom of tuberculosis of the joints, cancer, syphilis, or other infectious processes, and attempts to treat local pain in such circumstances by the use of respondent's device may so delay diagnosis and proper treatment of the underlying disease as to result in serious or even fatal consequences. The use of respondent's device in an area where there is hardening of the arteries and poor circulation may result in severe burns and may result in thrombosis or thrombophlebitis. The ordinary layman is unable to diagnose diseases and even in conditions where short-wave diathermy might properly be used is unable to determine the method, rate, or frequency of application which would make the use of the device a proper treatment under the particular circumstances.

The use of diathermy is not safe unless and until competent medical authority has determined as a result of diagnosis that its use is indicated and has prescribed the method, frequency, and rate of application of diathermy treatments and the user has been thoroughly and adequately instructed by a physician or a trained technician in the use of the device.

PAR. 6. The aforesaid representations by respondent concerning the therapeutic value of its device are misleading and deceptive and constitute false advertisements. These representations are also false advertisements for the reason that they fail to reveal all the facts material in the light of the representations made and fail to reveal the consequences which may result from the use of the respondent's device under conditions prescribed in the advertisements or under such conditions as are customary or usual. The representations also constitute false advertisements in that they fail to reveal that respondent's device may safely be used only after a competent medical

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authority has determined as a result of diagnosis that the use of diathermy is indicated and has prescribed the method, frequency, and rate of application and the user has received adequate instruction in the use of the device.

PAR. 7. The use by respondent of the aforesaid false advertisements has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's device possesses therapeutic values which it does not in fact possess and that such device may be indiscriminately used by the lay public with safety, and the tendency and capacity to cause such portion of the public to purchase respondent's device as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The aforesaid acts and practices of the respondent are all to the prejudice 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, testimony and other evidence taken before an examiner of the Commission theretofore duly designated by it, and brief filed in support of the complaint, 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 respondent Electro-Health Appliance Co., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, or distribution of an electrical device or apparatus designated as "Electro-Health Short Wave Diathermy," or any other device or apparatus of substantially similar character, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement concerning the electrical device or apparatus designated "Electro-Health Short Wave Diathermy," or disseminating or causing to be disseminated any advertisements, by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Fed-

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eral Trade Commission Act, of the aforesaid electrical device or apparatus, which advertisement:

1. Represents, directly or through inference, that said device or apparatus is safe or harmless.

2. Represents, directly or through inference, that respondent's device or apparatus constitutes a competent or effective treatment for rheumatism in its various forms, arthritis, sinus, hay fever, colds, laryngitis, bronchitis, respiratory troubles, neuritis, kidney troubles, prostatitis, asthma, high blood pressure, sciatica, lumbago, poor circulation, pneumonia, liver complaints, insomnia, abscesses, gastritis, pleurisy, colonic disorders, chilblains, bladder trouble, menstrual pains, female disorders, peritonitis, singer's throat, sore throat, adhesions, boils, furuncles, pelvic inflammation, neuralgia, tonsilitis, earache, or any other ailment or disorder of the human body, unless such advertisement is specifically limited to those cases in which no acute inflammatory process is involved and in which the application of heat is not likely to induce hemorrhage.

3. Fails to reveal clearly, conspicuously, and unequivocally that said device or apparatus is not safe to use unless and until a competent medical authority has determined as a result of diagnosis that the use of diathermy is indicated and has prescribed the method, frequency, and rate of application of such diathermy treatments and the user has been thoroughly and adequately instructed by a physician or trained technician in the use of such diathermy device or apparatus.

It is further ordered, That respondent shall, within 60 days after the 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
DI-FUNCTION COMPANY, INC.

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

Docket 4666. Complaint, Jan. 8, 1942—Decision, Nov. 2, 1942

Where a corporation, engaged in the manufacture and sale and distribution of its "Di-Function" preparation for diabetes; by means of advertisements through the mails, in newspapers and periodicals of general circulation, and in circulars and other printed or written matter, which included reproductions of purported testimonials and which were distributed in commerce among various states and by radio broadcasts heard by listeners therein, and by other means—

- (a) Represented, directly or by implication, that its said "Di-Function" was an effective treatment which would cure sugar diabetes, revive the glands of the pancreas so that they would produce sufficient insulin for the body's needs, cure long-standing, severe cases of diabetes, and make possible the resumption of the regular diet, discontinuance of all medicines, and the enjoyment of a normal healthy life;

The facts being said preparation was of no therapeutic value in the treatment of any disease or condition; and

- (b) Failed to reveal facts material in the light of such representations and with respect to consequences which might result from the use of said preparation under usual or prescribed conditions, in that said advertisements failed to reveal that the only diabetic treatment recognized as competent consists of a regulated diet, with or without the supervised administration of insulin, following which a diabetic may live out his normal life; whereas, if induced by false advertisements to abandon such treatment or fail to take advantage thereof, his diabetic condition will become worse and his health and life be endangered;

With effect of misleading and deceiving a substantial number of the purchasing public into the mistaken belief that said statements were true, thereby inducing purchase of said preparation:

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. Arthur F. Thomas*, trial examiner.

Mr. John M. Russell and *Mr. Edw. W. Thomerson* 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 Di-Function Co., Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that