

Syllabus

IN THE MATTER OF

PHIL HOWE, DAVID A. HOWE, AND JOANNE B. HOWE,
TRADING AS HOWE AND COMPANY

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

Docket 4729. Complaint, Mar. 16, 1942—Decision, May 6, 1943

Where an individual, later associated with two members of his family, engaged in the interstate sale and distribution of cosmetic preparations purchased in bulk and packaged and sold under his name; by means of circulars, leaflets, counter-display cards and other advertising material, as well as labels attached to containers of said products—

- (a) Falsely represented, through use of such descriptive designations as "Cleansing Cream, Carrot Type," "Creme Nocturne, Avocado Type," and "Hand Lotion, Honey and Almond Type," that products in question contained, respectively, the juice, extract, or other content of carrots, avocados, and honey and almonds; and through designation "Finishing Cream, Turtle Oil Type" that product in question contained turtle oil;
- (b) Falsely represented that his "Cleansing Cream, Carrot Type" induced natural lubrication of the skin, that his "Creme Nocturne, Tissue Type," enriched the skin tissues, and corrected skin dryness, and that his "Creme Nocturne, Avocado Type" nourished the skin with vitamins, stimulated dormant muscles, and replenished tissues;
- (c) Represented, through inclusion of word "Hollywood" in brand names featured in advertising and on labels on various items, that one of his leading lines was made in Hollywood, Calif.—cosmetics of which, associated by a substantial portion of the purchasing public with the motion-picture industry, are preferred by it over those made elsewhere—and through inclusion on labels of legend "Favorite of the Stars," that preparations in question were recognized by leading motion-picture actresses as possessing superior cosmetic properties;

The facts being that only 3 of the 20 items sold by him under name "Hollywood" and representing a little over half of his total purchases were obtained from sources in Hollywood; said misrepresentation or implication was not corrected by the words "Seattle, Distributors," in small and inconspicuous type also appearing on labels, from which prospective purchaser could reasonably conclude that products were made in Hollywood and distributed by a Seattle concern; and preparations in question were not recognized by leading motion-picture actresses as possessing superior cosmetic properties;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the properties and origin of said products, thereby causing substantial purchase thereof, as a result of such mistaken 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.

Before *Mr. Lewis C. Russell*, trial examiner.

Mr. Jesse D. Kash for the Commission.

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Mr. Edward Starin, of Seattle, Wash., and *Mr. Gail B. Selig*, of Los Angeles, Calif., for respondents.

COMPLAINT¹

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 Phil Howe, an individual, trading as Howe & Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Phil Howe, is an individual, trading as Howe & Co., with his office and principal place of business located at 1535 Eleventh Avenue, Seattle, Wash., with branch offices located in New York, N. Y., and Toronto, Canada. The respondent, is now, and for more than 2 years last past, has been engaged as a wholesale dealer in the sale and distribution of cosmetics. Respondent causes said preparations when sold to be transported from his aforesaid place of business in the States of Washington and New York and from Toronto, Canada, to retail dealers and purchasers thereof located in various other States of the United States and in the District of Columbia.

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

¹ Complaint was amended by an order of the Commission dated April 20, 1943, as follows:

It appearing to the Commission that since the issuance of the complaint herein the respondent Phil Howe has entered into a copartnership with two other individuals, to wit, his son, David A. Howe, and his daughter, Joanne B. Howe, and that the business formerly operated by Phil Howe as an individual under the name Howe & Company is now operated by said copartnership under the same name.

And it further appearing that at the beginning of the hearings herein before the trial examiner a stipulation was entered into upon the record between the attorney for the Commission and one of the attorneys for the copartnership providing that the said David A. Howe and Joanne B. Howe be joined as respondents in this proceeding along with respondent Phil Howe, and that, pursuant to such stipulation, the hearings then proceeded as to all three of said parties.

It is therefore ordered, That the complaint herein be, and it hereby is, amended by joining as respondents therein the said David A. Howe and Joanne B. Howe along with respondent Phil Howe, and that this proceeding shall hereafter be styled "In the Matter of Phil Howe, David A. Howe, and Joanne B. Howe, copartners trading as Howe & Co."

It is further ordered, That the testimony and other evidence introduced in this proceeding be considered as relating to all of said parties in the same manner and to the same effect as though this order has been entered prior to the taking of such testimony and other evidence.

PAR. 2. 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 his said products by United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning his said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his 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 advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by the United States mails, by display signs, folders, circulars, packing slips, labels, and other advertising matter are the following:

CREME MODERNE

Penetrates, cleanses and leaves the skin in perfect condition.

CLEANSING CREAM—CARROT TYPE

A dry skin cleanser which blends with the skin's own oil, inducing lubrication.

CREME NOCTURNE—(TISSUE TYPE)

Rich and nourishing. Corrects the dryness of the skin * * * Formerly called Tissue Cream.

CREME NOCTURNE—AVOCADO TYPE

For the undernourished skin lacking in Vitamins, this effective night cream stimulates dormant muscles and replenishes waste tissues.

HOLLYWOOD HAND LOTION—HONEY AND ALMOND TYPE

A Sensational Presentation of HOLLYWOOD'S NEW BOUDOIR FACE POWDER.

Howe's HOLLYWOOD

favorite of the Stars

CLEANSING CREAM

(or other named product)

Hollywood Cosmetics

Created by Howe Company.

PAR. 3. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent represents and has represented directly and by implication, that the preparations advertised and designated as "Cleansing Cream—Carrot Type," "Creme Nocturne—Avocado Type," "Hand

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Lotion—Honey and Almond Type,” and “Finishing Cream—Turtle Oil Type,” contain respectively the juice, extract, or some part of carrots, avocados, honey and almonds, and turtle oil, and have the characteristic properties thereof; that the preparation designated as “Creme Moderne” penetrates the skin; that the preparation “Cleansing Cream—Carrot Type” blends with the skin’s own oil and induces natural lubrication; that the preparation “Creme Nocturne—Tissue Type” will nourish the skin and tissues and will correct skin and tissue dryness; that the preparation “Creme Nocturne—Avocado Type” will nourish the skin with vitamins and stimulate dormant or inactive muscles and rebuild tissues; that the preparations designated “Hollywood Cosmetics, Favorite of the Stars” originated in and are made in Hollywood, Calif.; that said preparations are related to, or associated with, Hollywood, Calif., or with the motion-picture colony, or studios located at that place and are recognized by leading motion-picture actors or actresses as possessing superior cosmetic properties; and that the various cosmetic preparations designated as “Hollywood Cosmetics” were originated and are manufactured, created, or compounded by Howe & Co.

PAR. 4. The foregoing statements and representations disseminated as aforesaid are grossly exaggerated, false, and misleading. In truth and in fact, the products advertised and sold by the respondent as “Cleansing Cream—Carrot Type,” “Creme Nocturne—Avocado Type,” “Hand Lotion—Honey and Almond Type,” and “Finishing Cream—Turtle Oil Type” do not contain respectively the juice, extract, or any part of carrots, avocados, honey and almonds, and turtle oil, and do not have the characteristic properties thereof. The preparation sold as “Creme Moderne” will not penetrate the skin. The so-called “Cleansing Cream—Carrot Type” does not blend with the skin’s own oil, or induce natural lubrication. The preparation designated as “Creme Nocturne—Tissue Type” contains no ingredients which will nourish the skin or tissues or correct or permanently eliminate a dry condition of the skin. The preparation advertised as “Creme Nocturne—Avocado Type” will not nourish the skin with vitamins or stimulate dormant muscles or rebuild tissues of the skin. Respondent’s preparations designated as “Hollywood Cosmetics, Favorite of the Stars” were not and are not made or compounded by the respondent in Hollywood, Calif. The said preparations were not and are not now related to or associated with Hollywood, Calif., or with the motion-picture colony or studios located at that place. Said preparations are not now and have not been recognized by leading motion-picture actors or actresses as possessing superior cosmetic properties nor are they the favorite cosmetics of the motion-picture

stars. The various cosmetic preparations designated as "Hollywood Cosmetics" were not originated or manufactured, created or compounded by Howe & Co. The said preparations are purchased by the respondent in their finished form from manufacturers located in Seattle, Wash.; New York, N. Y.; and other places outside of the State of California. Said preparations are packed and sold by the respondent under his own name or brands.

PAR. 5. Cosmetics and toilet preparations made in Hollywood, Calif., have for many years enjoyed widespread popularity and good will, and have been very much in demand among the trade and consuming public throughout the United States. Many persons believe that cosmetics made in Hollywood, Calif., are superior to those made elsewhere because of the fact that it is the seat of the motion-picture industry of the United States.

PAR. 6. The use of the words "Hollywood Cosmetics, Favorite of the Stars," on the labels of the containers in which said products are packed, and the distribution by the respondent of display signs and circulars containing the legend "Hollywood Cosmetics, Favorite of Movie Stars," distributed to and placed in the hands of retail dealers by the respondent, place in the hands of uninformed or unscrupulous retailers a means or instrumentality whereby such dealers may mislead the purchasing public into the erroneous and mistaken belief that respondent's cosmetics sold by such dealers are produced or manufactured in Hollywood, Calif.; that they have the approval of the motion-picture colony in Hollywood and are of such a pure quality as to be highly considered and used by the most popular screen actresses.

PAR. 7. The use by the respondent of the foregoing false and misleading advertisements as aforesaid has the tendency and capacity to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false advertisements are true and do induce the purchasing public to purchase substantial quantities of respondent's products as the result of such belief.

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 March 16, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Phil Howe, an individual, trading as Howe & Co., charging him with

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the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondent, Phil Howe's answer to the complaint, hearings were held before a trial examiner of the Commission theretofore duly designated by it, at the beginning of which hearings a stipulation was entered into between the attorney for the Commission and one of the attorneys for the respondents to the effect that subsequent to the institution of the proceeding respondent Phil Howe had entered into a copartnership with his son, David A. Howe, and his daughter, Joanne B. Howe, under the name Howe & Co.; and it was further stipulated that David A. Howe and Joanne B. Howe be joined as respondents in the proceeding along with respondent, Phil Howe (an order amending the complaint in accordance with the stipulation being subsequently entered by the Commission). Thereupon, the hearings continued as to all of the respondents, and testimony and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission and in opposition thereto by the attorneys for the respondents, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Subsequently, the proceeding regularly came on for final hearing before the Commission on the complaint, the answer of respondent Phil Howe, testimony and other evidence, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (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. The respondents, Phil Howe, David A. Howe, and Joanne B. Howe, are copartners, trading as Howe & Co., with their office and principal place of business located at 1535 Eleventh Avenue, Seattle, Wash. They are now, and respondent Phil Howe for some time last past has been, engaged in the sale and distribution of cosmetic preparations.

PAR. 2. Respondents cause and have caused their preparations, when sold, to be transported from their place of business in the State of Washington to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and have maintained a course of trade in their cosmetic preparations in commerce among and between the various States of the United States and in the District of Columbia.

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PAR. 3. In the course and conduct of his business and for the purpose of inducing the purchase of his cosmetics, respondent Phil Howe has made certain representations with respect thereto, such representations having been made by means of circulars, leaflets, counter display cards and other advertising material, as well as on the labels attached to the containers in which such respondent's products were packaged, displayed, and sold. Among the representations made by such respondent were the following:

CREME MODERNE * * *

Penetrates, cleanses and leaves the skin in perfect condition. * * *

CLEANSING CREAM—CARROT TYPE * * *

A dry skin cleanser which blends with the skin's own oil, inducing lubrication. * * *

CREME NOCTURNE—(TISSUE TYPE) * * *

Rich and nourishing. Corrects the dryness of the skin. * * * Formerly called Tissue Cream.

CREME NOCTURNE—AVOCADO TYPE * * *

For the undernourished skin lacking in Vitamins, this effective night cream stimulates dormant muscles and replenishes waste tissues.

HOLLYWOOD HAND LOTION—HONEY AND ALMOND TYPE * * *

FINISHING CREAM—TURTLE OIL TYPE

Through the use of these statements and representations and others of a similar nature, respondent, Phil Howe, represented that the preparations designated as "Cleansing Cream, Carrot Type," "Creme Nocturne, Avocado Type," and "Hand Lotion, Honey and Almond Type" contained, respectively, the juice, extract or other content of carrots, avocados, and honey and almonds, and that the preparation designated as "Finishing Cream, Turtle Oil Type" contained turtle oil; that the preparation designated "Creme Moderne" penetrated the skin; that the preparation "Cleansing Cream, Carrot Type" induced natural lubrication of the skin; that the preparation "Creme Nocturne, Tissue Type" nourished the skin and tissues and corrected skin dryness; and that the preparation "Creme Nocturne, Avocado Type" nourished the skin with vitamins, stimulated dormant or inactive muscles, and rebuilt tissues.

PAR. 4. The Commission finds that these representations were misleading and deceptive. The preparations designated "Cleansing Cream, Carrot Type," "Creme Nocturne, Avocado Type," and "Hand Lotion, Honey and Almond Type" did not contain, respectively, the juice, extract or other content of carrots, avocados, and honey and almonds, and the preparation designated "Finishing Cream, Turtle Oil Type" did not contain turtle oil. The preparation designated "Creme Moderne" was incapable of penetrating the skin. The prepa-

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ration designated "Cleansing Cream, Carrot Type," did not induce natural lubrication of the skin. The preparation designated "Creme Nocturne, Tissue Type" was incapable of supplying any nourishment to the skin or tissues, or of correcting skin dryness. The preparation "Creme Nocturne, Avocado Type" did not supply any vitamins or other nourishment to the skin, stimulate dormant or inactive muscles, or rebuild tissues.

The evidence shows that after the Commission's investigation had been instituted and the misleading nature of these representations called to respondent Phil Howe's attention, he discontinued the use of the representations.

PAR. 5. One of respondents' principal lines or brands of cosmetics is designated by them as "Howe's Hollywood" cosmetics, and the word "Hollywood" is featured both in respondents' advertising of these preparations and in the labels used for the various items, as: "Howe's Hollywood Creme Nocturne," "Howe's Hollywood Creme Moderne," "Howe's Hollywood Finishing Cream," etc. In connection with the brand name there frequently appears also on the labels the legend, "favorite of the Stars." In small type at the bottom of the labels there appear also the words, "Howe Co. (or other form of the trade name), Seattle, Distributors." The complaint alleges that the trade name "Hollywood" and the legend "favorite of the Stars" are misleading to the public as representing or implying that respondents' cosmetics are manufactured in Hollywood, Calif., the seat of the motion-picture industry, and that the preparations are recognized by leading motion-picture actresses as possessing superior cosmetic properties.

On these points a substantial volume of testimony was introduced, both on behalf of the Commission and on behalf of the respondents. A number of witnesses testified that in their opinion the word "Hollywood" has no particular significance as applied to cosmetics, and that the word is not understood by the purchasing public as implying that the products to which the word is applied are manufactured in Hollywood, Calif. On the other hand, a number of witnesses, including both persons in the trade and members of the consuming public, testified that the word "Hollywood," when used to designate cosmetic preparations, is associated by many persons with the motion-picture industry, and is understood by such persons as indicating that the products so designated are manufactured in Hollywood. The evidence further indicates that while only a small percentage (probably about 3 percent) of the cosmetic preparations sold in the United States are manufactured in Hollywood, Calif., the name is regarded generally by those manufacturers located in Hollywood as a substantial business asset.

Respondents do not manufacture any of their products, but purchase them in bulk from various cosmetic manufacturers and then package, and sell them under their own name. Of the some 20 items sold by respondents under the name "Hollywood," only 3 are obtained from sources in Hollywood, Calif, these three being the face powder, the foundation and mask, and the hand cream. During the first 6 months of 1942, the amount paid by respondents to Hollywood manufacturers for these 3 items was approximately 52.9 percent of the total amount expended by respondents for cosmetics sold by them under the "Hollywood" brand name. The other 17 items sold under this name, constituting approximately 47.1 percent of the total purchases, were obtained by respondents from various manufacturers located at different points in the United States, including Seattle, Wash.; New York City; and Newark, N. J.

After considering all of the evidence offered on this point, the Commission is of the opinion and finds that the word "Hollywood," when used to designate cosmetic preparations, is associated by a substantial portion of the purchasing public with the motion-picture industry and is understood by such members of the public as indicating that the cosmetics so designated were manufactured in Hollywood, Calif. In the case of respondents' preparations this impression is further strengthened as a result of the use of the legend "favorite of the Stars" in connection with the word "Hollywood." The evidence further shows that there is a preference on the part of a substantial portion of the public for cosmetics having their origin in Hollywood over those manufactured elsewhere.

Respondents insist that the words "Howe Co., Seattle, Distributors," which appear on their labels, are sufficient to apprise prospective purchasers of the fact that respondents' business is located in Seattle, Wash., and to remove any erroneous impression which might otherwise be conveyed through the use of the name "Hollywood." These words, however, are printed in small and inconspicuous type, and would probably escape the notice of the average purchaser. Moreover, due to the inclusion of the word "Distributors," prospective purchasers could reasonably conclude that the products are manufactured in Hollywood and distributed by a Seattle concern. Finally, the Commission is of the opinion that the word "Seattle," in the circumstances, is inconsistent with and contradictory of the word "Hollywood" and is therefore incapable of correcting the erroneous impression created by the latter word. Those members of the public who understand the word "Hollywood" as indicating the place of origin of respondents' products could only be confused by the addition of the word "Seattle." Such persons could believe one, but not both, of the representations.

The Commission therefore finds that the use by respondents of the word "Hollywood" to designate or describe any of their products which

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is not in fact manufactured in Hollywood, Calif., is misleading and deceptive to a substantial portion of the purchasing public. The Commission finds further that respondents' preparations are not recognized by leading motion-picture actresses as possessing superior cosmetic properties. The legend "favorite of the Stars" is therefore misleading and deceptive.

PAR. 6. The use by respondents of the misleading and deceptive representations herein set forth has had and has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the properties and origin of respondents' products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondents' products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondents as herein found 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, the answer of respondent, Phil Howe, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Phil Howe, David A. Howe, and Joanne B. Howe, individually and trading as Howe & Co., or trading under any other name, and their agents, representatives, and other employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of respondents' cosmetic preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Hollywood," or any abbreviation or simulation thereof, to designate or describe any product which is not in fact manufactured in Hollywood, Calif.; or otherwise representing, directly or by implication, that any product is manufactured in Hollywood, Calif., when such is not the fact.

2. Using the words "favorite of the Stars," or any other words of similar import, to designate or describe respondents' product; or

otherwise representing, directly or by implication, that respondents' products are recognized by leading motion-picture actresses as possessing superior cosmetic properties.

It is further ordered, That respondent, Phil Howe, individually and trading as Howe & Co., or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of respondents' cosmetic preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

3. Using the word "Carrot" or the words "Carrot Type," or any other word or words of similar import, to designate or describe any product which does not in fact contain the juice, extract, or other content of carrots.

4. Using the word "Avocado" or the words "Avocado Type," or any other word or words of similar import, to designate or describe any product which does not in fact contain the juice, extract, or other content of avocados.

5. Using the words "Honey and Almond" or "Honey and Almond Type," or any other words of similar import, to designate or describe any product which does not in fact contain honey and the extract or other content of almonds.

6. Using the words "Turtle Oil" or "Turtle Oil Type," or any other words of similar import, to designate or describe any product which does not in fact contain turtle oil.

7. Representing, directly or by implication, that respondents' product designated "Creme Moderne" penetrates the skin.

8. Representing, directly or by implication, that respondents' product formerly designated "Cleansing Cream, Carrot Type" induces natural lubrication of the skin.

9. Representing, directly or by implication, that respondents' product formerly designated "Creme Nocturne, Tissue Type" nourishes the skin or tissues, or corrects skin dryness.

10. Representing, directly or by implication, that respondents' product formerly designated "Creme Nocturne, Avocado Type" supplies vitamins or other nourishment to the skin, stimulates dormant or inactive muscles, or rebuilds tissues.

11. Representing, directly or by implication, that any of respondents' products contains ingredients which it does not in fact contain or that any of such products possesses properties which it does not in fact possess.

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

IN THE MATTER OF
MCNEIL DRUG COMPANY, INC., AND ASSOCIATED
ADVERTISING AGENCY, INC.

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

Docket 4923. Complaint, Mar. 4, 1943—Decision, May 6, 1943

Where a corporation, engaged in the competitive interstate sale and distribution of a medicinal preparation which it variously designated as "Magic Remedy," "McNeil's Magic Remedy," and "McNeil's Magic Remedy Brand"; and the advertising agency which prepared and aided in the preparation and circulation of the advertising matter used in connection therewith; by means of statements in newspapers and periodicals, in circulars, leaflets, letterheads, and other printed matter, and by radio broadcasts, directly and by implication—

- (a) Represented that said "Magic Remedy" was a remedy and effective treatment for rheumatism, neuritis, lumbago, gout, glandular swellings, backache and pains associated therewith, and for pains in the bones, muscles, and legs;
- (b) Represented that it would straighten limbs drawn out of shape by rheumatism and accomplish beneficial results in cases of rheumatism not possible through the use of other medicinal preparations and through treatment by doctors; and
- (c) Represented that it stimulated the entire glandular system, including the kidneys and liver; was an effective blood purifier, would remove uric acid and other impurities from the blood, and make thin blood rich and healthy; and acted as a tonic, built up resistance to weather conditions, strength and vigor, drove out disease, and assured good health;

The facts being that, while it had a mild analgesic action and would reduce the perception of minor pains associated with conditions above set forth, it would not significantly influence the more severe pains arising therefrom; and it did not have the qualities, and would not accomplish the results otherwise claimed for it, as above set forth; and

- (d) Failed to reveal facts which were material in the light of aforesaid representations, or with respect to the consequences which might result from the use thereof under prescribed or usual conditions, in that as a laxative it was potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramps, nausea, vomiting, or other symptoms of appendicitis, and in that, by virtue of its potassium iodide content, it should not be used by those suffering from goiter, or either active or arrested tuberculosis;
- With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said representations were true, thereby causing its purchase thereof; 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 and injury of the public and competitors, and constituted unfair methods of competition in commerce, and unfair and deceptive acts and practices therein.

Mr. R. P. Bellinger for the Commission.

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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 McNeil Drug Co., Inc., a corporation, and Associated Advertising Agency, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, McNeil Drug Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business in Jacksonville, Fla.

The said respondent is now and for many years last past has been engaged in the sale and distribution in commerce of a certain medicinal preparation variously designated as "Magic Remedy," "McNeil's Magic Remedy," and "McNeil's Magic Remedy Brand."

In the course and conduct of its said business, respondent, McNeil Drug Co., Inc., causes and has caused its said preparation when sold to be transported from its said place of business in the State of Florida to purchasers thereof located in various other States of the United States and in the District of Columbia.

This respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, Associated Advertising Agency, Inc., is a Florida corporation, with its office and principal place of business in Jacksonville, Fla. This respondent is an advertising agency, engaged in preparing, editing, disseminating and causing to be published advertising material for its patrons, and as such is the advertising representative of the respondent, McNeil Drug Co., Inc., and prepares and has prepared and aids and has aided in the preparation and circulation of the advertising matter used in the manner hereinafter set forth, in connection with the sale and distribution in commerce of the said medicinal preparation. The said respondents above named act and have acted in full cooperation with one another in the performance of the acts and practices herein alleged.

PAR. 3. In the course and conduct of its aforesaid business, respondent, McNeil Drug Co., Inc., is now and at all times mentioned herein has been in substantial competition with other corporations and with firms, partnerships, and individuals engaged in the sale and

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distribution in commerce between and among the various States of the United States and in the District of Columbia of medicinal preparations designed and compounded for use in the treatment of the diseases, maladies, and conditions for which its said preparation is recommended by respondents.

PAR. 4. In furtherance of the sale and distribution of the above-designated medicinal preparation, and for the purpose of inducing the purchase of said preparation by the purchasing public, respondents have disseminated and are now disseminating and have caused and are now causing the dissemination of false advertisements by United States mail, by insertions in newspapers and periodicals having general circulation, and also in circulars, leaflets, letterheads, and other printed matter, all of which are distributed in commerce between and among the various States of the United States and in the District of Columbia, and by continuities broadcast from radio stations which have sufficient power to and do convey the programs emanating therefrom to listeners located in various States of the United States other than the States from which said broadcasts originate, and by other means, in commerce as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid are the following:

McNeill's Magic Remedy is all that its name implies—a perfect remedy for rheumatism, neuritis, lumbago, gout, glandular swellings and pains in the bones and muscles. It stimulates the entire glandular system, embracing the kidneys and liver. It is now recognized everywhere as the most trustworthy Blood Purifier.

I suffered from Rheumatism for three years but am thankful to say that McNeill's Magic Remedy cured me.

For 20 years I had Rheumatism and after taking three small bottles of McNeill's Remedy my pains have almost gone.

Why endure the misery and discomfort of muscular aches and pains when you can get blessed relief with McNeill's Magic Remedy? Try this fine Old-Fashioned remedy. A favorite with rheumatism, neuritis and lumbago sufferers since 1901.

There is no need to suffer the misery of backaches and leg pains caused by rheumatism, lumbago, and neuritis.

Be prepared for the muscular aches and pains that often come at this time of the year. Build up your resistance with McNeill's Magic Remedy, a favorite blood purifier and tonic since 1901. Gives blessed relief from rheumatism and neuritis pains.

McNeill's Magic Remedy has done for me what two doctors, one specialist and four or five different rheumatic remedies failed to do. I have suffered for eighteen months more than I can tell you. I used three bottles and a half of your remedy and am now practically free from pain.

I was laid up with rheumatism; pains in my legs, and the leg drawn up so I couldn't walk. Had a doctor and took his medicine without benefit. A relative

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advised me to try McNeil's Magic Remedy. I took one bottle and my pain all left. I continued the treatment and after taking four bottles, I was as well as ever, the leg straight and I was working as usual.

Enjoy Life again—Take MCNEIL'S MAGIC REMEDY For Pleasant Relief From RHEUMATISM and NEURITIS Through Blood Purification.

Gives relief by helping nature expel blood impurities.

McNeil's Magic Remedy eradicates uric acid and other impurities from the blood.

McNeil's Magic Remedy, a recognized remedy for rheumatic and neuritis sufferers and a perfect blood purifier. Makes thin blood rich and healthy. Builds strength and vigor. Always effective. Why suffer?

* * * builds up and strengthens the whole system while it drives out disease.

Take McNeil's MAGIC REMEDY and Enjoy Good Health.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondents represent and have represented, directly and by implication, that said medicinal preparation "McNeil's Magic Remedy" is a cure and remedy for rheumatism, neuritis, lumbago, gout, glandular swellings, backache, and the pains associated with such conditions and pains in the bones, muscles, and legs, and constitutes a competent and effective treatment for such conditions; that it will straighten limbs drawn out of shape because of rheumatism and will accomplish beneficial results in cases of rheumatism not possible through the use of other medicinal preparations and through treatments administered by members of the medical profession; that it stimulates the entire glandular system, including the kidneys and liver; that said product is an effective blood purifier, will remove uric acid and other impurities from the blood and makes thin blood rich and healthy; that it acts as a tonic, builds up resistance to weather conditions, builds strength and vigor, drives out disease, and assures good health.

PAR. 6. The aforesaid statements and representations are false, misleading and deceptive. In truth and in fact, said preparation is not a cure or remedy for rheumatism, neuritis, lumbago, gout, glandular swellings, backache, pains in the bones, muscles, and legs and does not constitute a competent and effective treatment therefor. While said preparation has a mild analgesic action and will reduce the perception of minor pains associated with the aforesaid conditions, it will not significantly influence the more severe pains arising out of any of said conditions. Its use will not straighten out limbs drawn out of shape by rheumatism and will not accomplish beneficial results in cases of rheumatism which are possible through the use of other medicinal preparations or by reason of treatment by members of the medical profession. Said preparation will not stimulate the entire

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glandular system and will have no significant stimulating effect upon the kidneys and liver. Said product will not purify the blood, will not remove uric acid and other impurities from the blood and will not make thin blood rich and healthy. It has no significant value as a tonic, will not build up resistance to weather conditions, will not build strength and vigor nor drive out disease and its use will not assure good health.

The use by the respondents of the word "Magic" as a part of the trade names, "Magic Remedy," "McNeil's Magic Remedy," and "McNeil's Magic Remedy Brand," and otherwise, is misleading and deceptive in that it serves as a representation, in itself, that said preparation possesses unusual and extraordinary properties, which is contrary to the fact.

PAR. 7. The advertisements disseminated as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations or material with respect to the consequences which may result from the use of the preparation to which the advertisements relate under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact, said preparation is a laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramps, colic, nausea, vomiting, or other symptoms of appendicitis. Furthermore, said preparation contains the drug potassium iodide and should not be used by persons suffering from goitre or either active or arrested tuberculosis.

PAR. 8. The use by respondents of the aforesaid false and misleading and deceptive statements and representations in the manner 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 the said statements, representations, and advertisements are and were true, and because of such erroneous and mistaken belief, to purchase substantial quantities of said preparation. As a result thereof trade has been diverted unfairly to the respondent, McNeil Drug Co., Inc., from its competitors in commerce. In consequence thereof injury has been and is now being done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 9. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice and injury of the public and to competitors of the respondent, McNeil Drug Co., Inc., and constitute unfair methods of competition in commerce and 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 the 4th day of March 1943, issued and subsequently served its complaint in this proceeding upon the respondents, McNeil Drug Co., Inc., a corporation, and Associated Advertising Agency, Inc., a corporation, charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 31st day of March 1943 the respondents filed their answer, in which answer they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to the said facts, except that the respondents deny that the use of the trade names "Magic Remedy," McNeil's Magic Remedy," and McNeil's Magic Remedy Brand" and the use of the word "Magic" otherwise, represent that their preparation possesses magical properties and constitutes a magic treatment; and respondents further deny that such usage of said trade names and the word "Magic" is misleading or deceptive. Thereafter the proceeding regularly came on for final hearing before the Commission on said complaint and respondents' answer thereto, 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, McNeil Drug Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business in Jacksonville, Fla.

The said respondent is now, and for many years last past has been, engaged in the sale and distribution in commerce of a certain medicinal preparation variously designated as "Magic Remedy," "McNeil's Magic Remedy," and "McNeil's Magic Remedy Brand." In the course and conduct of its said business, respondent, McNeil Drug Co., Inc., causes and has caused its said preparation, when sold, to be transported from its said place of business in the State of Florida to purchasers thereof located in various other States of the United States and in the District of Columbia. This respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, Associated Advertising Agency, Inc., is a Florida corporation, with its office and principal place of business in Jacksonville, Fla. This respondent is an advertising agency, engaged in preparing, editing, disseminating, and causing to be published, advertising material for its patrons and, as such, is the advertising representative of the respondent, McNeil Drug Co., Inc., and prepares and has prepared, and aids and has aided in the preparation and circulation of, the advertising matter used in the manner hereinafter set forth, in connection with the sale and distribution in commerce of the said medicinal preparation. The said respondents above-named act and have acted in full cooperation with one another in the performance of the acts and practices herein set forth.

PAR. 3. In the course and conduct of its aforesaid business, respondent, McNeil Drug Co., Inc., is now, and at all times mentioned herein, has been, in substantial competition with other corporations and with firms, partnerships, and individuals 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 medicinal preparations designed and compounded for use in the treatment of the diseases, maladies, and conditions for which its said preparation is recommended by respondents.

PAR. 4. In furtherance of the sale and distribution of the above-designated medicinal preparation, and for the purpose of inducing the purchase of said preparation by the purchasing public, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements by United States mail, by insertions in newspapers and periodicals having general circulation, and also in circulars, leaflets, letterheads, and other printed matter, all of which are distributed in commerce between and among the various States of the United States and in the District of Columbia, and by continuities broadcast from radio stations which have sufficient power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the States from which said broadcasts originate, and by other means, in commerce as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid are the following:

McNeill's Magic Remedy is all that its name implies—a perfect remedy for rheumatism, neuritis, lumbago, gout, glandular swellings and pains in the bones and muscles. It stimulates the entire glandular system, embracing the kidneys and liver. It is now recognized everywhere as the most trustworthy Blood Purifier.

I suffered from Rheumatism for three years but am thankful to say that McNeil's Magic Remedy cured me.

For 20 years I had Rheumatism and after taking three small bottles of McNeil's Remedy my pains have almost gone.

Why endure the misery and discomfort of muscular aches and pains when you can get blessed relief with McNeil's Magic Remedy? Try this fine Old-Fashioned remedy. A favorite with rheumatism, neuritis and lumbago sufferers since 1901.

There is no need to suffer the misery of backaches and leg pains caused by rheumatism, lumbago and neuritis.

Be prepared for the muscular aches and pains that often come at this time of the year. Build up your resistance with McNeil's Magic Remedy, a favorite blood purifier and tonic since 1901. Gives blessed relief from rheumatism and neuritis pains.

McNeil's Magic Remedy has done for me what two doctors, one specialist and four or five different rheumatic remedies failed to do. I have suffered for eighteen months more than I can tell you. I used three bottles and a half of your remedy and am now practically free from pain.

I was laid up with rheumatism; pains in my legs, and the leg drawn up so I couldn't walk. Had a doctor and took his medicine without benefit. A relative advised me to try McNeil's Magic Remedy. I took one bottle and my pain all left. I continued the treatment and after taking four bottles, I was as well as ever, the leg straight and I was working as usual.

Enjoy Life again—Take MCNEIL'S MAGIC REMEDY For Pleasant Relief From RHEUMATISM and NEURITIS Through Blood Purification.

Gives relief by helping nature expel blood impurities.

McNeil's Magic Remedy eradicates uric acid and other impurities from the blood.

McNeil's Magic Remedy, a recognized remedy for rheumatic and neuritis sufferers and a perfect blood purifier. Makes thin blood rich and healthy. Builds strength and vigor. Always effective. Why suffer?

. . . builds up and strengthens the whole system while it drives out disease.

Take McNeil's MAGIC REMEDY and Enjoy Good Health.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondents represent and have represented, directly and by implication, that said medicinal preparation "McNeil's Magic Remedy" is a cure and remedy for rheumatism, neuritis, lumbago, gout, glandular swellings, backache and the pains associated with such conditions, and pains in the bones, muscles, and legs, and constitutes a competent and effective treatment for such conditions; that it will straighten limbs drawn out of shape because of rheumatism and will accomplish beneficial results in cases of rheumatism not possible through the use of other medicinal preparations and through treatments administered by members of the medical profession; that it stimulates the entire glandular system, including the kidneys and liver; that said product is an effective blood purifier, will remove uric acid and other impurities from the blood, and make thin blood rich and healthy; that it acts as a

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tonic, builds up resistance to weather conditions, builds strength and vigor, drives out disease, and assures good health.

PAR. 6. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, said preparation is not a cure or remedy for rheumatism, neuritis, lumbago, gout, glandular swellings, backache, pains in the bones, muscles, and legs and does not constitute a competent and effective treatment therefor. While said preparation has a mild analgesic action and will reduce the perception of minor pains associated with the aforesaid conditions, it will not significantly influence the more severe pains arising out of any of said conditions. Its use will not straighten out limbs drawn out of shape by rheumatism and will not accomplish beneficial results in cases of rheumatism which are not possible through the use of other medicinal preparations or by reason of treatment by members of the medical profession. Said preparation will not stimulate the entire glandular system and will have no significant stimulating effect upon the kidneys and liver. Said product will not purify the blood, will not remove uric acid and other impurities from the blood, and will not make thin blood rich and healthy. It has no significant value as a tonic, will not build up resistance to weather conditions, will not build strength and vigor nor drive out disease, and its use will not assure good health.

PAR. 7. The advertisements disseminated as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations or material with respect to the consequences which may result from the use of the preparation to which the advertisements relate under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact, said preparation is a laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramps, colic, nausea, vomiting, or other symptoms of appendicitis. Furthermore, said preparation contains the drug potassium iodide and should not be used by persons suffering from goiter or either active or arrested tuberculosis.

PAR. 8. The use by respondents of the aforesaid false and misleading and deceptive statements and representations in the manner 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 the said statements, representations, and advertisements are and were true, and causes members of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of said preparation. As a result thereof trade has been diverted unfairly to the respondent, McNeil Drug Co., Inc., from its competitors in commerce.

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CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury of the public and of competitors of the respondent, McNeil Drug Co., Inc., and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondents, in which answer respondents admitted all the material allegations set forth in said complaint and waived all intervening procedure and further hearing as to said facts, except that respondents deny that the use of the word "Magic" is misleading or deceptive; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, McNeil Drug Co., Inc., a corporation, and Associated Advertising Agency, Inc., a corporation, and their respective officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of the medicinal preparation sold and distributed by respondent, McNeil Drug Co., Inc., which is variously described and designated as "Magic Remedy," "McNeil's Magic Remedy," or "McNeil's Magic Remedy Brand," or any other medicinal preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other name or names, 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 said preparation is a cure or remedy for rheumatism, neuritis, lumbago, gout, glandular swellings, backache, or pain in the bones, muscles, or legs; that it constitutes a competent or effective treatment for any of such diseases or conditions or that it has any therapeutic value in alleviating any pain associated with such conditions in excess of that afforded by a mild analgesic, which will reduce the perception of minor pains but not significantly influence the more severe pains arising out of any such conditions.

b. That said preparation has any value in straightening out limbs drawn out of shape by rheumatism.

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c. That said preparation can accomplish any beneficial results which cannot be accomplished through the use of other medicinal preparations or by treatment by members of the medical profession.

d. That said preparation will stimulate the entire glandular system or have any significant stimulating effect upon the kidneys or liver.

e. That said preparation will purify the blood, remove uric acid or other impurities from the blood, or make the blood rich and healthy.

f. That said preparation has any significant value as a tonic or that the use of said preparation will build up resistance to weather conditions, build strength and vigor, drive out disease, or assure good health.

2. 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 fails to reveal that respondents' preparation should not be used in cases of nausea, vomiting, abdominal pains, or other symptoms of appendicitis or that it should not be used by persons suffering from goiter or either active or arrested tuberculosis; provided, however, that if the directions for use, wherever they appear, on the label, in the labeling, or both on the label and in the labeling, contain a warning of the potential dangers in the use of said preparation as hereinabove set forth, such advertisements need contain only the cautionary statement, "CAUTION: Use only as directed."

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

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IN THE MATTER OF

BRISTOL-MYERS COMPANY

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

Docket 3645. Complaint, Oct. 15, 1940¹—Decision, May 7, 1943

Where a corporation engaged in interstate sale and distribution of its "Sal Hepatica" laxative, in statements in newspapers, periodicals, and radio broadcasts—

Falsely represented that its said preparation, among other things, would correct systemic acidity and restore the alkaline reserve of the body; constituted an effective treatment or cure for cold and the etiological factors thereof, and for rheumatism, arthritis and neuritis; would free the intestinal tract of poisons and toxins; was an effective treatment for upset stomach, indigestion, fatigue, nervousness, and headaches; and would enable one to stay clear-headed and alert, and be one's normal, healthy self;

The facts being that it would not correct systemic as distinguished from gastric acidity or restore the alkaline reserve of the body, would not exercise any direct or specific curative effect upon the etiological factors of a cold, or free the intestinal tract of poisons or toxins except for such benefit as might follow evacuation of the lower intestinal tract; would not furnish any relief for upset stomach conditions beyond reducing gastric acidity, and was not an effective treatment or cure for indigestion although it might bring temporary relief for discomforts arising from occasional dietary indiscretion; was not a competent treatment for headaches and would not enable one to stay clear-headed, alert, and be one's normal healthy self except as evacuation of the lower intestinal tract might accomplish such results;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the therapeutic properties and value of its preparation and to cause it to purchase substantial quantities thereof as a result of the erroneous belief so engendered:

Held, That such acts and practices, under the circumstances above set forth, were all to the injury and prejudice of the public and constituted unfair methods of competition.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Morton Nesmith and *Mr. Carl Stecher* for the Commission.

Mr. Isaac W. Diggles, of New York City, for respondent.

SUPPLEMENTAL AND AMENDED 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 the Bristol-Myers Co., a corporation, hereinafter referred to as respondent, has vio-

¹ Supplemental and amended.