

Complaint

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. Digges, 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.

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lated 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 amended and supplemental complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Bristol-Myers Co., is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located in the city of Hillside, State of New Jersey. Respondent also maintains offices in the International Building, Rockefeller Center, in the city of New York, State of New York.

Said respondent, is now, and for more than 1 year last past, has been, engaged in the sale and distribution of an effervescent salt known as "Sal Hepatica" in commerce between and among the several States of the United States and in the District of Columbia.

Said respondent, being engaged in the business as aforesaid, caused and still causes its said product, when sold, to be transported from its principal place of business in the city of Hillside, State of New Jersey, to purchasers thereof located in the States of the United States other than the State of New Jersey and in the District of Columbia. For more than 1 year last past, said respondent has maintained a course of trade in the aforesaid product so sold and distributed by it in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, the respondent, is now, and for the time mentioned herein has been, in substantial competition with other corporations, and with individuals, partnerships, and firms engaged in the business of selling and distributing effervescent salts and other preparations designed for similar usage in commerce among and between the several States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid and for the purpose of inducing the purchase of its product, the respondent has caused various statements, claims, representations, radio continuities, and script purporting to be descriptive of said product and its curative and therapeutic properties to be published in newspapers, magazines, and periodicals distributed and circulated between and among the various States of the United States and in the District of Columbia and to be broadcasted over radio stations. The following, among others, are some of the claims, statements, and representations so made by respondent:

SAL HEPATICA promotes intestinal purification by combating constipation and clearing away "stoppage".

Our modern food inaction, excitement, the strain of everyday life—frequently

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induce conditions which bring about constipation, and constipation may bring about even more serious trouble.

CLEANSE SYSTEM THOROUGHLY.

COUNTERACT ACID CONDITION.

For quicker relief of colds, take SAL HEPATICA at once. Its two-way action not only cleanses the system but also corrects the acid condition which always aggravates cold. * * *

So, at the first sign of cold, take Sal Hepatica to cleanse your system and to correct acidity—get plenty of rest and quiet (go to bed if your cold is severe)—watch your diet and drink plenty of liquids. That is the scientific way to treat colds successfully.

The mineral Salt Laxative—That corrects acidity.

Absolutely, you see you have an acid condition, too, throughout your system when you have a cold. You must correct that if you want to get well in a hurry. And Sal Hepatica corrects acidity too. That first dose * * * two teaspoonfuls in a glass of water * * * cleanses your system and gives you a big start toward counteracting acidity. Then, by continuing with smaller doses of Sal Hepatica every day, for awhile, as many physicians recommend, you restore your alkaline reserve to normal, build up your resistance, keep free of poisonous wastes, and throw off that cold so much more quickly.

In treating COLDS—Here is the first step—to quick relief—CLEAN OUT SYSTEM—COUNTERACT ACIDITY—SAL HEPATICA DOES BOTH!—* * * quickly, surely, cleanses system—combats acidity, tends to restore alkaline reserve.

* * * and combat the systemic acidity that always accompanies colds.

Almost at once the Alkaline reaction of this remarkably different laxative begins to counteract your acid condition * * * to overcome your cold.

AS AN ALKALINIZER—Such troubles as unnatural fatigue, upset stomach, as well as rheumatism, arthritis, and neuritis are often associated with or aggravated by an acid condition. Sal Hepatica, in small doses ($\frac{1}{2}$ teaspoon to glass of water) is an ideal alkalizing agent with only slight laxative action. Taken regularly in these alkalizing doses, it acts to correct the acid condition that is causing or aggravating your trouble.

What's the matter in such cases as that, my friends? Why that dull logy condition? Two causes: Poisonous wastes in your body and an acid condition throughout your system.

Consequently * * * we advise you to take a dose of Sal Hepatica the mineral salt laxative when you feel like that * * * two teaspoonfuls in a glass of water. For Sal Hepatica is the one laxative that both rids your body of harmful wastes and also combats acidity * * *

THEY ALL TOOK A LAXATIVE—BUT THAT DID ONLY HALF THE JOB—

PHOTOGRAPH
(of a woman)
HEADACHE
HANGS ON

PHOTOGRAPH
(of a man)
STOMACH STILL
UPSET

PHOTOGRAPH
(of a woman)
STILL FEELS
LISTLESS

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To relieve these effects of Constipation ACIDITY must also be corrected.

Frequently the disagreeable effects of constipation hang on and on * * * long after your laxative has cleansed your intestinal tract of clogging wastes! The reason for this is simple. The usual laxative does cleanse your intestinal tract, but it is not designed to correct the systemic acidity that frequently accompanies constipation. What an amazing difference in the way you feel when BOTH of these conditions are corrected.

HE doesn't know that LAXATIVE ACTION IS NOT ENOUGH—(Photograph of a man)—THAT LAXATIVE WORKED—WHY DON'T I FEEL BETTER?

Acidity accompanies constipation. It also must be CORRECTED! How Sal Hepatica, unlike ordinary laxatives, does both—cleanses the intestinal tract, and corrects acid condition.

RECOMMENDED BY—DOCTORS FOR MORE THAN—40 YEARS FOR—COLDS—HEADACHES—Indigestion—UPSET STOMACH—NERVOUSNESS—UNNATURAL FATIGUE.

* * * If you want to clear up that headache quickly * * * to lose that "tired", logy feeling * * * you must, doctors agree, do these two things: CLEANSE YOUR SYSTEM AND CORRECT THE ACIDITY THAT ACCOMPANIES CONSTIPATION.

Ordinary laxative cleansed his system—but failed to correct acidity * * * STILL FEELS "HALF SICK". (Photograph of a man with "half-sick" expression). SAL HEPATICA cleansed his system AND corrected his acidity * * * FEELS LIKE A NEW MAN! (Photograph of a man with smiling expression).

If you want REAL relief from the headaches * * * the listlessness * * * the "tired feeling" * * * and other miserable effects of constipation, you must do these two things. Cleanse your system of clogging wastes—and combat the acidity that accompanies constipation.

STOP THAT COLD QUICKLY with this basic treatment.

LET US SHOW YOU * * * in 1, 2, 3 * * * WHY SAL HEPATICA HELPS THE SYSTEM THROW OFF A COLD.—(Man's photograph.)

1. HERE'S A MAN WHO IS NOT APT TO CATCH COLD—As you know, the normal bloodstream is usually alkaline. As long as it remains alkaline, colds seldom take hold. (Man's photograph.)

2. HERE'S A MAN WHO—CATCHES COLD EASILY—bad diet, over-indulgence, fatigue change the system to acid—and in an acid system cold germs take hold and multiply. Soon the victim becomes achey, heavy-headed. And in he comes to you with "Doc, what'll I do? I've got a cold and no mistake!" (Man's photograph.)

3. HERE'S HOW SAL HEPATICA FIGHTS A COLD TWO WAYS—now as you know, the modern way to lick his cold is to do two things:

1.—cleanse the system.

2.—combat the acidity that encourages a cold.

SAL HEPATICA DOES BOTH!

Not only does Sal Hepatica rid the intestines of wastes—quickly and thoroughly—but Sal Hepatica quickly brings about a definite alkaline (anti-acid) reaction, to help the system swing back towards its normal alkaline reserve.

When you feel a cold coming on * * * or if you have a cold and don't want it to get any worse * * * drink a glass of Sal Hepatica.

SAL HEPATICA * * * ready to help you back to buoyant health * * * in just a little while.

SAL HEPATICA * * * and stay, clear headed, alert, your healthy, normal self.

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It is thorough * * * helps regulate the balance of body fluids.

If your system has not been quite normal * * * and maybe you feel a trace of listlessness tonight * * * or perhaps the first warnings of a cold * * * a sick headache or upset stomach perhaps * * * just do this, first thing tomorrow morning. Put two teaspoonfuls of Sal Hepatica in a glass of water * * * Drink it * * * and in almost no time, you might say, you'll rid yourself of poisonous wastes * * *.

Moderns know you need a laxative that combats GASTRIC ACIDITY too * * * helping nature combat acidity.

Because Sal Hepatica is both a laxative and anti-acid, in addition to gently bringing you quick relief Sal Hepatica also helps nature counteract gastric acidity which naturally gives you a far faster comeback.

* * * because anyone who is catching a spring cold can always depend on Sal Hepatica, and I hope every single person who has the slightest suggestion of a cold has Sal Hepatica in the medicine cabinet.

* * * and Sal Hepatica is not only a laxative * * * quick and gentle * * * but it helps nature counteract that acidity. So you see Sal Hepatica helps fight a cold two ways.

The *reason* that Sal Hepatica is so *effective* is that when you have a cold * * * it gets after the two conditions that are usually present * * * and does it at once * * * for Sal Hepatica not only removes accumulated waste * * * but also helps nature counteract the acidity that so frequently accompanies colds * * *.

Take Sal Hepatica for a cold.

(Picture of a drug or prescription clerk holding a package of Sal Hepatica.)

The Man: I know many people take a laxative when a cold comes—always have—so how are you different?

Answer: Because I help Nature counteract acidity, help to build up the alkaline reserve so important in the body's defense against colds.

It's a "Modern" among cold remedies. That's why Sal Hepatica sales soar when winter comes. * * *

That's why many doctors recommend Sal Hepatica, for Sal Hepatica does both.

While Sal Hepatica is cleansing the intestines—quickly, gently, this mineral salt laxative is also bringing about an alkaline (anti-acid) reaction to help Nature restore the alkaline reserve that seems necessary to buoyant health.

If you'll get after your cold at its very beginning, with Sal Hepatica, you'll be doing it in a mighty effective * * * and quick way. Because Sal Hepatica does the *two* very things that so many physicians say should be done in successfully fighting a cold. As a laxative Sal Hepatica removes accumulated waste—both quickly and gently * * * and, *at the same time*—it *also* helps Nature counteract the acidity that so frequently accompanies a cold.

I got rid of that cold. Certainly glad you knew about Sal Hepatica.

You'll never know how effective Sal Hepatica is for colds until you've tried it.

Remember the next time you wake up feeling dull, lopy and not fit to live with, and when you see how quickly you are feeling alert, alive and more like your own normal self again—you'll be mighty glad you remembered Sal Hepatica—for that smile of health.

Practically everyone agrees that when you have a cold you should drink plenty of water. And you'll find that at the first sign of a cold * * * at the first warning snifle or sneeze * * *. It's an even better idea, to drink a glass

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of water with two teaspoonfuls of sparkling Sal Hepatica in it. For Sal Hepatica is the famous saline laxative that helps fight colds *faster* * * *. First, Sal Hepatica is *speedy*—yet it's very gentle * * * and speed is mighty important in fighting any cold. Second, Sal Hepatica *also* helps nature counteract the acidity which so often accompanies a cold.

So if your husband comes home from work sniffing or sneezing—or for that matter, *any* time *any* one in your family feels a cold coming on * * * get after that cold immediately with sparkling Sal Hepatica * * * famous saline laxative that helps fight colds faster * * *. First, Sal Hepatica is *speedy*—yet it's very gentle * * * and you know how important speed is in fighting any cold. Second, Sal Hepatica also helps nature counteract the acidity that so frequently accompanies a cold.

So at the first sign of a cold * * * do the wise thing * * * and get after it *immediately* with a glass of sparkling Sal Hepatica * * * famous saline laxative that helps fight colds faster * * *. First, Sal Hepatica gives you *speedy*—yet gentle relief * * * and since the progress of a cold is quick the greater speed of Sal Hepatica is mighty important in fighting it. Second, Sal Hepatica also helps nature counteract the acidity which so often accompanies a cold.

Ah! There *is* something you can do about a spring cold, ladies and gentlemen—and it's *different*—take sparkling Sal Hepatica to help fight that cold faster. There are two very good reasons why it does, and you can check them with your own doctor—. First, Sal Hepatica is *speedy*—yet it's very gentle and speed is mighty important in fighting a cold. Second, * * * and *just* as important this famous saline laxative also helps Nature counteract the acidity that so frequently accompanies a cold * * * so far faster action against colds—get a bottle of prompt—quick acting Sal Hepatica at any drug store.

Chase a COLD faster
with *Sal Hepatica**

(Picture of man and wife, wife sniffing)

Mrs.: Darling, these Cotton Ball costumes are swell, but there isn't any use in trying mine on—I'll be down with a cold the night of the Ball.

Mr.: Not if I can help it! What you need is a saline laxative to give you double-quick, two-way help—Sal Hepatica.

(Picture of husband handing wife glass of
Sal Hepatica—wife still sniffing)

Mrs.: Sal Hepatica? Two-way help?

Mr.: You bet! First, Sal Hepatica is gentle in its laxative action, yet it acts fast—and I don't need to tell you that speed is mighty important in fighting a cold. And second, Sal Hepatica helps Nature counteract the acidity that often accompanies a cold.

(Picture several days later, husband
bowing to wife—wife in costume
smiling, not sniffing.)

Mr.: Honey, you're the queen of the Ball. Take a bow!

Mrs.: Take one yourself. I'd probably be down with a cold if you hadn't

known about that saline laxative, Sal Hepatica. It certainly chases colds faster!

Fight a COLD two ways
with *Sal Hepatica**

(Picture of husband and wife, husband
sniffing.)

Mr.: This is a cold, darling, and no mistake. I didn't dare stay out to practice any longer—in fact, I'll bet I'm in bed the day of the ski jump contest.

Mrs.: You're going to bed now, m'love—but first I'm going to give you a saline laxative with a swift, two-way help—Sal Hepatica.

(Picture of wife handing husband glass of
Sal Hepatica—husband still sniffing.)

Mr.: Swift? Two-way? Sal Hepatica must be *different*!

Mrs.: Different is right! First, Sal Hepatica is gentle in its laxative action, yet it acts fast—and I don't need to tell you that speed is important in fighting a cold. And second, Sal Hepatica helps Nature counteract the acidity that often accompanies a cold.

(Several days later, picture of man and
wife—husband holding trophy cup,
smiling, not sniffing.)

Mrs.: Oh, darling, what a jump you made! You'll be in the Olympics, next!

Mr.: You ought to get the cup, dear, because I'd probably be still down with a cold, if it hadn't been for that saline laxative, Sal Hepatica.

Whenever you feel sluggish, headachy, under the weather . . . put two teaspoonfuls of Sal Hepatica in a glass of water and drink it. Remember, the better you feel . . . the better work you do . . . and the more successful you are. And you feel better faster . . . when you take gentle, quick-acting **SAL HEPATICA**!

And, ladies and gentlemen, we sincerely hope you've *all* made that discovery. If you haven't—begin by checking the two reasons sparkling Sal Hepatica helps fight colds faster with your own doctor. First, Sal Hepatica is speedy—yet it's very gentle—and speed is mighty important in fighting a cold. Second . . . and *just* as important . . . this famous saline laxative *also* helps Nature counteract the acidity that so frequently accompanies a cold.

PAR. 4. The respondent, through the use of the aforesaid representations and others not herein detailed, represents that an acid condition of the system is the underlying cause of colds and that restoration of the alkaline balance in the body will counteract a cold and effect its cure; that Sal Hepatica will counteract such acid condition, and restore the alkaline balance thereby effecting a cure of colds; that Sal Hepatica promotes intestinal purification by clearing away stoppage and cleansing the system thoroughly; that it will free the intestinal tract of poisons; that it will correct acid conditions which accompany such troubles as unnatural fatigue, upset stomach, rheumatism, arthritis and neuritis, and thereby alleviate these ailments; that it is a

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competent treatment for headaches, indigestion, or nervousness; that it will prevent a cold from getting worse; that it will help one back to health in just a little while; that it will enable one to stay clear-headed, alert, and be his normal healthy self and that its action is thorough and helps regulate the balance of body fluids.

PAR. 5. In truth and in fact, the acid alkali balance of the blood varies within wide limits, under normal conditions, so that slight variations in the acid alkali balance are without pathological significance. An acid condition of the system is not generally accepted as the underlying cause of colds, although an excess acid condition is sometimes associated with such condition. The restoration of the alkaline balance in the body, under such conditions will not of itself effect a cure. Sal Hepatica will not counteract or correct such condition in excess of effecting temporary neutralization of excess gastric acidity. Sal Hepatica is nothing more than a commercial preparation of certain well-known effervescent salts that have a laxative action and tend to counteract gastric hyperacidity. The use of this preparation will not promote intestinal purification by clearing away stoppage or cleanse the system thoroughly, nor will it free the intestinal tract of poison or rid the body of harmful and poisonous waste except that it will, as do other laxatives, remove waste from the intestinal tract. An acid condition of the system is sometimes associated with rheumatism, arthritis, neuritis, upset stomach, and unnatural fatigue, but the preparation Sal Hepatica will have no effect upon such conditions in excess of temporarily relieving gastric hyperacidity when such condition is present and even in such case the use of this preparation will not correct such condition sufficiently to alleviate the trouble. Sal Hepatica is not a competent treatment for headaches, indigestion, or nervousness, in excess of furnishing temporary relief when such conditions are due to gastric hyperacidity. Sal Hepatica will not enable one to stay clear-headed, alert, and be his normal healthy self, nor is the action of Sal Hepatica thorough and helpful in regulating the balance of the body fluids.

PAR. 6. There are among the competitors of respondent many other corporations, and individuals and firms who manufacture, sell, and distribute effervescent salts, saline products, and similar preparations, or other preparations designed for similar usage in commerce as hereinabove set out who do not misrepresent the therapeutic value or efficacy of their products.

PAR. 7. The foregoing statements and representations made, or caused to be made, by respondent in describing its said product, as hereinbefore alleged, were and are calculated to, and have had, and now have, a tendency and capacity to mislead and deceive a substantial

portion of the purchasing public into the erroneous and mistaken belief that all of said representations are true. On account of this erroneous and mistaken belief, a number of the consuming public have purchased a substantial volume of respondent's product with the result that trade has been diverted unfairly to respondent from competitors, also engaged in the business of manufacturing, selling, and distributing saline preparations, laxatives, effervescent salts, and preparations designed for similar usage, who do not misrepresent the therapeutic value or efficacy of their respective products. As a consequence thereof, injury has been done, and is now being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition 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 5th day of November 1938, issued and thereafter served its complaint in this proceeding upon said respondent, Bristol-Myers Co., a corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 19th day of December 1938, the respondent filed its answer in this proceeding. Thereafter, on the 15th day of October 1940, the said Commission issued and thereafter served its supplemental and amended complaint in this proceeding upon said respondent, also charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 2d day of December 1940, the respondent filed its answer to the said supplemental and amended complaint. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed on behalf of the respondent by its counsel, I. W. Digges, and Richard P. Whiteley, assistant chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding in lieu of testimony in support of the charges stated in the complaint and the supplemental and amended complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts

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(including inferences which it may draw from said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, supplemental and amended complaint, answer to each complaint, and stipulation (said stipulation having been approved, accepted, and filed); and the Commission, having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Bristol-Myers Co., is a corporation, organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business located in the city of Hillside, State of New Jersey. Respondent also maintains offices in the International Building, Rockefeller Center, in the city of New York, State of New York.

Said respondent, is now, and for more than 1 year last past, has been, engaged in the sale and distribution of a laxative preparation known as "Sal Hepatica" in commerce between and among the several States of the United States and in the District of Columbia.

Said respondent, being engaged in the business as aforesaid, caused and still causes its said product, when sold, to be transported from its principal place of business in the city of Hillside, State of New Jersey, to purchasers thereof located in the States of the United States other than the State of New Jersey, and in the District of Columbia. For more than 1 year last past said respondent has maintained a course of trade in the aforesaid product, so sold and distributed by it in commerce, between and among the several States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business as aforesaid, and for the purpose of inducing the purchase of its said product, the respondent has caused various statements, claims, representations, and radio continuities, purporting to be descriptive of said product and its curative and therapeutic properties, to be published in newspapers, magazines, and periodicals distributed and circulated between and among the various States of the United States and in the District of Columbia, and to be broadcast over radio stations which have sufficient power to, and do, transmit such messages to listeners thereof in States other than the State from which said broadcasts emanate. The following, among others, are some of the claims and representations so made by respondent:

The mineral Salt Laxative—that corrects acidity.

Recommended by—doctors for more than—40 years for—colds—headaches—indigestion—upset stomach—nervousness—unnatural fatigue.

Stop that cold quickly with this basic treatment.

Sal Hepatica—and stay clear headed, alert, your healthy, normal self.

It is thorough—helps regulate the balance of body fluids.

While Sal Hepatica is cleansing the intestines—quickly, gently, this mineral salt laxative is also bringing about an alkaline (anti-acid) reaction to help nature restore the alkaline reserve that seems necessary to buoyant health.

Cleanse system thoroughly.

Counteract acid condition.

As an alkalinizer—such troubles as unnatural fatigue, upset stomach, as well as rheumatism, arthritis and neuritis are often associated with, or aggravated by, an acid condition. Sal Hepatica—taken regularly in these alkalinizing doses, it acts to correct the acid condition that is causing or aggravating your trouble.

PAR. 3. The respondent, through the use of the aforesaid representations and others not herein detailed has represented that Sal Hepatica:

- (1) Will correct systemic acidity and restore the alkaline reserve of the body;
- (2) Constitutes an effective treatment or cure of a cold and will exercise a direct and specific curative effect upon the etiological factors of a cold;
- (3) Is an effective treatment or cure for rheumatism, arthritis and neuritis;
- (4) Will help regulate the balance of body fluids;
- (5) Will free the intestinal tract of poisons and toxins;
- (6) Is an effective treatment for upset stomach;
- (7) Is an effective treatment and cure for indigestion;
- (8) Is an effective treatment for unnatural fatigue;
- (9) Is an effective treatment and cure for nervousness;
- (10) Is a competent treatment for headaches;
- (11) Will enable one to stay clear headed, alert and be one's normal, healthy self.

PAR. 4. In truth and in fact, Sal Hepatica—

- (1) Will not correct systemic (as distinguished from gastric) acidity, or restore the alkaline reserve of the body;
- (2) Will not constitute an effective treatment or cure of a cold, nor will exercise any direct or specific curative effect upon the etiological factors of a cold other than such benefit as may come from the relief of constipation if constipation accompanies a cold;
- (3) Is not an effective treatment or cure of rheumatism, arthritis, and neuritis;
- (4) Will not regulate the balance of body fluids;
- (5) Will not free the intestinal tract of poisons or toxins although Sal Hepatica will evacuate the lower intestinal tract;
- (6) Is not an effective treatment for upset stomach and will not furnish any relief for such conditions beyond reducing gastric acidity;
- (7) Is not an effective treatment or cure for indigestion although Sal Hepatica may bring temporary relief for discomforts arising from occasional dietary indiscretions;

- (8) Is not an effective treatment for unnatural fatigue;
- (9) Is not an effective treatment or cure for nervousness;
- (10) Is not a competent treatment for headaches except when caused by the failure of the proper evacuation of the lower intestinal tract;
- (11) Will not enable one to stay clear-headed, alert and be one's normal, healthy self, and is of no therapeutic value in the promotion of such conditions except to the extent that the absence of such conditions is due to the failure of a proper evacuation of the lower intestinal tract.

PAR. 5. The Commission therefore finds that the statements and representations made by respondent with respect to its preparation, as set forth herein, are misleading and deceptive, and constitute false advertisements.

PAR. 6. The Commission finds further that the use by respondent of these false advertisements has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the therapeutic properties and value of respondent's preparation, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such preparation as a result of the erroneous and mistaken belief so engendered.

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 TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission as amended, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and Richard P. Whiteley, assistant chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon, and an order disposing of the proceeding; and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Bristol-Myers Co., a corporation, and its officers, agents, representatives and employees, directly or

through any corporate or other device, in connection with the offering for sale, sale or distribution of its medicinal preparation designated "Sal Hepatica," or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

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

- (a) That said preparation will correct systemic (as distinguished from gastric) acidity, or restore the alkaline reserve of the body;
- (b) That said preparation constitutes a cure or an effective treatment for colds, or that it will exercise any direct or specific curative effect upon the etiological factors of a cold other than such benefit as may result from the relief of constipation if constipation accompanies the cold;
- (c) That said preparation is a cure or an effective treatment for rheumatism, arthritis, or neuritis;
- (d) That said preparation will help regulate the balance of body fluids;
- (e) That said preparation will free the intestinal tract of poisons or toxins (this prohibition, however, shall not prevent respondent from representing that said preparation is a competent laxative which will evacuate the lower intestinal tract);
- (f) That said preparation is an effective treatment for upset stomach, or that it furnishes any relief for such condition in excess of its value in reducing gastric acidity;
- (g) That said preparation is a cure or an effective treatment for indigestion (this prohibition, however, shall not prevent respondent from representing that said preparation is of value in the temporary relief of discomforts which arise from occasional dietary indiscretions);
- (h) That said preparation is an effective treatment for unnatural fatigue;
- (i) That said preparation is a cure or an effective treatment for nervousness;
- (j) That said preparation is an effective treatment for headaches, except in those cases where such condition is caused by the failure of a proper evacuation of the lower intestinal tract;

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- (k) That said preparation will enable one to stay clear-headed, alert, or one's normal, healthy self; or that said preparation is of any therapeutic value in the promotion of such conditions, except in those cases where the absence of such conditions is due to the failure of a proper evacuation of the lower intestinal tract.

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

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

Syllabus

IN THE MATTER OF

DAN TRAINOR, TRADING UNDER THE NAME NATIONAL ADMINISTRATORS ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4870. Complaint Nov. 12, 1942—Decision, May 8, 1943

Where an individual engaged in interstate sale and distribution of forms, form letters and envelopes for use by creditors and collection agencies in obtaining information concerning debtors, which were employed by two mail-order houses and a collection agency, among others, and which—calling, under the subterfuge below set out, for such information as a debtor's name, nickname, address, description, occupation, employer, income, home ownership or that of farm or car, and other details with respect to debtor's operations, status, etc.—displayed trade name "National Administrators," and such other matter as "ANSWER ALL THE FOLLOWING QUESTIONS IMMEDIATELY SO THAT WE CAN DETERMINE WHETHER YOU ARE THE PERSON TO WHOM THE MONEY SHOULD BE SENT," "Have you inherited any money recently?" and "It is understood that if the information furnished definitely establishes my identity, I will receive the money promptly," and in the letter employed displaying aforesaid trade name "Money is being held for * * * We believe that you are this person" and "To make it possible for us to send you this money at once fill out the enclosed form and return it to us without delay. * * * There is real money waiting for you";

Making use of a scheme under which said mail-order concerns, collection agency, and other purchasers inserted in the appropriate places names and addresses of persons concerning whom information was sought, placed the form letters and questionnaires, together with stamped reply envelopes addressed to said "National Administrators," in large envelopes purporting to be from said "National Administrators," and sent them to said individual, who mailed them and sent to said purchasers such replies as were received, and also sent to those replying a penny each accompanied by the statement that such was the total held for such person and a request not to communicate further with said individual;

- (a) Falsely represented, directly and by implication, through use of name "National Administrators" that his business functioned as administrator of estates of decedents; and
- (b) Falsely represented, and placed in the hands of aforesaid and other purchasers means of falsely representing, to many persons, that funds of more than trivial amount were being held for them by said National Administrators as administrators of decedents' estates, and that information sought was to identify the recipient as the proper person to receive such funds; and

Where (1) aforesaid mail-order houses, Chicago concerns with extensive businesses, selling household furnishings and other merchandise at retail on credit to purchasers in various States, and, in efforts to collect amounts claimed due from purchasers, making use of letters, forms and envelopes acquired from aforesaid individual; and two individuals engaged in the collection of delinquent accounts for retail merchants in various States and in the course of their said business employing said individual's letters, forms, and envelopes—