

IN THE MATTER OF

ROY A. WHIPPLE AND MRS. RUTH CARTER WHIPPLE,
TRADING AS McFADDEN 3 SISTERS SPRINGSCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4940. Complaint, Apr. 12, 1943—Decision, Nov. 30, 1943*

Where two individuals engaged in interstate sale and distribution of mineral waters; through statements in advertisements, circulars, and other advertising material—

- (a) Falsely represented that their mineral water from Spring No. 1 was a cure or remedy and a competent and effective treatment for arthritis, neuritis, rheumatism, Bright's disease, diabetes, dropsy, pus in kidney, bladder and urethra, cystitis, enlarged prostate gland paralysis, stones in kidneys, and other urinary troubles, change of life and female irregularities, insomnia, anemia, nervous prostration, high- and low-blood pressure, gout, and hyperacidity;
 - (b) Falsely represented that their mineral water from Spring No. 2 was a cure or remedy and a competent and effective treatment for chronic constipation, acute and chronic indigestion, catarrh of stomach and intestines, excessive acid, gastritis, ulcerated stomach, poor assimilation and elimination, stagnant or poor circulation, nervousness, high- or low-blood pressure, gall stones, and mucous colitis;
 - (c) Falsely represented that the water from Spring No. 3 was a cure or remedy and a competent and effective treatment for flux, diarrhea, dysentery, cholera infantum, diabetic sores, eczema, granulated and sore eyes, catarrh of head and nose, and sinusitis; and
 - (d) Represented that accumulated wastes in the body form poisons which attack the liver, kidneys, and bladder, resulting in many different ailments, and that their mineral waters were effective in removing such poisons by flushing process, thereby preventing or curing aforesaid ailments; and that said waters, being alkaline, were effective in the elimination of excess acids and impurities through the kidneys and bladder and that use of them would maintain a proper balance of minerals in the body;
- The facts being that while waters in question possess a slight alkaline reaction, the amount of alkaline material provided by their use would not significantly affect the acid base balance of the body and be effective in eliminating excess acids and impurities;

With effect of deceiving a substantial portion of the purchasing public into the mistaken belief that said representations were true, and of inducing it by reason, thereof, to purchase substantial quantities of their said products:

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

Mr. B. G. Wilson for the Commission.

Mr. Curtis L. Ridgway, of Hot Springs, Ark., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Roy A. Whipple and Mrs. Ruth Carter Whipple, trading as McFadden 3 Sisters Springs, 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Roy A. Whipple and Mrs. Ruth Carter Whipple, are individuals, trading as McFadden 3 Sisters Springs, with their principal place of business located at Hot Springs National Park, Ark., and their residence and post office address at 170 Woodland Avenue, Winnetka, Ill.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the business of offering for sale, sale, and distribution of mineral waters under the trade name of McFadden 3 Sisters Springs, in commerce between and among the various States of the United States and in the District of Columbia.

Respondents cause their said products, when sold, to be transported from their said place of business in the State of Arkansas to purchasers thereof in various other States of the United States and in the District of Columbia.

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

PAR. 3. In the course and conduct of their said business, and for the purpose of inducing the purchase of their said products, the respondents have disseminated, and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said products by United States mails and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated, and are now causing the dissemination of, false advertisements concerning their said products by various other means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false, deceptive, and misleading statements, representations, and claims contained in said false advertise-

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ments, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails, and by means of circulars and other advertising material, are the following:

Spring No. 1

Recommended for treatment of Bright's Disease, Diabetes, Dropsy, Pus in Kidney, Bladder and Urethra, Cystitis, Enlarged Prostate Gland, Paralysis, Stones in Kidneys and other Urinary troubles, Change of Life and Female Irregularities, Insomnia, Anemia, Nervous Prostration and High or Low Blood Pressure, caused from any of the above troubles, Gout, Hyperacidity, etc.

Spring No. 2

Affords relief in innumerable cases of Chronic Constipation, Acute and Chronic Indigestion, Catarrh of Stomach and Intestines, Excessive Acid, Gastritis, Ulcerated Stomach, Poor Assimilation and Elimination, Stagnant or Poor Circulation, Nervousness, High or Low Blood Pressure caused from any of the above troubles, Gall Stones, Mucous, Colitis as indicated by countless letters from users.

Spring No. 3

This water is highly astringent, quite constipating and not recommended for general beverage purposes. Should be used only for Flux, Diarrhea, Dysentery, Cholera Infantum and kindred troubles. Has proved very helpful as tub or sponge bath for diabetic sores and eczema. Used widely with eye glass for granulated and sore eyes, and with atomizer for catarrh of the head and nose as well as sinuses.

**NOW YOU CAN DRINK ORIGINAL
McFADDEN 3 SISTERS SPRINGS
NATURAL MINERAL WATER AT HOME!
Direct-to-You from Hot Springs Arkansas**

Ask your physician about drinking water from

SPRING NUMBER 1

If one suffers from Arthritis, Neuritis, Rheumatism, Bright's Disease, Diabetes, Dropsy, Pus in Kidney, Bladder and Urethra, Cystitis, Enlarged Prostate Gland, Paralysis, Stones in Kidneys, and other Urinary troubles, Change of Life and Female Irregularities, Insomnia, Anemia, Nervous Prostration and High or Low Blood Pressure, caused from any of the above troubles, Gout, Hyperacidity, etc.

Ask your physician about drinking water from

SPRING NUMBER 2

If one suffers from Chronic Constipation, Acute and Chronic Indigestion, Catarrh of Stomach and Intestines, Excessive Acid, Gastritis, Ulcerated Stomach, poor Assimilation and Elimination, Stagnant or Poor Circulation, Nervousness, High or Low Blood Pressure caused from any of the above troubles, Gall Stones, Mucus Colitis.

Ask your physician about drinking water from

SPRING NUMBER 3

if one suffers from Flux, Diarrhea, Dysentery, Cholera Infantum, or bathing for Diabetic Sores, Eczema, Granulated and Sore Eyes, Catarrh of Head and Nose, Sinuses. Not recommended for general beverage purposes as it is highly astringent and quite constipating.

Their function is to flush out accumulated wastes which form poisons to attack vital organs, the liver, kidney and bladder. From these poisons many different ailments develop.

McFadden 3 Sisters Springs Mineral Water being mildly alkaline, aids the elimination of excess acids and impurities through the kidneys and bladder.

About 70% of the body is water. The rest are minerals, all of which, in varying proportions, must be present if the vital organs are to remain in good healthy condition.

For health, intake of minerals is absolutely essential and some of them must be obtained daily in order to maintain good health. Some of these are supplied in the food we eat, but often the amount of minerals taken normally are insufficient because of loss through faulty elimination, etc. The proper balance must be maintained. If, by systematic drinking of McFadden 3 Sisters Springs waters which expert analysis show to contain minerals that are essential to relieve all organic ailments and to assist these organs to continually "click" efficiently, then it is easy to understand that nature has provided a very pleasant and effective way to drive out poisons that cause so much distress.

PAR. 4. Though the use of foregoing statements and representations and others similar thereto not specifically set out herein, respondents represent and have represented that their mineral water from Spring No. 1 is a cure or remedy and constitutes a competent and effective treatment for arthritis, neuritis, rheumatism, Bright's disease, diabetes, dropsy, pus in kidney, bladder and urethra, cystitis, enlarged prostate gland, paralysis, stones in kidneys and other urinary troubles, change of life and female irregularities, insomnia, anemia, nervous prostration, high- and low-blood pressure, gout, and hyperacidity.

That the water from Spring No. 2 is a cure or remedy and constitutes a competent and effective treatment for chronic constipation, acute and chronic indigestion, catarrh of stomach and intestines, excessive acid, gastritis, ulcerated stomach, poor assimilation and elimination, stagnant or poor circulation, nervousness, high- or low-blood pressure, gall stones, and mucous colitis.

That the water from Spring No. 3 is a cure or remedy and constitutes a competent and effective treatment for flux, diarrhea, dysentery, cholera infantum, diabetic sores, eczema, granulated and sore eyes, catarrh of head and nose, and sinusitis.

That accumulated wastes in the body from poisons which attack the liver, kidneys, and bladder, resulting in many different ailments and

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that respondents' mineral waters are effective in removing these poisons by flushing process, thereby preventing or curing said ailments; that said waters being alkaline are effective in the elimination of excess acids and impurities through the kidneys and bladder and that by the use of said waters a proper balance of minerals can be maintained in the body.

PAR. 5. The foregoing statements and representations disseminated by respondents are false, misleading, and deceptive. In truth and in fact, said mineral waters are not cures or remedies and do not constitute adequate or competent treatments for any of the various ailments, diseases, or conditions set out in paragraph 4 herein. Wastes which may accumulate in the system do not ordinarily cause the formation of poisons which attack the liver, kidneys, and bladder. Such poisons as may develop from accumulated wastes in the body are not commonly the cause of human ailments. Respondents' waters will have no significant eliminating effect upon poisons in the system by flushing or otherwise. While said waters possess a slight alkaline reaction, the amount of alkaline material provided to the body by their use will not significantly affect the acid base balance of the body and will not be effective in eliminating excess acids and impurities from the body through the kidneys and bladder, or otherwise. The amounts of various minerals existing in these waters are not sufficient to maintain a proper balance of minerals in the body.

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements, 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 said statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' products.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 12, 1943, issued and thereafter served its complaint in this proceeding upon respondents, Roy A. Whipple and Mrs. Ruth Carter Whipple, trading as McFadden 3 Sisters Springs, charging them with unfair and deceptive acts and

practices in commerce in violation of the provisions of said act. On August 16, 1943, the respondents filed their answer, in which answer they admitted all of the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the 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. Respondents, Roy A. Whipple and Mrs. Ruth Carter Whipple, are individuals, trading as McFadden 3 Sisters Springs, with their principal place of business located at Hot Springs National Park, Ark., and their residence and post office address at 170 Woodland Avenue, Winnetka, Ill.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the business of offering for sale, sale, and distribution of mineral waters under the trade name of McFadden 3 Sisters Springs, in commerce between and among the various States of the United States and in the District of Columbia.

Respondents cause their said products, when sold, to be transported from their said place of business in the State of Arkansas to purchasers thereof in various other States of the United States and in the District of Columbia.

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

PAR. 3. In the course and conduct of their said business, and for the purpose of inducing the purchase of their said products, the respondents have disseminated, and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said products by United States mails and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated, and are now causing the dissemination of, false advertisements concerning their said products by various other means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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Among and typical of the false, deceptive, and misleading statements, representations and claims contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails, and by means of circulars and other advertising material, are the following:

Spring No. 1

Recommended for treatment of Bright's Disease, Diabetes, Dropsy, Pus in Kidney, Bladder and Urethra, Cystitis, Enlarged Prostrate Gland, Paralysis, Stones in Kidneys and other Urinary troubles, Change of Life and Female Irregularities, Insomnia, Anemia, Nervous Prostration and High or Low Blood Pressure, caused from any of the above troubles, Gout, Hyperacidity, etc.

Spring No. 2

Affords relief in innumerable cases of Chronic Constipation, Acute and Chronic Indigestion, Catarrh of Stomach and Intestines, Excessive Acid, Gastritis, Ulcerated Stomach, Poor Assimilation and Elimination, Stagnant or Poor Circulation, Nervousness, High or Low Blood Pressure caused from any of the above troubles, Gall Stones, Mucous Colitis as indicated by countless letters from users.

Spring No. 3

This water is highly astringent, quite constipating and not recommended for general beverage purposes. Should be used only for Flux, Diarrhea, Dysentery, Cholera Infantum and kindred troubles. Has proved very helpful as tub or sponge bath for diabetic sores and eczema. Used widely with eye glass for granulated and sore eyes, and with atomizer for catarrh of the head and nose as well as sinuses.

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NATURAL MINERAL WATER AT HOME!**

Direct-to-You from Hot Springs Arkansas

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SPRING NUMBER 1

if one suffers from Arthritis, Neuritis, Rheumatism, Bright's Disease, Diabetes, Dropsy, Pus in Kidney, Bladder and Urethra, Cystitis, Enlarged Prostate Gland, Paralysis, Stones in Kidneys and other Urinary troubles, Change of Life and Female Irregularities, Insomnia, Anemia, Nervous Prostration and High or Low Blood Pressure, caused from any of the above troubles, Gout, Hyperacidity, etc.

Ask your physician about drinking water from

SPRING NUMBER 2

if one suffers from Chronic Constipation, Acute and Chronic Indigestion, Catarrh of Stomach and Intestines, Excessive Acid, Gastritis, Ulcerated Stomach, poor Assimilation and Elimination, Stagnant or Poor Circulation,

Nervousness, High or Low Blood Pressure caused from any of the above troubles, Gall Stones, Mucous Colitis.

Ask your physician about drinking water from

SPRING NUMBER 3

if one suffers from Flux, Diarrhea, Dysentery, Cholera Infantum, or bathing for Diabetic Sores, Eczema, Granulated and Sore Eyes, Catarrh of Head and Nose, Sinuses. Not recommended for general beverage purposes as it is highly astringent and quite constipating.

Their function is to flush out accumulated wastes which form poisons to attack vital organs, the liver, kidney and bladder. From these poisons many different ailments develop.

McFadden 3 Sisters Springs Mineral Water being mildly alkaline, aids the elimination of excess acids and impurities through the kidneys and bladder.

About 70% of the body is water. The rest are minerals, all of which, in varying proportions, must be present if the vital organs are to remain in good healthy condition.

For health, intake of minerals is absolutely essential and some of them must be obtained daily in order to maintain good health. Some of these are supplied in the food we eat, but often the amount of minerals taken normally are insufficient because of loss through faulty elimination, etc. The proper balance must be maintained. If, by systematic drinking of McFadden 3 Sisters Springs waters which expert analysis show to contain minerals that are essential to relieve organic ailments and to assist these organs to continually "click" efficiently, then it is easy to understand that nature has provided a very pleasant and effective way to drive out poisons that cause so much distress.

PAR. 4. Through the use of the foregoing statements and representations and others similar thereto not specifically set out herein, respondents represent and have represented that their mineral water from Spring No. 1 is a cure or remedy and constitutes a competent and effective treatment for arthritis, neuritis, rheumatism, Bright's disease, diabetes, dropsy, pus in kidney, bladder, and urethra, cystitis, enlarged prostate gland, paralysis, stones in kidneys and other urinary troubles, change of life and female irregularities, insomnia, anemia, nervous prostration, high- and low-blood pressure, gout, and hyperacidity.

That the water from Spring No. 2 is a cure or remedy and constitutes a competent and effective treatment for chronic constipation, acute and chronic indigestion, catarrh of stomach and intestines, excessive acid, gastritis, ulcerated stomach, poor assimilation and elimination, stagnant or poor circulation, nervousness, high- or low-blood pressure, gall stones, and mucous colitis.

That the water from Spring No. 3 is a cure or remedy and constitutes a competent and effective treatment for flux, diarrhea, dysentery, cholera infantum, diabetic sores, eczema, granulated and sore eyes, catarrh of head and nose, and sinusitis.

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That accumulated wastes in the body form poisons which attack the liver, kidneys, and bladder, resulting in many different ailments and that respondents' mineral waters are effective in removing these poisons by flushing process, thereby preventing or curing said ailments; that said waters being alkaline are effective in the elimination of excess acids and impurities through the kidneys and bladder and that by the use of said waters a proper balance of minerals can be maintained in the body.

PAR. 5. The foregoing statements and representations disseminated by respondents are false, misleading, and deceptive. In truth and in fact, said mineral waters are not cures or remedies and do not constitute adequate or competent treatments for any of the various ailments, diseases, or conditions set out in paragraph 4 herein. Respondents' waters will have no significant eliminating effect upon poisons in the system by flushing or otherwise. While said waters possess a slight alkaline reaction, the amount of alkaline material provided to the body by their use will not significantly affect the acid base balance of the body and will not be effective in eliminating excess acids and impurities from the body through the kidneys and bladder, or otherwise. The amounts of various minerals existing in these waters are not sufficient to maintain a proper balance of minerals in the body.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements, 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 said statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' products.

CONCLUSION

The aforesaid acts and practices of respondents, 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 and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint, and state that they waive all inter-

vening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents, Roy A. Whipple and Mrs. Ruth Carter Whipple, trading as McFadden 3 Sisters Springs, or under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of McFadden 3 Sisters Springs mineral waters or any other products of substantially similar composition or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from, directly or indirectly:

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

(a) That the product designated as water from Spring No. 1 is a cure or remedy or constitutes an adequate or competent treatment for arthritis, neuritis, rheumatism, Bright's disease, diabetes, dropsy, pus in kidney, bladder and urethra, cystitis, enlarged prostate gland, paralysis, stones in kidneys and other urinary troubles, change of life and female irregularities, insomnia, anemia, nervous prostration, high or low blood pressure, gout, or hyperacidity.

(b) That the product designated as water from Spring No. 2 is a cure or remedy or constitutes an adequate or competent treatment for chronic constipation, acute and chronic indigestion, catarrh of stomach and intestines, excessive acid, gastritis, ulcerated stomach, poor assimilation and elimination, stagnant or poor circulation, nervousness, high or low blood pressure, gall stones, or mucous colitis.

(c) That the product designated as water from Spring No. 3 is a cure or remedy or constitutes an adequate or competent treatment for flux, diarrhea, dysentery, cholera infantum, diabetic sores, eczema, granulated and sore eyes, catarrh of head and nose, or sinusitis.

(d) That the use of said mineral waters, or any of them, will eliminate poisons from the system to any significant extent.

(e) That the use of said mineral waters, or any of them, will be effective in eliminating excess acids and impurities through the kidneys and bladder.

(f) That the use of said mineral waters, or any of them, will maintain a proper balance of minerals in the body.

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2. Disseminating, or causing to be disseminated, by any means, any advertisement 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 respondents' products, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

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.

Syllabus

IN THE MATTER OF

WHELESS W. GAMBILL, JR., RUSSELL M. CAMPBELL, AND
M. YUHAS, TRADING AS CHEMICALS OF THE SOUTH,
ETC.

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

Docket 4999. Complaint, July 9, 1943—Decision, Dec. 3, 1943

Where three individuals engaged in the manufacture of "Lo-Temp Anti-Freeze," "Lo-Zone Anti-Freeze," and "Bond Top Line Anti-Freeze," recommended for use in the cooling systems of automobiles and other combustion engines, and in the sale thereof to a concern in which one of them was a partner and which sold said products to jobbers, garages, and service stations for resale to the purchasing public; by means of statements in periodicals and trade journals, advertising folders, pamphlets, display posters, and other advertising material, directly and by implication—

- (a) Represented falsely that their said products were safe and dependable for use as recommended and had proved themselves to be superior permanent type antifreezes; which protected the entire cooling system of automobile engines against corrosion, rust, and deterioration; that their use would not cause rust or other damage to the hose connections, radiators, finish of automobiles, or engine; and that they would not evaporate or clog the cooling system;

The facts being the products in question had a calcium chloride base and were neither superior nor safe and dependable; use thereof would corrode and rust most metals, and had caused and would cause serious damage to the engines, radiators, ignition wires, spark plugs, hose connections, and to the exterior finish of automobiles, resulted in leakage in the cooling systems, and also in evaporation, giving rise to persistent ignition trouble by virtue of the salt content when any of the solution came in contact with the spark plugs or ignition wires; and

- (b) Failed to disclose to the purchasing public, a substantial portion of which understands and believes, that an "antifreeze" is safe and dependable and will not cause deterioration or injury to the parts of an automotive engine with which it would normally come in contact—any of the injurious and damaging effect which result from the use of the aforesaid product, except the electrolytic action thereof when brought in contact with spark plugs and ignition wires;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such false advertisements were true, and of inducing the public to purchase substantial quantities of their said products as a result:

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