

IN THE MATTER OF

M. G. NEUMAN, DOING BUSINESS AS VALMOR
PRODUCTS COMPANY, ETC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4866. Complaint, Nov. 3, 1942—Decision, June 1, 1944*

A contention that the institution of the instant proceeding was unwarranted because respondent's products and the claims with respect thereto were considered by the Commission in connection with the execution of a stipulation to cease and desist and a subsequent supplement thereto, was untenable where it appeared that the stipulation provided that in the event of violation of its provisions, the facts admitted might be used in evidence in the trial of a complaint with respect thereto and the supplement was accepted without prejudice to the right of the Commission to issue complaint at any time it deemed such action warranted, and respondent subsequently violated the terms of the stipulation.

Where an individual engaged in interstate sale and distribution of a large number of medicinal preparations, cosmetics and other articles—

- (a) Falsely represented through statements and depictions in catalogs, newspapers and periodicals, circulars, leaflets and other advertising literature that his "Sweet Georgia Brown Lemon Fragrance Cleansing Cream" was effective in producing a light complexion and clearing up dark complexions, that his "Brown Skin Beauty Skin Brightener" would lighten the skin and make it look brighter and clearer, that his "Brown Skin Beauty Lemon Fragrance Vanishing Cream" would prevent greasy skin, and that his "Sweet Georgia Brown Sleeping Beauty Night Cream" had a stimulating effect upon the skin;
 - (b) Falsely represented as aforesaid that his "Valmor" hair tonic would act as such for scalp and hair, promote growth of latter and prevent loss thereof, and that his "Valmor Walk Easy Foot Powder" would relieve tired aching feet;
 - (c) Represented that his "Valmor Little Blue Pills with Buchu" product was a kidney stimulant and of value in the treatment of lazy kidneys, was effective in relieving backache due to bladder irritation and pains in the back, broken sleep, and leg pains caused by ailing kidneys, that acids and poisons get into the blood because of improper functioning of the kidneys, and that the product would remove such poisons and acids from the blood;
- The facts being that it was an irritant diuretic and cathartic which would merely increase the burden on the kidneys, since it must be removed from the system; and it was without therapeutic value and would not accomplish results claimed;
- (d) Falsely represented that his "Brother Johnson's American Oil Haarlem Capsules" preparation would flush out the kidneys and constituted an adequate treatment for broken sleep, burning bladder flow, getting up nights, and other symptoms caused by inactive kidneys; the facts being there are diseased kidneys and normal kidneys, but no such thing as sluggish kidneys; and product concerned was an irritant diuretic which would tend to increase rather than relieve burning bladder flow and would not accomplish the other results claimed therefor;
 - (e) Represented that his "Old Indian System Tonic" was a general tonic and would exert a general tonic effect upon the system, that inactive bowels cause formation of poisons which attack the body, causing weakness, run-down condition and fatigue, and that said preparation would remove such poisons and effectively relieve

such conditions; that his "Valmor Red Clover Compound" was effective in keeping one strong and healthy and an adequate treatment for run-down, weak, and tired conditions, and would have a general tonic effect upon the system, that constipation causes poisons to enter the blood, and that said preparation was effective in removing poisons that might be in the blood; and that his "Old Indian Herb Tea" would prevent sickness and keep one in good health, that constipation is the cause of sour stomach, pimples, bad breath, and tired, dragged-out feeling, and that "Old Indian Herb Tea" was effective in remedying such conditions;

The facts being there is no medical proof that inactive bowels cause the formation of poisons which attack the body etc., constipation does not cause poisons to enter the blood and is not the cause of sour stomach and other results attributed thereto as above claimed; and said products were irritant cathartics which would temporarily relieve constipation but would not remove it, and would not act "as general tonics nor have the other results claimed therefor;

- (f) Falsely represented that his "Madam Jones Vegetable Compound" was effective in overcoming cramps, pains and nervousness due to weak and run-down condition, made difficult periods more pleasant, and was of value before and after childbirth or during change of life, that it cleared the skin, made the eyes sparkle, and would provide good health and a happy nature; and that his "Madam Jones Female Tablet" product was harmless and entirely safe; the facts being the former was essentially a cathartic, and continued use of the latter, by virtue of its phenacetin content, would be harmful, and if used in excessive quantities might result in collapse;
- (g) Falsely represented through use of trade name "Gro-Strate Hair Dressing" to designate a product consisting of perfumed petrolatum advertised as a hair straightener, that it would cause hair to grow straight; and through use of the trade name "Eau de Quinine" to designate a product advertised as a tonic for the hair and scalp, that said product contained a substantial quantity of quinine; and
- (h) Failed to reveal facts material in the light of his said representations and with respect to consequences which might result from use of certain of aforesaid preparations under usual or prescribed conditions, in that said "Little Blue Pills" and "Haarlem Capsules" were irritant diuretics, and use thereof by those with kidney diseases or disorders might result in injury to their kidneys, while long continued use might cause irritation and injury to normal kidneys; its "Old Indian System Tonic," "Madame Jones Vegetable Compound," "Valmor Red Clover Compound" were irritant laxatives and potentially injurious when taken by those suffering abdominal pains, nausea or other symptoms of appendicitis; and said "Red Clover Compound," by virtue of its potassium iodide content, was potentially dangerous when taken by those suffering from active or arrested tuberculosis or a thyroid disease;

With the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and to induce a substantial portion of them, because of such belief, to purchase 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.

Before *Mr. Webster Ballinger*, trial examiner.

Mr. William L. Taggart for the Commission.

Nash & Donnelly, of Washington, D. C., for respondent.

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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 M. G. Neuman, an individual, trading as Valmor Products Company, Famous Products Company and Madam Jones Company, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, M. G. Neuman, is an individual, trading as Valmor Products Company, Famous Products Company and Madam Jones Company, with his principal place of business located at 2241 Indiana Avenue, in the city of Chicago, State of Illinois. Respondent is now, and has been for several years last past, engaged in the advertising, sale and distribution of various medicinal preparations and cosmetics.

PAR. 2. In the course and conduct of said business, respondent causes such medicinal preparations and cosmetics, when sold, to be transported from his place of business in the State of Illinois to purchasers there or 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 products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the preparations advertised, sold and distributed by respondent are the following: "Sweet Georgia Brown Lemon Cleansing Cream," "Sweet Georgia Brown Skin Bleach Cream," "Sweet Georgia Brown One Minute Skin Lightener," "Sweet Georgia Brown Wonderful Vanishing Cream," "Brown Skin Beauty Skin Brightener," "Brown Skin Beauty Lemon Fragrance Vanishing Cream," "Sweet Georgia Brown Sleeping Beauty Night Cream," "Valmor Eau de Quinine Hair Tonic," "Sweet Georgia Brown No-Odor Liquid," "Sweet Georgia Brown Odor-Rid," "Valmor Walk-Easy Foot Powder," "Valmor Little Blue Pills with Buchu," "Brother Johnson's American Oil Haarlem Capsules," "Valmor Headache Tablets," "Old Indian System Tonic," "Madam Jones Vegetable Compound," "Madam Jones Female Tablets," "Valmor Red Clover Compound," "Madam Jones Douche Powder," "Old Indian Herb Tea."

PAR. 4. In the course and conduct of his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning his preparations by the United States mails, and by various other means in commerce as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning his said preparations, by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinafter set forth, by the United States mails, by catalogs, advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets and other advertising litera-

ture directed to and circulated largely among members of the colored race, are the following:

(a) That respondent's preparation "Sweet Georgia Brown Lemon Cleansing Cream" is effective in producing a light complexion and clearing up dark complexions.

(b) That respondent's preparation "Sweet Georgia Brown Skin Bleach Cream" acts as a bleach for the skin and its use will lighten and bleach dark skins.

(c) That respondent's preparation "Sweet Georgia Brown One Minute Skin Lightener" is a skin beautifier and its use will lighten the skin within one minute or within a very short period of time.

(d) That respondent's preparation "Sweet Georgia Brown Wonderful Vanishing Cream" will brighten the skin, will disappear in use by sinking into the skin and will prevent oily skin and shiny nose.

(e) That respondent's preparation "Brown Skin Beauty Skin Brightener" will lighten the skin and make it look brighter and clearer.

(f) That respondent's preparation "Brown Skin Beauty Lemon Fragrance Vanishing Cream" will lighten the skin and prevent greasy skin.

(g) That respondent's preparation "Sweet Georgia Brown Sleeping Beauty Night Cream" makes all skins smoother and softer regardless of their condition and has a stimulating effect upon the skin.

(h) That respondent's preparation "Valmor Eau de Quinine Hair Tonic" will act as a tonic for the scalp and hair, will promote the growth and prevent the loss of hair.

(i) That respondent's preparations "Sweet Georgia Brown No-Odor Liquid" and "Sweet Georgia Brown Odor-Rid" will check perspiration odors and can be depended upon to relieve the body of odor caused by perspiration.

(j) That respondent's preparation "Valmor Walk-Easy Foot Powder" will relieve tired feet and rid the feet of bad odor.

(k) That respondent's preparation "Valmor Little Blue Pills with Buchu" is a kidney stimulant and is of value in the treatment of lazy kidneys; that said preparation is effective in relieving backache due to bladder irritation and pains in the back, broken sleep and leg pains caused by ailing kidneys; that acids and poisons get into the blood because of the improper functioning of the kidneys and that his said preparation will remove such poisons and acids from the blood; that said preparation is of therapeutic value in the treatment of all functional disturbances of the kidneys.

(l) That respondent's preparation "Brother Johnson's American Oil Haarlem Capsules" will flush out the kidneys and constitutes an adequate treatment for broken sleep, burning bladder flow, getting up nights, and other symptoms caused by inactive kidneys.

(m) That respondent's preparation "Old Indian System Tonic" is a general tonic and will exert a general tonic effect upon the system; that constipation is the cause of belching, sour stomach, nausea, headache, foul breath, coated tongue, tired feeling and loss of appetite and that said preparation is an adequate treatment for such conditions; that inactive bowels cause formation of poisons which attack the body, causing weakness, run-down condition and fatigue and that said preparation will remove such poisons and effectively relieve such conditions.

(n) That respondent's preparation "Madam Jones Vegetable Compound" is effective in overcoming cramps, pains and nervousness due to a weak and run-down condition; make difficult periods more pleasant and is of value before and after childbirth or during change of life; that it clears the skin, makes the eyes sparkle and will provide good health and a happy nature.

(o) That respondent's preparation "Madam Jones Female Tablets" is harmless and entirely safe in use.

(p) That respondent's preparation "Valmor Red Clover Compound" is effective in keeping one strong and healthy and is an adequate treatment for run-down, weak and

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tired conditions; that it is a general tonic and will have a general tonic effect upon the system; that constipation causes poisons to enter the blood and that said preparation is effective in removing poisons that may be in the blood.

(g) That respondent's preparation "Madam Jones Douche Powder" is effective in getting rid of bad odor and when used as an inside wash will be helpful in removing all secretions and foreign matter which may cause irritations in the vaginal tract.

(r) That respondent's preparation "Old Indian Herb Tea" will prevent one from getting sick and will keep one in good health; that constipation is the cause of sour stomach, pimples, bad breath and tired, dragged-down feeling and that said preparation is effective in remedying such conditions.

The aforesaid statements and representations disseminated by respondent as aforesaid are false and misleading and deceptive in the following respects:

(a) Respondent's preparation "Sweet Georgia Brown Lemon Cleansing Cream" will not produce a lighter complexion and will not clear up dark complexions.

(b) Respondent's preparation "Sweet Georgia Brown Skin Bleach Cream" is not a bleach for the skin and its use will not lighten and bleach dark skins.

(c) Respondent's preparation "Sweet Georgia Brown One Minute Skin Lightener" will not beautify the skin nor will it lighten the skin within one minute or at all.

(d) Respondent's preparation "Sweet Georgia Brown Wonderful Vanishing Cream" will not brighten the skin nor will it disappear in use by sinking into the skin. It will not prevent or correct oily skin or shiny nose.

(e) Respondent's preparation "Brown Skin Beauty Skin Brightener" will not lighten the skin and will not make it look brighter or clearer.

(f) Respondent's preparation "Brown Skin Beauty Lemon Fragrance Vanishing Cream" will not lighten the skin nor prevent or correct greasy skin.

(g) Respondent's preparation "Sweet Georgia Brown Sleeping Beauty Night Cream" will not make all skins smooth and soft and it has no appreciable stimulating effect upon the skin.

(h) Respondent's preparation "Valmor Eau de Quinine Hair Tonic" will not act as a tonic to the scalp and hair nor will it promote the growth of the hair or prevent the loss of hair.

(i) Respondent's preparation "Sweet Georgia Brown No-Odor Liquid" and "Sweet Georgia Brown Odor-Rid" will not check perspiration odors in the case of all persons and it cannot be depended upon to prevent perspiration odor in all individual cases.

(j) Respondent's preparation "Valmor Walk-Easy Foot Powder" will not relieve tired feet nor can it be depended upon to rid the feet of bad odor.

(k) Respondent's preparation "Valmor Little Blue Pills with Buchu" is not a stimulant for the kidneys and will have no significant value in stimulating the action of the kidneys. Normal kidneys are not lazy and said preparation has no therapeutic value in the treatment of sluggish kidneys brought about by disease or abnormality. Said preparation has no material value in relieving backache due to bladder irritation and pains in the back, broken sleep and leg pains that may be caused by ailing kidneys. Acids and poisons do not get into the blood because of improper functioning of the kidneys and said preparation has no value in eliminating poisons or acids that may be in the blood. It has no therapeutic value in the treatment of functional disturbances of the kidneys.

(l) Respondent's preparation "Brother Johnson's American Oil Haarlem Capsules" will not flush out the kidneys and does not constitute adequate treatment for broken sleep, burning bladder flow, getting up nights, or other symptoms that may be associated with inactive kidneys.

(m) Respondent's preparation "Old Indian System Tonic" does not contain the necessary ingredients to constitute a general tonic and will not provide a general tonic effect upon the system. Constipation is not the cause of belching, sour stomach and nausea and such preparation is not an adequate treatment for such conditions. While headache, foul breath, coated tongue, tired feeling and loss of appetite may be caused by constipation, this is an infrequent occurrence. When such conditions are brought about by some condition other than constipation said preparation would be of no value in the treatment thereof. Said preparation is not an adequate treatment for weakness, run-down condition or fatigue.

(n) Respondent's preparation "Madam Jones Vegetable Compound" is not adequate or effective in overcoming cramps, pains or nervousness due to a weak or run-down condition. It cannot be depended upon to make difficult periods more pleasant or to be of value for conditions arising before and after childbirth or during change of life in women. It will not clear the skin, make the eyes sparkle nor will its use provide good health and a happy nature.

(o) Respondent's preparation "Madam Jones Female Tablets" is not harmless and is not always safe in use.

(p) Respondent's preparation "Valmor Red Clover Compound" is not effective in keeping one strong and healthy and is not an adequate treatment for a run-down, weak and tired condition. It does not contain the necessary ingredients to constitute a general tonic and will not provide a general tonic effect upon the system. Constipation does not cause poisons to enter the blood and said preparation is not effective in removing poisons that may be in the blood.

(q) Respondent's preparation "Madam Jones Douche Powder" cannot be depended upon to deodorize in all cases nor will it be effective in removing all secretions and foreign matter which may cause irritation in the vaginal tract.

(r) Respondent's preparation "Old Indian Herb Tea" will not prevent one from getting sick nor will it keep one in good health. Constipation is not the cause of sour stomach and pimples and said preparation will have no therapeutic value in the treatment thereof. While bad breath and tired, dragged-down feeling may be due to constipation this is infrequent and such conditions cannot be attributed generally to constipation.

PAR. 5. Respondent in advertising certain of his products uses descriptive words and terms as a part of the trade name of said products; "Skin Bleach Cream" and "One Minute Skin Lightener" for a preparation represented as a bleacher or skin lightener; "Gro-Strate" for a preparation represented as a straightener for kinky or curly hair; "Eau de Quinine" for a tonic to be used on hair and scalp and "No-Odor" and "Odor-Rid" for preparations represented as deodorants.

Through the use of such descriptive words and terms respondent represents, directly and by implication, that said bleach cream will bleach and lighten the skin; that said one-minute skin brightener will lighten and brighten the skin in one minute; that said "Gro-Strate" when applied to the hair will cause the hair to grow straight; that "Eau de Quinine" tonic contains a substantial amount of quinine; that "No-Odor" and "Odor-Rid" will absolutely deodorize and rid the body of objectionable odors.

The use of such descriptive words and terms are false, deceptive and misleading. In truth and in fact respondent's bleach cream will not bleach and lighten the skin. "One Minute Skin Brightener" will not bleach and lighten the skin in one minute or at all. "Gro-Strate" will not cause the hair to grow straight. "Eau de Quinine" does not contain quinine. "No-Odor" and "Odor-Rid" will not deodorize or rid the body of objec-

tionable odors in the case of all individuals and under all conditions and circumstances.

PAR. 6. In addition to the statements and representations contained in said false advertisements, respondent makes use of pictorial representations allegedly showing the beneficial results derived from the use of certain of his preparations, particularly the change in color of the skin from dark to light. Such depictions, in themselves, constitute false representations with respect to the value of said preparations and enhance the deception and falsity of the direct statements and representations which they accompany.

PAR. 7. Respondent's advertisements disseminated as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations and material with respect to 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 and usual. Respondent's preparation "Valmor Little Blue Pills with Buchu" contains the drug, powder extract Buchu and extract of Juniper berries and "Brother Johnson's American Oil Haarlem Capsules" contain sulphurated oil of turpentine. These ingredients are highly irritating in nature and their irritating action may seriously injure diseased or disordered kidneys. The long-continued use of said preparations may cause irritation and injury to normal kidneys. Respondent's preparations "Old Indian System Tonic," "Madam Jones Vegetable Compound" and "Valmor Red Clover Compound" are irritant laxatives and are potentially dangerous when taken by one suffering from abdominal pains, stomachache, colic, cramps, nausea, vomiting or other symptoms of appendicitis. Their frequent or continued use may result in dependence on laxatives. Respondent's product "Madam Jones Female Tablets" contains the drug acetphenetidin. Frequent or continued use of this preparation is potentially dangerous and may produce ill effects to the user. Respondent's preparation "Valmor Red Clover Compound" contains the drug potassium iodide which is potentially dangerous when taken by those suffering from active or arrested tuberculosis or thyroid disease. Respondent's preparation "Valmor Headache Tablets" contain the drug acetanilid in the quantity of two grains to a tablet. The directions for use are as follows: "Take one tablet. Take more later if necessary." The continued use of the preparation in accordance with the directions may cause dependence upon the drug or collapse and its administration to children may be dangerous and injurious to health. Respondent's advertisements contain no warnings or statements revealing potential danger of the excessive use of his said preparation with respect to either the dosage or frequency of use and such failure has the tendency and capacity to lead the public to believe that said preparation may be safely taken in such amounts and with such frequency as may seem necessary to accomplish the represented and desired results.

PAR. 8. The use by the respondent of the aforesaid false, misleading and deceptive statements, representations and depictions with respect to his said preparation has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true and that his preparations are entirely safe and harmless in use and to induce a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's said preparations.

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

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 3, 1942, issued and subsequently served its complaint in this proceeding upon respondent, M. G. Neuman, an individual, trading as Valmor Products Company, Famous Products Company, and Madam Jones Company, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, report of the trial examiner and exceptions thereto, briefs in support of and in opposition to the complaint, and the oral arguments of counsel; 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, Morton G. Neumann, the person referred to in the complaint as M. G. Neuman, is an individual, trading as Valmor Products Company, Famous Products Company, and Madam Jones Company, with his office and principal place of business located at 2241 Indiana Avenue, Chicago, Ill. Respondent is now, and for a number of years has been, engaged in the advertising for sale, sale, and distribution of a large number of medicinal preparations, cosmetics, and other articles of merchandise.

PAR. 2. In the course and conduct of said business respondent causes his medicinal preparations, cosmetics, and other articles of merchandise, when sold, to be transported from his place of business in the State of Illinois to purchasers thereof at their points of locations in various other States of the United States and in the District of Columbia. Respondent maintains, and has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia. Among the products advertised, sold, and distributed as aforesaid are Sweet Georgia Brown Lemon Fragrance Cleansing Cream, Brown Skin Beauty Skin Brightener, Brown Skin Beauty Lemon Fragrance Vanishing Cream, Sweet Georgia Brown Sleeping Beauty Night Cream, Valmor Eau de Quinine Hair Tonic, Valmor Walk-Easy Foot Powder, Valmor Little Blue Pills with Buchu, Brother Johnson's American Oil Haarlem Capsules, Old Indian System Tonic, Madam Jones Vegetable Compound, Madam Jones Female Tablets, Valmor Red Clover Compound, Old Indian Herb Tea, and Gro-Strate Hair Dressing.

PAR. 3. In the course and conduct of his aforesaid business, by means of the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his aforesaid preparations; and respondent, by various means, has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said preparations 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 false advertisements disseminated as aforesaid by catalogs, advertisements inserted in newspapers and periodicals, circulars, leaflets, pamphlets, and other advertising literature are the following:

(a) Sweet Georgia Brown Lemon Cleansing Cream, now sold under the name "Sweet Georgia Brown Lemon Fragrance Cleansing Cream," contains beeswax, paraffin, mineral oil, borax, water, yellow color, and perfume oil. By means of advertisements such as "Know the joy of a LIGHT complexion," "Keep your skin clean and bright," "Have bright pretty skin," and "claimed by many women as being Wonderful for Clearing Up Dark Complexions," accompanied by pictorial representations indicating a much lighter skin color after use, respondent represents that this product is effective in producing a light complexion and clearing up dark complexions. This product does not have the effects claimed for it. It contains no ingredients which will affect the pigmentation or color of the skin. The presence of yellow coloring matter in the preparation may give a somewhat lighter appearance to a dark skin so long as the cream remains on the skin, but would not in any way affect the color of the skin itself.

(b) Brown Skin Beauty Skin Brightener contains petrolatum, zinc oxide, color, and perfume oil. By means of advertisements such as "Relieve yourself of the MISERY often caused by Dark, Muddy, Sallow Complexion. Help yourself to NEW LOVE with SMOOTH, LIGHTER, CLEARER Looking SKIN. TREAT Your SKIN. Order a package of SKIN BRIGHTENER right away. Give yourself a Treatment every Night before you go to sleep," respondent represents that it will lighten the skin and make it look brighter and clearer. There is nothing in this product which would affect the color of the skin. The presence of zinc oxide might give a lighter appearance to the skin while the preparation remained on it, but it would not tend to bleach or effect any change in the color of the skin itself.

(c) Brown Skin Beauty Lemon Fragrance Vanishing Cream contains stearic acid, glycerine, water, potassium hydroxide, lemon oil, and color. By means of advertisements such as "Greasy skin looks bad," "Don't let greasy looking SKIN spoil your fun," respondent represents that its product will prevent greasy skin. There is nothing in the product which would cause the skin to be less oily.

(d) Sweet Georgia Brown Sleeping Beauty Night Cream contains beeswax, mineral oil, paraffin wax, borax, water, perfume oil, and color. By means of advertisements such as "WHILE YOU SLEEP This Stimulating Cream not only helps to arouse your Skin to look Younger * * *" respondent represents that this product has a stimulating effect upon the skin. There is nothing in this product which could or would have any stimulating effect on the skin.

(e) Valmor Eau de Quinine Hair Tonic contains alcohol, water, perfume oil, and color. By means of advertisements such as "Don't lose hair because of improper care," "Intended for Dandruff, Falling Hair, and Itching Scalp," accompanied by pictures of two men, one bald and the other with a full amount of hair, respondent represents that this product will act as a tonic for the scalp and hair, promote growth of hair, and

prevent loss of hair. This product would in no way stimulate the growth of hair or in any way act as a tonic for the scalp or hair, nor would it have any effect whatsoever in preventing the falling of hair.

(f) Valmor Walk-Easy Foot Powder contains talc, powdered alum, boric acid, salicylic acid, magnesium carbonate, and bouquet de perse. By means of advertisements such as "Valmor WALK-EASY FOOT POWDER For Tired Aching Feet," "If you suffer from hot, tired, tender perspiring feet, sprinkle Foot Powder * * *," respondent represents that this product will relieve tired, aching feet. The powder would serve to relieve friction between the foot and the sock or shoe but would have no effect whatever in relieving tired or aching feet.

(g) Valmor Little Blue Pills with Buchu contain potassium nitrate, powdered extract of buchu, extract of cascara, and extract of juniper berries. By means of advertisements such as "Help Lazy Kidneys," "Don't Suffer," "Help Kidneys Work," "For Backache Due to Bladder Irritation," "Do you suffer from Pains in Back, broken sleep, leg pains, and other symptoms often caused by ailing KIDNEYS? If you do, lose no time in flushing your KIDNEYS with the help of LITTLE BLUE PILLS," "YOUR KIDNEYS contain millions of tiny filters that keep the Body Poisons out of your Blood. If they can't work because of functional troubles, acids and poisons get into your BLOOD, and you Suffer Pains and Aches. LITTLE BLUE PILLS act as a Stimulant diuretic and are intended to help KIDNEYS work right," respondent represents that this product is a kidney stimulant and is of value in the treatment of lazy kidneys, that it is effective in relieving backache due to bladder irritation and pains in the back, broken sleep, and leg pains caused by ailing kidneys, that acids and poisons get into the blood because of improper functioning of the kidneys, that the product will remove such poisons and acids from the blood, and that the preparation is of therapeutic value in the treatment of functional disturbances of the kidneys. The product is an irritant diuretic and irritant cathartic. It is not a kidney stimulant or of any value in the treatment of "lazy kidneys." It would have no effect in relieving backache due to bladder irritation or pain in the back, or broken sleep and leg pains caused by ailing kidneys. It would not aid in removing acids and poisons in the blood, and in fact, inasmuch as it is itself an irritant, would merely increase the burden of the kidneys since it must be removed from the system. If the kidneys will not remove poisons and acids from the blood, respondent's product will in no way affect this condition and, in fact, has no therapeutic value in the treatment of functional disturbances of the kidneys.

(h) Brother Johnson's American Oil Haarlem Capsules contain sulphurated oil of turpentine. By means of advertisements such as "Flush Out Your Kidneys," "Recommended as a Diuretic Stimulant to the Kidneys," "Kidney inactivity often causes getting up nights," "Do you suffer from broken sleep, burning bladder flow, and other symptoms, often caused by inactive Kidneys? See a physician if organic trouble is suspected. In the meantime Help your Kidneys by Taking BROTHER JOHNSON'S HAARLEM OIL CAPSULES," respondent represents that said preparation will flush out the kidneys and constitutes an adequate treatment for broken sleep, burning bladder flow, getting up nights, and other symptoms caused by inactive kidneys. The product is an irritant diuretic. It would not in any way aid inactive kidneys or any kidney disease. In fact, there is no such thing as sluggish kidneys: there are diseased kidneys and normal kidneys. The preparation would not relieve broken sleep, nor does it contain anything that would tend to relieve burning bladder flow. On the contrary, it would tend to increase it.

(i) Old Indian System Tonic contains cascara bark, buckthorn bark, berberis, mandrake root, gentian root, senna leaves, capsicum, aloes, juniper berries, and aromatics. By means of advertisements such as "Do You Feel Weak and Run Down? Maybe You Need a Tonic," "Are you run-down; can't enjoy life? * * * Are you losing your

grip on life, worrying a lot, finding yourself weak, sick, tired, and run-down? This condition is often due to inside poisons attacking the body from inactive bowels. That is the time to take OLD INDIAN SYSTEM TONIC," respondent represents that the product is a general tonic and will exert a general tonic effect upon the system, that inactive bowels cause formation of poisons which attack the body, causing weakness, run-down condition, and fatigue, and that said preparation will remove such poisons and effectively relieve such conditions. There is no medical proof that inactive bowels cause the formation of poisons which attack the body, causing weakness, run-down condition, and fatigue. The product is an irritant cathartic and would temporarily relieve constipation. A cathartic cannot be considered to be a tonic, and the product does not constitute an adequate treatment for the symptoms named.

(j) Madam Jones Vegetable Compound contains viburnum, blue cohosh, senna leaves, celery seed, poke root, berberis, cascara, squaw vine, pasiflora, juniper berries, black cohosh, buckthorn bark, salicylic acid, alcohol, and aromatics. By means of advertisements such as "When your strength begins to fail, when there are 'GRAY DAYS' every month, try taking MADAM JONES' Vegetable Compound. It helps many women to overcome cramps, pains, nervousness due to weakened run-down condition not caused by any organic or functional disease or disorder. Makes difficult periods more pleasant," "Helps Many Women. Regarded as valuable before and after child birth, at the change or whenever you feel nervous and run-down. If your nerves are at edge, if you feel tired, if you feel weak or blue, if you can't eat, if you can't sleep, try a bottle of MADAM JONES' Vegetable Compound. It may be just what you need," "Why be Drab When You Can Sparkle? Many men are attracted to women whose skin is clear—whose eyes sparkle—who have good health and a happy nature. If you are not as well as you want to be—if you are missing lots of fun because you do not feel right—that's the time to start taking care of yourself. Try One Bottle Now. Don't continue to be weak and suffer needlessly, when all you may need is a bottle of this safe medicine," respondent represents that this product is effective in overcoming cramps, pains and nervousness due to weak and run-down condition; makes difficult periods more pleasant, and is of value before and after childbirth or during the change of life; that it clears the skin, makes the eyes sparkle, and will provide good health and a happy nature. In fact, the product is essentially a cathartic with a bitter stomachic effect and would not constitute an adequate treatment for pains, cramps, nervousness, or run-down condition, or for the other symptoms described. It would not clear the skin, make the eyes sparkle, or provide good health or a happy nature.

(k) Madam Jones Female Tablets contain phenacetin, more properly known as acetphenetidin. By means of advertisements such as "Pure—Safe—Pleasant" respondent represents that this product is harmless and entirely safe in use. The drug acetphenetidin in the dosage prescribed would be harmful in the cases of unusual individuals, its continued use would have harmful effects upon a normal person, and if used in excessive quantities may result in collapse.

(l) Valmor Red Clover Compound contains cascara bark, gentian root, senna leaves, licorice root, potassium iodide, red clover tops, mandrake root, aloes, juniper berries, salicylic acid, alcohol, and aromatics. By means of advertisements such as "Helps You Look Like A Picture of Health," "Mother Nature's Treatment Helps Keep You STRONG and HEALTHY," "HELPS the SYSTEM. GOOD NEWS, for folks who may be Run-down, Weak, Grow tired too soon without suffering from any Organic or Functional Trouble," "Constipation often causes certain BODY POISONS to enter the BLOOD and it is these Poisons that may give you the MISERY. RED CLOVER COMPOUND has a laxative action. Helps the system get rid of waste matter. Order yourself a bottle of this fine medicine today," "Don't let your system get run-down, but if it is, you may find RED CLOVER COMPOUND A

BLESSING. Keep a bottle handy," respondent represents that said product is effective in keeping one strong and healthy and is an adequate treatment for run-down, weak, and tired conditions, that it is a general tonic and will have a general tonic effect upon the system, that constipation causes poisons to enter the blood, and that said preparation is effective in removing poisons that may be in the blood. The preparation, in fact, is essentially an irritant cathartic. There is nothing in the preparation which would act as a general tonic or have a tonic effect upon the system and it would not constitute an adequate treatment for run-down, weak, and tired conditions. Constipation does not cause poisons to enter the blood and the product would not be effective in removing poisons from the blood.

(m) Old Indian Herb Tea contains senna leaves, cascara sagrada, chamomile flowers, licorice root, juniper berries, red clover, dandelion root, sassafras bark, sarsaparilla, fennel seed, and red saffron. By means of advertisements, such as "Are you Sick and Run Down? Are you suffering with troubles that result from Constipation such as Sour Stomach, Bad Breath, Pimples, or that Tired, Dragged Down Feeling? OLD INDIAN herb Tea should help you if you need a good LAXATIVE. LOOK AT This Big, Strong Indian Chief, said to have never known a sick day. Do as the Indians did. Use Herbs," respondent represents that the product will prevent sickness and keep one in good health, that constipation is the cause of sour stomach, pimples, bad breath, and tired, dragged-out feeling, and that Old Indian Herb Tea is effective in remedying such conditions. The product is an irritant cathartic with a bitter stomachic effect and it will not prevent one from becoming ill or maintain good health. Constipation is not the cause of sour stomach, pimples, bad breath, and tired, dragged-out feeling, and consequently the preparation would not be effective in treating such conditions.

PAR. 4. (a) Through the use of the trade name "Gro-Strate Hair Dressing" to designate a product consisting of perfumed petrolatum, advertised as a hair straightener for kinky or curly hair, respondent represents that this product will have the effect of causing kinky or curly hair to grow straight. The product will not cause the hair to grow, nor will it do more than temporarily cause it to appear straight if a sufficient quantity is applied to act as a plaster and hold the hair straight.

(b) Through the use of the trade name "Eau de Quinine" to designate a product advertised as a tonic for the hair and scalp, respondent represents that the product contains a substantial quantity of quinine when, in fact, it contains no quinine whatever.

PAR. 5. Respondent's advertisements disseminated as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations made and material with respect to the consequences which may result from the use of the preparations to which the advertisements relate under the conditions prescribed in said advertisements or under such conditions as are customary and usual. Respondent's preparation "Valmor Little Blue Pills with Buchu" contain powdered extract of buchu and extract of juniper berries, and respondent's preparation "Brother Johnson's American Oil Haarlem Capsules" contain sulphurated oil of turpentine. These ingredients are irritant diuretics and their use by persons having kidney diseases or disorders may result in injury to their kidneys, and the long-continued use of such preparations may cause irritation and injury to normal kidneys. Respondent's products "Old Indian System Tonic," "Madam Jones Vegetable Compound," and "Valmor Red Clover Compound" are irritant laxatives and are potentially dangerous when taken by persons suffering abdominal pains, vomiting, nausea, or other symptoms of appendicitis. Respond-

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ent's preparation "Valmor Red Clover Compound" contains the drug potassium iodide, which is potentially dangerous when taken by those suffering from active or arrested tuberculosis or a thyroid disease.

PAR. 6. Respondent contends that the institution of this proceeding is unwarranted because respondent's products and the claims with respect thereto were considered by the Commission in connection with the execution of Stipulation to Cease and Desist No. 0150, approved May 1, 1933, and supplement thereto approved March 7, 1939. The original stipulation provided that in the event of violation of the provisions thereof the facts admitted therein might be used in evidence in the trial of a complaint with respect thereto, and the supplemental stipulation was accepted without prejudice to the right of the Commission to issue complaint at any time it deemed such action warranted. Thereafter, on October 31, 1942, prior to the issuance of the complaint herein, the Commission advised respondent that it had evidence of violation of the stipulations, had therefore reconsidered its acceptance of the stipulations, and had directed the issuance of complaint charging respondent with violation of the Federal Trade Commission Act. Respondent's contention that he has not violated the terms of the stipulation is without merit. For example, he agreed not to represent, directly or by implication, that his Red Clover Compound "helps the whole system or keeps the blood in better condition." A comparison of this agreement with the findings herein concerning the product in question sufficiently shows that respondent failed to comply with the agreement.

PAR. 7. The use by respondent of the false, misleading, and deceptive statements, representations, and depictions concerning his various preparations as herein found has had, and has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and depictions are true, and that his preparations are safe and harmless in use, and to induce a substantial portion of the purchasing public, because of such erroneous belief, to purchase respondent's said preparations.

CONCLUSION

The acts and practices of 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, the answer of respondent, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner and exceptions thereto, briefs in support of and in opposition to the complaint, and the oral arguments of counsel; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Morton G. Neumann, an individual, trading as Valmor Products Company, Famous Products Company,

Madam Jones Company, or under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of his medicinal and cosmetic preparations hereinafter named, or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name or names, 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 by inference:

(a) That Sweet Georgia Brown Lemon Fragrance Cleansing Cream will lighten the complexion, clear up dark complexions, or in any way alter or change the color of the skin of the user.

(b) That Brown Skin Beauty Skin Brightener will lighten the skin or in any way alter or change the color of the skin of the user.

(c) That Brown Skin Beauty Lemon Fragrance Vanishing Cream will cause the skin of the user to be less oily or greasy.

(d) That Sweet Georgia Brown Sleeping Beauty Night Cream will stimulate the skin or have any stimulating effect upon the skin of the user.

(e) That Valmor Eau de Quinine Hair Tonic will promote the growth of hair, prevent the loss of hair, or act as a tonic for the scalp or hair.

(f) That Valmor Walk-Easy Foot Powder is a competent or effective remedy for tired or aching feet.

(g) That Valmor Little Blue Pills with Buchu have any therapeutic value in the treatment of functional disturbances of the kidneys; will act as a kidney stimulant; will in any way relieve backache due to bladder irritation, or pain in the back, broken sleep, or leg pains caused by ailing kidneys; or will in any way aid or assist the kidneys in removing poisons or acids from the blood; or which advertisement fails to reveal that the use of said preparation by persons having diseased or disordered kidneys may result in serious injury, and that prolonged administration of said preparation may injure normal kidneys: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling, contain the above warning.

(h) That Brother Johnson's American Oil Haarlem Capsules will in any way aid or assist inactive kidneys, or relieve or prevent broken sleep or burning bladder flow, or constitute a competent or effective treatment for any kidney disorder; or which advertisement fails to reveal that the use of said preparation by persons having diseased or disordered kidneys may result in serious injury, and that prolonged administration of said preparation may injure normal kidneys: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling, contain the above warning.

(i) That Old Indian System Tonic is a tonic or will exert any tonic effect upon the system; that inactive bowels cause the formation of poisons which attack the body, causing weakness, run-down condition, or fatigue, or that said preparation constitutes a competent or effective

remedy for weakness, run-down condition, or fatigue; or which advertisement fails to reveal that said preparation should not be used by persons suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling, contain the above warning.

(j) That Madam Jones Vegetable Compound constitutes a competent or effective remedy for cramps, pains, and nervousness due to weak or run-down condition; that it will make difficult periods more pleasant, or is of any value before or after childbirth, or during change of life; or that its use will clear the skin, make the eyes sparkle, or provide good health or a happy nature to the user; or which advertisement fails to reveal that said preparation should not be used by persons suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling, contain the above warning.

(k) That Madam Jones Female Tablets are harmless and entirely safe in use; or which advertisement fails to reveal that frequent or continued use of such preparation may be dangerous: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling, contain the above warning.

(l) That Valmor Red Clover Compound is a tonic or will have any tonic effect upon the system of the user; is a competent or effective treatment for tired, weak, or run-down conditions; that constipation causes poisons to enter the blood, or that said preparation would be effective in removing poisons from the blood; or which advertisement fails to reveal that said preparation should not be used by persons suffering from nausea, vomiting, abdominal pains, or other symptoms of appendicitis, or by persons having goiter or other thyroid disease, or by any one suffering from active or arrested tuberculosis: *Provided, however*, that any such advertisement need contain only the statement "CAUTION: Use only as Directed," if and when the directions for use wherever they appear on the label, in the labeling, or on both label and labeling contain the above warning.

(m) That Old Indian Herb Tea will keep the user in good health or prevent sickness; or is a competent or effective remedy for sour stomach, pimples, bad breath, or tired, dragged-out feeling.

2. Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 hereof, or which advertisement concerning Valmor Little Blue Pills with Buchu, Brother Johnson's American Oil Haarlem Capsules, Old Indian System Tonic, Madam Jones Vegetable Compound, Madam Jones Female Tablets, or Valmor Red-Clover Compound fails to comply with the affirmative requirements set forth respectively in subparagraphs (g), (h), (i), (j), (k), or (l) of said paragraph 1 hereof.

It is further ordered, That said respondent, his representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

3. Using the term "Gro-Strate," or any other word or words of similar import, to designate, describe, or refer to his product "Gro-Strate Hair Dressing" or any other preparation having substantially similar ingredients or properties.

4. Using the words "Eau de Quinine," or any other words importing or implying that a preparation contains quinine, to designate, describe, or refer to any preparation which contains no quinine or an insubstantial quantity thereof.

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

IN THE MATTER OF
RIGID STEEL CONDUIT ASSOCIATION, ET AL.

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

Docket 4452. Complaint, Jan. 25, 1941—Decision, June 6, 1944

In a basing-point delivered-price formula such as employed in the rigid steel conduit industry, under which the matching of price quotations by all sellers at any given destination is achieved through use of a combination of the same base price and uniform freight delivery factors and each concern increases or decreases its mill net, or true price, so as to produce identical delivered prices or quotations at any point, such matching of prices may not correctly be characterized as "meeting competition." The resulting systematic price variations do not represent competition in the ordinary meaning of the term, each participant consciously intending, in the use of such formula, that no attempt shall be made to exclude any seller from the natural freight advantage territory of another and, in effect, inviting others to share the available business in his natural market in return for a reciprocal invitation.

A basing-point delivered-price formula, under which the different sellers make use of a combination of the same base price and uniform freight delivery charge and each increases or decreases his mill net or true price so as to produce identical delivered prices to any purchaser at any point, is recognized by economists as a controlled or monopolistic price system, and does not in its operation or results conform to the economic principles which indicate the existence of free or effective competition. Ready response to changing conditions of supply and demand as contrasted with operation of the system concerned which produced a high degree of rigidity and under which at times prices even moved contrary to what would be expected in a market amenable to the law of supply and demand, is one of the characteristics of effective competition. The existence of such competition is also inconsistent with the condition of mutual dumping produced by the use of the basing point pricing formula, as is the systematic pattern of discrimination among purchasers resulting therefrom, and the absence of such competition is indicated by the use of a formula which produces matched delivered price quotations.

The economic principle that in a truly competitive market the unit price of a homogenous commodity tends to become approximately uniform does not serve to explain the results of the use of a delivered-price basing-point system under which, through use by all sellers of a combination of base price and uniform freight delivery charges, there were produced identical delivered prices or quotations at each point. The tendency toward price uniformity in a free market results from the fact that in the purchase and sale of units of a homogenous commodity in such a market, sellers are indifferent as to whose money they get for their commodity, as are buyers as to whose commodity they thus acquire. The systematic differences in mill nets accepted by sellers making use of such a basing-point delivered-price system, under which each seller increases or decreases his mill nets or true prices to arrive at the matched delivered prices, violates said economic principle. It is also true, furthermore, that the law of uniform price is limited in its application to prices which eventuate from actual sales and has no application to, and cannot explain, uniformity of price quotations.