

IN THE MATTER OF

DETROIT SODA PRODUCTS COMPANY AND AARONS,
SILL & CARON, INC.

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

Docket 5037. Complaint, Aug. 31, 1943—Decision, June 26, 1944

Where a corporation engaged in the packing and interstate sale and distribution of its "Crystal Brand Baking Soda," and its advertising agent; through advertisements in radio continuities—

- (a) Represented that said product used as dentifrice would freshen the breath, keep gums healthy, remove all teeth stains and restore dentine's natural brilliance;

The facts being that so used it would only tend to freshen the breath when bad breath arises from the accumulation of food debris and other material on or between the teeth, and would not be otherwise effective; it could not be relied upon to keep gums healthy, and while it would to some extent act as a polishing agent should a sufficient quantity be used, it would not remove all types of stain from the teeth, nor restore dentine's natural brilliance, for which the enamel of the tooth structure and not the dentine is responsible;

- (b) Represented that it was an ideal remedy for indigestion, colds and coughs;

The facts being that the only condition of stomach distress which might be described as indigestion in which it could be of value is hyperacidity and it was not an effective or adequate treatment for colds and coughs; and

Where aforesaid corporation, in advertisements in newspapers, periodicals, circulars, leaflets, pamphlets and other advertising literature, directly or by implication—

- (c) Falsely represented that its said product "contained innate properties which were indispensable for making food easy to digest," would "relieve inflammation and give soothing effect to the membrane of the mouth" and constituted a competent and effective treatment and remedy for indigestion and dyspepsia; and

- (d) Represented that, used as recommended, it constituted a competent and effective treatment or remedy for ivy poisoning, lumbago, scalds and burns, toothache, and eczema;

The facts being that while application of sodium bicarbonate solution would have some tendency to relieve itching such as that caused by poison ivy, it would not reduce the eruption; addition thereof to a hot bath would exert no beneficial effect in cases of lumbago, any temporary benefits derived being from the heat involved; while a paste of baking soda and water is suitable for application to minor scalds and burns, it is not an appropriate treatment for severe ones; application of small pieces of cotton dipped in baking soda solution to the cavity in an aching tooth would have no significant tendency to relieve toothache; and while such a solution is suitable as a cleansing agent in removing dried exudates such as those formed in cases of seborrheic eczema, it would have no actual therapeutic effect on eczema; and

- (e) Falsely represented that, used as recommended, it constituted a competent and effective treatment for acidity, colic in babies, rheumatism, colds, grippe and influenza, had tonic properties and would act as a general tonic, would break up, prevent and cure a common cold, and kill the germs responsible therefor and for grippe and influenza, and prevent them and similar diseases from becoming serious;

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With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true as a result of which erroneous belief, it purchased substantial quantities of 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. James W. Cassidy for the Commission.

Lightner, Crawford, Sweeny, Dodd & Mayer, of Detroit, Mich., for Detroit Soda Products Co.

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 Detroit Soda Products Company, a corporation, and Aarons, Sill & Caron, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows.

PARAGRAPH 1. Respondent, Detroit Soda Products Company, is a corporation, organized and existing under and by virtue of the laws of the State of Michigan with its principal place of business located at 35 Perry Place, in the city of Wyandotte, State of Michigan.

Respondent, Aarons, Sill & Caron, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Michigan with its principal place of business located at the Architects Building in the city of Detroit, State of Michigan.

PAR. 2. Respondent, Detroit Soda Products Company, is now, and for several years last past has been, continuously engaged in the business of packing, offering for sale and selling in commerce, as herein set out, a baking soda (bicarbonate of soda) which is designated "Crystal Brand Baking Soda" and recommended for use in the treatment of and as a remedy for various human ailments as well as for other purposes.

Respondent, Aarons, Sill & Caron, Inc., is now, and for several years last past has been, continuously engaged in the advertising business. During said time said respondent has been and is now employed by the respondent, Detroit Soda Products Company, and at all times herein mentioned has acted as its advertising agent in the dissemination of advertisements of Crystal Brand Baking Soda.

PAR. 3. Respondent, Detroit Soda Products Company, being engaged in business as aforesaid, caused and causes said product, when sold, to be transported from its principal place of business located in the city of Wyandotte, State of Michigan, to purchasers thereof located at points in various States of the United States other than the State from which said shipments were made and in the District of Columbia. Respondent has, at all times herein mentioned, maintained, and now maintains, a course of trade in commerce in said product so distributed and sold by it between and among various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of the aforesaid business, the respondents have disseminated and are now disseminating, and have caused

and are now causing the dissemination of, false advertisements concerning Crystal Brand Baking Soda by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase thereof 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 by the respondents, Detroit Soda Products Company and Aarons, Sill & Caron, Inc., as hereinabove referred to, by radio continuities, are the following:

What economical dentifrice will freshen the breath, keep gums healthy, remove teeth stains, restore dentine's natural brilliance?

Crystal Brand Baking Soda.

What's an ideal remedy for indigestion * * *? Crystal Brand Baking Soda.

What are Crystal Brand's medicinal advantages? Crystal Brand can be used * * * as a remedy for colds and coughs, * * * and indigestion.

Among, and typical of, the false, misleading and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated, in addition thereto, by respondent, Detroit Soda Products Company, as hereinabove set forth, by the United States mails, by advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets and other advertising literature, are the following:

Bicarbonate of soda * * * contains innate properties which are indispensable for making food easy to digest.

It also relieves inflammation and gives a soothing effect to the membrane of the mouth.

TESTED HOME REMEDIES

INDIGESTION: Dissolve one-quarter teaspoon of Crystal Baking Soda in one-half glass of cold water. Drink this before meals.

DYSPEPSIA * * *: Dissolve one level teaspoonful of Crystal Baking Soda in one glass of cold water. Drink this one or two hours after meals. For a tonic form, take one-quarter teaspoon before meals.

IVY POISONING: Dissolve two teaspoons of Crystal Baking Soda in one pint of water, and bathe the affected parts frequently. This is helpful in reducing the eruption and in quieting the itching caused by Ivy Poisoning.

LUMBAGO: Dissolve one-half to one pound of Crystal Baking Soda in a bathtub of water (about 30 gallons of water). Have the water as hot as it can be borne. Lie in the water about fifteen minutes or longer, then go to bed at once to avoid exposure.

SCALDS AND BURNS: Make a paste of Crystal Baking Soda and cold water. Apply this paste to the affected surface and keep a damp or moist cloth over it. This treatment usually relieves the pain instantly.

TOOTHACHE: Dissolve two teaspoons of Crystal Baking Soda in a pint of water, dip small pieces of cotton in this solution and apply them to the cavity of the affected tooth.

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ECZEMA: Dissolve two level teaspoons of Crystal Brand Baking Soda in a pint of Water. Apply this solution to the affected parts. "Externally, in a solution, it (Bicarbonate of Soda) is a solvent for dried exudates (secretions) such as the crusts in seborrheic eczema."—Practical Therapeutics—(Birmingham).

ACIDITY: Dissolve one level teaspoon of Crystal Brand Baking Soda in one glass of cold water and take one to two hours after meals. For tonic form, take about one-quarter teaspoon before meals.

COLIC (BABY): Dissolve one level teaspoon of Crystal Brand Baking Soda in one-half ($\frac{1}{2}$) glass (two ounces) of warm water—Use this to give an enema. This treatment is for a baby from one month to six months of age. •

RHEUMATISM

Dissolve two to four teaspoons of Crystal Baking Soda in one pint of water, wet a cloth in this solution and apply to the affected parts of joints. * * *

COLDS, GRIPPE AND INFLUENZA

Our recommendation for treating or "breaking up" a common Cold is as follows: Dissolve one-half teaspoon of Crystal Baking Soda in one glass of cold water and drink it. Do this about every two hours until you have taken six doses. This is the treatment for the first day.

During the second day, take four doses about two hours apart.

During the third day, take two doses—one in the morning and one in the evening. After the third day take one dose each morning until the Cold is cured.

* * * * *

Colds, Grippe and Influenza are, as you know, due to certain germs. Thorough alkalization of the body helps to kill these germs. It is for this reason that Crystal Soda, when used as suggested above, is very helpful in "breaking up" common Colds, and also in preventing them and similar diseases from becoming serious. * * *

PAR. 5. By and through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative or therapeutic properties of Crystal Brand Baking Soda, the respondents, Detroit Soda Products Company and Aarons, Sill & Caron, Inc., have represented and do now represent, that Crystal Brand Baking Soda, when used as a dentifrice, will freshen the breath, keep gums healthy, remove all teeth stains and restore dentine's natural brilliance; that said product is an ideal remedy for indigestion, colds and coughs.

The respondent, Detroit Soda Products Company, in addition thereto, has represented and does now represent, directly or by implication that Crystal Brand Baking Soda contains innate properties which are indispensable for making food easy to digest; that said product will relieve inflammation and give a soothing effect to the membrane of the mouth; that said product constitutes a competent and effective treatment and remedy for indigestion, dyspepsia, ivy poisoning, lumbago, scalds and burns, toothache, eczema, acidity, colic in babies, rheumatism, colds, grippe and influenza; that said product has tonic properties and will act as a general tonic; that said product will "break up," prevent and cure a common cold; that said product will kill the germs that cause colds, grippe and influenza and will prevent them and similar diseases from becoming serious.

PAR. 6. The aforesaid statements and representations, as hereinabove set forth, are grossly exaggerated, false, misleading and deceptive. In truth and in fact, Crystal Brand Baking Soda, when used as a dentifrice, will only tend to freshen the breath when bad breath arises from the accumulation of food, debris and other material on or between the teeth. It will not be effective in other conditions. Said product cannot be relied upon to keep gums healthy. While it will act to some extent as a cleansing and polishing agent if a sufficient quantity is used, it will not remove all types of stains from the teeth. It will not restore dentine's natural brilliance, for that portion of the tooth structure which possesses lustre and brilliance is not the dentine but the enamel. It does not possess innate properties which are indispensable for making food easy to digest nor does said product constitute an adequate treatment or an ideal remedy for indigestion. The only condition of stomach distress, which might be described as indigestion, in which this preparation could be of value is hyperacidity. Said product is not an effective or adequate treatment for coughs and when used as a mouthwash or gargle, it will not be effective in relieving inflammation of the membrane of the oral cavity.

Crystal Brand Baking Soda is not a remedy and does not constitute a competent and effective treatment for indigestion, dyspepsia, ivy poisoning, lumbago, scalds and burns, toothache, eczema, acidity, colic in babies, rheumatism, colds, grippe and influenza. While the application of a sodium bicarbonate solution will have some slight tendency to relieve itching such as that caused by poison ivy, it will not reduce the eruption of ivy poisoning. The addition of sodium bicarbonate to a hot bath will exert no beneficial effect in cases of lumbago. Any temporary benefits which are derived from such a bath arise solely from the heat involved. While a paste of baking soda and water is suitable for application to minor scalds and minor burns, it is not an appropriate treatment for severe scalds or burns. The application of small pieces of cotton dipped in baking soda solution to the cavity in an aching tooth will have no significant tendency to relieve such condition. While a baking soda solution is suitable as a cleansing agent for use in removing dried exudates such as those formed in cases of seborrheic eczema, such a solution will have no actual therapeutic effect in cases of eczema.

The aforesaid product, when taken as directed, will have no significant effect upon the acid base balance of the body. The use of sodium bicarbonate will not prevent the retention of acid in the body nor will it correct a predisposition to rheumatism and gout. The application of cloth wet with a sodium bicarbonate solution to joints affected with rheumatism will exert no remedial or significant palliative effect. Sodium bicarbonate does not possess tonic properties and will not act as a general tonic to the system. The use of sodium bicarbonate solution as an enema for babies, will have no therapeutic value in cases of colic. Sodium bicarbonate does not constitute an adequate treatment or a dependable relief for colds, grippe or influenza, nor will the taking of several doses of sodium bicarbonate daily for three days cure a cold. Alkalinization by the administration of frequently repeated doses of sodium bicarbonate will not break up, prevent or cure a common cold and will not be effective in killing the germs or other organisms which cause colds, grippe and influenza.

PAR. 7. The foregoing false, deceptive and misleading statements and representations made by the respondents in designating and describing

Crystal Brand Baking Soda and its effectiveness in use were and are calculated to have, 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 said statements and representations were and are true. As a result of such erroneous and mistaken belief, so engendered, the purchasing public is induced to purchase, and does purchase, substantial quantities of respondent's said product.

PAR. 8. The aforesaid acts and practices of the 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 August 31, 1943, issued and thereafter served its complaint in this proceeding upon respondent, Detroit Soda Products Company, a corporation, on September 3, 1943, and upon respondent, Aarons, Sill & Caron, Inc., a corporation, on September 7, 1943, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. The respondent, Aarons, Sill & Caron, Inc., filed its answer on September 17, 1943, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. The respondent, Detroit Soda Products Company, filed its answer on September 20, 1943, in which answer it denied the material allegations of fact set forth in said complaint. Subsequently the Commission, by order entered herein, granted respondent Detroit Soda Products Company's motion for permission to withdraw its answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint, the answer filed by respondent, Aarons, Sill & Caron, Inc., and the substitute answer filed by respondent, Detroit Soda Products Company, 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, Detroit Soda Products Company, is a corporation, organized and existing under and by virtue of the laws of the State of Michigan with its principal place of business located at 35 Perry Place, in the city of Wyandotte, State of Michigan.

Respondent, Aarons, Sill & Caron, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Michigan with its principal place of business located at the Architects Building in the city of Detroit, State of Michigan.

PAR. 2. Respondent, Detroit Soda Products Company, is now, and for several years last past has been, continuously engaged in the business of packing, offering for sale and selling in commerce, as herein set out, a

baking soda (bicarbonate of soda) which is designated "Crystal Brand Baking Soda" and recommended for use in the treatment of and as a remedy for various human ailments as well as for other purposes.

Respondent, Aarons, Sill & Caron, Inc., is now, and for several years last past has been, continuously engaged in the advertising business. During said time said respondent has been and is now employed by the respondent, Detroit Soda Products Company, and at all times herein mentioned has acted as its advertising agent in the dissemination of advertisements of Crystal Brand Baking Soda.

PAR. 3. Respondent, Detroit Soda Products Company, being engaged in the business as aforesaid, caused and causes said product, when sold, to be transported from its principal place of business located in the city of Wyandotte, State of Michigan, to purchasers thereof located at points in various States of the United States other than the State from which said shipments were made and in the District of Columbia. Respondent has, at all times herein mentioned, maintained, and now maintains, a course of trade in commerce in said product so distributed and sold by it between and among various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of the aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning Crystal Brand Baking Soda by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase thereof 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 by the respondents, Detroit Soda Products Company and Aarons, Sill & Caron, Inc., as hereinabove referred to, by radio continuities, are the following:

What economical dentifrice will freshen the breath, keep gums healthy, remove teeth stains, restore dentine's natural brilliance?

Crystal Brand Baking Soda.

What's an ideal remedy for indigestion * * *? Crystal Brand Baking Soda.

What are Crystal Brand's medicinal advantages? Crystal Brand can be used * * * as a remedy for colds and coughs, * * * and indigestion.

Among, and typical of, the false, misleading and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated, in addition thereto, by respondent, Detroit Soda Products Company, as hereinabove set forth, by the United States mails, by advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets and other advertising literature, are the following:

Bicarbonate of soda * * * contains innate properties which are indispensable for making food easy to digest.

It also relieves inflammation and gives a soothing effect to the membrane of the mouth.

TESTED HOME REMEDIES

INDIGESTION: Dissolve one-quarter teaspoon of Crystal Baking Soda in one-half glass of cold water. Drink this before meals.

DYSPEPSIA * * *: Dissolve one level teaspoonful of Crystal Baking Soda in one glass of cold water. Drink this one or two hours after meals. For a tonic form, take one-quarter teaspoon before meals.

IVY POISONING: Dissolve two teaspoons of Crystal Baking Soda in one pint of water, and bathe the affected parts frequently. This is helpful in reducing the eruption and in quieting the itching caused by Ivy Poisoning.

LUMBAGO: Dissolve one-half to one pound of Crystal Baking Soda in a bathtub of water (about 30 gallons of water). Have the water as hot as it can be borne. Lie in the water about fifteen minutes or longer, then go to bed at once to avoid exposure.

SCALDS AND BURNS: Make a paste of Crystal Baking Soda and cold water. Apply this paste to the affected surface and keep a damp or moist cloth over it. This treatment usually relieves the pain instantly.

TOOTHACHE: Dissolve two teaspoons of Crystal Baking Soda in a pint of water, dip small pieces of cotton in this solution and apply them to the cavity of the affected tooth.

ECZEMA: Dissolve two level teaspoons of Crystal Brand Baking Soda in a pint of water. Apply this solution to the affected parts. "Externally, in a solution, it (Bicarbonate of Soda) is a solvent for dried exudates (secretions) such as the crusts in seborrheic eczema."—Practical Therapeutics—(Birmingham).

ACIDITY: Dissolve one level teaspoon of Crystal Brand Baking Soda in one glass of cold water and take one to two hours after meals. For tonic form, take about one-quarter teaspoon before meals.

COLIC (BABY): Dissolve one level teaspoon of Crystal Brand Baking Soda in one-half ($\frac{1}{2}$) glass (two ounces) of warm water—use this to give an enema. This treatment is for a baby from one month to six months of age.

RHEUMATISM

Dissolve two to four teaspoons of Crystal Baking Soda in one pint of water, wet a cloth in this solution and apply to the affected parts of joints. * * *

COLDS, GRIPPE AND INFLUENZA

Our recommendation for treating or "breaking up" a common Cold is as follows: Dissolve one-half teaspoon of Crystal Baking Soda in one glass of cold water and drink it. Do this about every two hours until you have taken six doses. This is the treatment for the first day.

During the second day, take four doses about two hours apart.

During the third day, take two doses—one in the morning and one in the evening. After the third day take one dose each morning until the Cold is cured.

* * * * *

Colds, Grippe and Influenza are, as you know, due to certain germs. Thorough alkalization of the body helps to kill these germs. It is for this reason that Crystal Soda, when used as suggested above, is very helpful in "breaking up" common Colds, and also in preventing them and similar diseases from becoming serious. * * *

PAR. 5. By and through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative or therapeutic properties of Crystal Brand Baking Soda, the respondents, Detroit Soda

Products Company and Aarons, Sill & Caron, Inc., have represented and do now represent, that Crystal Brand Baking Soda, when used as a dentifrice, will freshen the breath, keep gums healthy, remove all teeth stains and restore dentine's natural brilliance; that said product is an ideal remedy for indigestion, colds and coughs.

The respondent, Detroit Soda Products Company, in addition thereto has represented and does now represent, directly or by implication that Crystal Brand Baking Soda contains innate properties which are indispensable for making food easy to digest; that said product will relieve inflammation and give a soothing effect to the membrane of the mouth; that said product constitutes a competent and effective treatment and remedy for indigestion, dyspepsia, ivy poisoning, lumbago, scalds and burns, toothache, eczema, acidity, colic in babies, rheumatism, colds, grippe and influenza; that said product has tonic properties and will act as a general tonic; that said product will "break up," prevent and cure a common cold; that said product will kill the germs that cause colds, grippe and influenza and will prevent them and similar diseases from becoming serious.

PAR. 6. The aforesaid statements and representations, as hereinabove set forth, are grossly exaggerated, false, misleading and deceptive. In truth and in fact, Crystal Brand Baking Soda, when used as a dentifrice, will only tend to freshen the breath when bad breath arises from the accumulation of food, debris and other material on or between the teeth. It will not be effective in other conditions. Said product cannot be relied upon to keep gums healthy. While it will act to some extent as a cleansing and polishing agent if a sufficient quantity is used, it will not remove all types of stains from the teeth. It will not restore dentine's natural brilliance, for that portion of the tooth structure which possesses lustre and brilliance is not the dentine but the enamel. It does not possess innate properties which are indispensable for making food easy to digest nor does said product constitute an adequate treatment or an ideal remedy for indigestion. The only condition of stomach distress, which might be described as indigestion, in which this preparation could be of value is hyperacidity. Said product is not an effective or adequate treatment for coughs and when used as a mouthwash or gargle, it will not be effective in relieving inflammation of the membrane of the oral cavity.

Crystal Brand Baking Soda is not a remedy and does not constitute a competent and effective treatment for indigestion, dyspepsia, ivy poisoning, lumbago, scalds and burns, toothache, eczema, acidity, colic in babies, rheumatism, colds, grippe and influenza. While the application of a sodium bicarbonate solution will have some slight tendency to relieve itching such as that caused by poison ivy, it will not reduce the eruption of ivy poisoning. The addition of sodium bicarbonate to a hot bath will exert no beneficial effect in cases of lumbago. Any temporary benefits which are derived from such a bath arise solely from the heat involved. While a paste of baking soda and water is suitable for application to minor scalds and minor burns, it is not an appropriate treatment for severe scalds or burns. The application of small pieces of cotton dipped in baking soda solution to the cavity in an aching tooth will have no significant tendency to relieve such condition. While a baking soda solution is suitable as a cleansing agent for use in removing dried exudates such as those formed in cases of seborrheic eczema, such a solution will have no actual therapeutic effect in cases of eczema.

The aforesaid product, when taken as directed, will have no significant effect upon the acid base balance of the body. The use of sodium bicarbonate will not prevent the retention of acid in the body nor will it correct a predisposition to rheumatism and gout. The application of cloth wet with a sodium bicarbonate solution to joints affected with rheumatism will exert no remedial or significant palliative effect. Sodium bicarbonate does not possess tonic properties and will not act as a general tonic to the system. The use of sodium bicarbonate solution as an enema for babies, will have no therapeutic value in cases of colic. Sodium bicarbonate does not constitute an adequate treatment or a dependable relief for colds, grippe or influenza, nor will the taking of several doses of sodium bicarbonate daily for three days cure a cold. Alkalinization by the administration of frequently repeated doses of sodium bicarbonate will not break up, prevent or cure a common cold and will not be effective in killing the germs or other organisms which cause colds, grippe and influenza.

PAR. 7. The foregoing false, deceptive and misleading statements and representations made by the respondents in designating and describing Crystal Brand Baking Soda and its effectiveness in use were and are calculated to have, 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 said statements and representations were and are true. As a result of such erroneous and mistaken belief, so engendered, the purchasing public is induced to purchase, and does purchase, substantial quantities of said product.

CONCLUSION

The aforesaid acts and practices of the 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 answers of the respondents, in which answers respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Detroit Soda Products Company, a corporation, and Aarons, Sill & Caron, Inc., a corporation, their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of a baking soda (bicarbonate of soda) designated "Crystal Brand Baking Soda," or any other preparation 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, 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 "Crystal Brand Baking Soda," when used as a dentifrice, will freshen the breath, other than in cases where bad breath arises from the accumulation of food, debris and other material on or between the teeth, and which is removable by use of said product and a toothbrush.

(b) That said product, when used as a dentifrice, will keep gums healthy.

(c) That said product, when used as a dentifrice, will remove teeth stains other than that it will act to some extent as a cleansing and polishing agent if a sufficient quantity is used.

(d) That said product, when used as a dentifrice, will restore dentine's natural brilliance.

(e) That said product is a remedy or constitutes an effective treatment for indigestion other than temporary relief in cases of stomach distress, caused by hyperacidity.

(f) That said product is a remedy or constitutes a competent or effective treatment for colds or coughs.

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

It is further ordered, That the respondent, Detroit Soda Products Company, a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a baking soda (bicarbonate of soda) designated "Crystal Brand Baking Soda," 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 Crystal Brand Baking Soda contains properties which are indispensable for making food easy to digest.

(b) That said product relieves inflammation or gives a soothing effect to the membrane of the mouth.

(c) That said product is a remedy and constitutes a competent and effective treatment for dyspepsia.

(d) That said product is a remedy and constitutes a competent and effective treatment for ivy poisoning, other than that a solution of said product will have some slight tendency to relieve itching caused by poison ivy.

(e) That said product is a remedy and constitutes a competent and effective treatment for lumbago, or that the addition of said product to a hot bath will exert beneficial effect in cases of lumbago.

(f) That said product is a remedy and constitutes a competent and effective treatment for scalds or burns, other than that a paste of said product and water is suitable for application to minor scalds and minor burns.

(g) That said product constitutes a competent and effective treatment for toothache.

(h) That said product is a remedy and constitutes a competent and effective treatment for eczema, other than that a solution of said product

is suitable as a cleansing agent for use in removing dried exudates, such as those formed in cases of seborrheic eczema.

(i) That said product is a remedy or constitutes a competent and effective treatment for acidity.

(j) That said product is a remedy or constitutes a competent and effective treatment for rheumatism.

(k) That said product possesses tonic properties or acts as a general tonic to the system.

(l) That said product used in solution as an enema is a remedy and constitutes a competent and effective treatment for colic in babies.

(m) That said product is a remedy or constitutes a competent and effective treatment for grippe or influenza, will prevent colds, or will be effective in killing the germs or other organisms which cause colds, grippe and influenza.

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

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.

Complaint

38 F. T. C.

IN THE MATTER OF

REX DIATHERMY CORPORATION

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

Docket 5145. Complaint, Mar. 31, 1944—Decision, June 26, 1944

Where a corporation engaged in the manufacture and rental and interstate sale and distribution of its "Rex Diathermy Machine"; by advertisements in Italian in newspapers and other advertising literature and through radio continuities—

- (a) Represented that its said device or apparatus when used by unskilled individuals in the home treatment of self-diagnosed diseases and ailments, was a competent treatment and remedy for rheumatism in its various forms in all parts of the body, sciatica, lumbago, arthritis, bronchitis and other ailments and diseases, and for the alleviation of pain resulting therefrom; and that diathermy treatments are used by all doctors and in all hospitals for the treatment of the diseases and conditions named;

The facts being said representations were grossly exaggerated, false and misleading; said device was not a competent and effective means and methods for the treatment of self-diagnosed diseases or ailments or for the alleviation of pain resulting therefrom: there are many diseases in which diathermy would be contra-indicated, while in others use or improper use thereof might seriously aggravate rather than relieve conditions; some conditions for which the device was recommended may be symptomatic of underlying systemic disorders for which such treatment would have no therapeutic value and might even be injurious, and be responsible for fatal delay for proper diagnosis of such underlying causes as tuberculosis, syphilis, cancer or diabetes; use of diathermy requires diagnosis by competent medical authority to determine if such treatment is indicated and if so, method and duration which should be prescribed; and it is not used, as claimed, by all doctors or all hospitals for treatment of the diseases represented; and

- (b) Failed to reveal that prescribed use of its device might result in serious and irreparable injury to health and that it might be safely used only after a competent medical authority had determined, as a result of diagnosis, that diathermy was indicated, and had prescribed the frequency and amount of application of such treatments, and the user had been adequately instructed in the method of operating such device by a trained technician;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true and thereby induce its purchase of said device:

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. S. F. Rose for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Rex Diathermy Corporation, 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