

IN THE MATTER OF

HEALTHAIDS, INC., THE JOURNAL OF LIVING
PUBLISHING CORPORATION, AND VICTOR H. LINDLAHRCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4332. Complaint, Oct. 4, 1940—Decision, Jan. 18, 1945*

Where a corporation engaged in the manufacture and interstate sale and distribution of its medicinal preparation "Serutan"; a second corporation engaged in the publication, sale and distribution of a monthly magazine and of various booklets, pamphlets, circulars and other written material directed to promoting the sale of Serutan; and an individual who (1) was editor of said "Journal of Living" monthly magazine, as well as of various books, pamphlets, circulars and other written material distributed by said corporations, and was employed by said manufacturing corporation to deliver radio talks constituting the principal feature of a program devoted to promoting sale of "Serutan," broadcast by numerous stations in various parts of the United States; (2) was licensed to practice as an osteopath upon the completion of a course at a college of osteopathy, attended by him after securing the equivalent of a high school education, and had secured a degree as doctor of medicine from an admitted diploma mill;

Acting in concert in advertising and promoting the sale of said "Serutan" to members of the public, under a general plan in accordance with which (a) said manufacturing corporation directly advertised said product and promoted said individual as "an eminent diet authority," "famous editor of the Journal of Living," "the eminent nutritionist," and by other designations, and promoted the "Journal of Living" and various books and pamphlets of said individual; said individual in his radio talks, books, pamphlets, and circulars promoted "Serutan" and the "Journal of Living," and the "Journal of Living" directly advertised "Serutan" and promoted said individual and his writings, which in turn promoted "Serutan," and essence of which plan (b) was to promote the sale and distribution of said product, and to do so in as indirect and apparently disinterested a guise as possible; whereby they were able to sell to the public publications which were actually advertisements of "Serutan" disguised with titles such as "Eat Your Way to Beauty—The Famous Lindlahr Beauty Diet," "Eat Stay Young—The Fountain of Youth," "How to Gain Weight—The Famous Lindlahr 7-Day Weight Gaining Diet," "The Famous Lindlahr 7-Day Reducing Diet," and which pointed out how essential "Serutan" was to whatever the purpose of the booklet might be—beauty, health, longevity, weight reduction, weight gain, or other objective—

Represented directly or by implication, through statements in advertisements in newspapers and periodicals, by radio continuities and by circulars, leaflets, pamphlets and other advertising literature that "Serutan" was of substantial therapeutic value in restoring and maintaining natural elimination, that it stimulated and strengthened the digestive and eliminative organs and muscles and promoted normal and regular action on their part, constituted a cure or remedy for constipation, and possessed substantial therapeutic value in the treatment thereof;

The facts being that it did not constitute a cure or remedy for constipation, symptom usually of some other trouble for which the proper treatment is the ascertainment and correction of its cause; therapeutic value thereof being limited to the temporary relief afforded by its laxative action as a result of its bulk and irritant proper-

ties which tend to stimulate peristaltic action; statement that product had substantial therapeutic value in restoring and maintaining natural elimination was unwarranted, the physiological process of elimination without the intervention of drugs being normal, but abnormal if caused by other than normal foods or normal physiological processes; and, except for the tendency to stimulate peristaltic action, "Serutan" would not strengthen the digestive or eliminative organs or muscles or promote normal or regular action thereby;

With the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such false and misleading representations were true whereby it was induced to purchase substantial quantities thereof:

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. Arthur F. Thomas*, trial examiner.

Mr. William L. Taggart for the Commission.

Mr. Irving R. Rosenhaus, of Newark, N. J., and *Mr. Louis H. Rowe*, of New York City, for respondents, and *Healthaids, Inc.* was also represented by *Mr. W. Cameron Burton* and *Mr. George C. Vournas*, of Washington, D. C.

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 *Healthaids, Inc.*, a corporation, *The Journal of Living Publishing Corporation*, a corporation, and *Victor H. Lindlahr*, an individual, 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, *Healthaids, Inc.*, is a corporation, organized under the laws of the State of New Jersey, with its principal office and place of business located at 404-14 Tonnelle Avenue, Jersey City, N. J. Said respondent is now, and for more than one year last past has been, engaged in the sale and distribution of a medicinal preparation known as "Serutan" which is intended for use in the treatment of certain ailments and conditions of the human body.

Said respondent causes its product, when sold, to be transported from its place of business in the State of New Jersey to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in its product in commerce among and between the various States of the United States and in the District of Columbia.

Respondent, *The Journal of Living Publishing Corporation*, is a corporation, organized under the laws of the State of New York, with its principal office located at 1819 Broadway, New York, N. Y. Said respondent is engaged in the business of promoting the sale of the said medicinal preparations hereinbefore referred to, and as a part of its operations said respondent issues and disseminates a publication known as "The Journal of Living" which is used for the purpose of advertising said preparation.

Respondent, *Victor H. Lindlahr*, is an individual, with his principal

office located at 1819 Broadway, New York, N. Y. Said respondent is editor of the publication The Journal of Living hereinabove referred to and directs and controls the practices and methods of respondent The Journal of Living Publishing Corporation. Said respondent, Victor H. Lindlahr, also directs and controls the practices and methods of respondent, Health-aids, Inc., with respect to the advertising of its said preparation.

The respondents have acted in conjunction and cooperation each with the other in carrying on the acts and practices hereinafter alleged.

PAR. 2. In the course and conduct of their aforesaid businesses, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product 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 their said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said product 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 hereinabove set forth, by the United States mails, by advertisements in newspapers and periodicals, by radio continuities, and by circulars, leaflets, pamphlets and other advertising literature, are the following:

NO MORE LAXATIVES SAY THOUSANDS OF GRATEFUL USERS!

Don't fool around with constipation . . . don't gamble with irritating physics and doubtful, "one-time" remedies. Thousands who were ready to give up hope have found blessed relief with Serutan, the new-type food auxiliary that contains no habit-forming drugs, no harsh roughage or irritants. Serutan helps Nature in Nature's own way by stimulating normal, regular action. Can be used as a natural regulator. Free. 40 Page Book Real Truth about constipation.

A NATURAL CORRECTIVE WITHOUT LAXATIVES!

Why risk taking irritating "one-time" remedies that may do serious harm? Let Serutan help you, as it has helped thousands of others. Not a cathartic, but a new-type food auxiliary designed to re-establish natural elimination. Serutan contains no habit-forming drugs, no harsh roughage or irritants. Many doctors recommend it as a natural regulator for Pile, Ulcer and Colitis sufferers. Free. 40 Page Book Real Truth about constipation.

These headlines in the news of health and nutrition have been brought to you by SERUTAN—acclaimed by thousands as the safe, sensible way of combatting food delay. SERUTAN should not be confused with harsh-acting drugs. It is a natural food auxiliary which works with Nature to help you restore regularity and internal cleanliness. It contains no habit-forming drugs—no harmful roughage or irritants—nothing which works violently on the delicate digestive system. Don't take chances with your health! Let SERUTAN help you to the kind of internal cleanliness that is the basis for vigorous good health. Get the big economical container today—at any good drug, department or health food store. It's sold with an absolute money-back guarantee. But be sure to ask for it by name—SERUTAN, spelled SERUTAN. And remember, when you spell it backward, it reads—Nature's.

SERUTAN is not a mere "one-time" help. It is designed to promote internal cleanliness by stimulating and strengthening the normal action of the digestive organs. SERUTAN has already shown thousands (many of whom had literally tried everything else without success) how to overcome food delay and enjoy the renewed good health that comes with internal cleanliness.

AND NOW HERE'S A QUESTION—do you show as much consideration for yourself as you do for other people? Well—judging from the large number of folks who suffer serious digestive ailments, it would seem that far too many do not show enough consideration for themselves. That's why a word of caution is in order, particularly for those past the age of 35, who thoughtlessly and habitually use laxatives that may be too harsh for their systems. For after 35, the intestinal muscles are apt to be weaker and not as able to withstand the abuse of harsh drugs. What you may need for internal cleanliness is something to help strengthen those intestinal muscles and to help them maintain normal rhythm or peristaltic action. And that's exactly what SERUTAN is designed to do. SERUTAN contains no harsh drugs, no roughage, no irritants. So you see, it's ideal for those whose digestive systems can no longer stand abuse. Why not get SERUTAN today at any good drug or health food store? In the meantime send for your free copy of the 4 page booklet, "THE TRUTH ABOUT INTERNAL CLEANLINESS." Just put your name and address on a penny postcard and send it to SERUTAN spelled S E R U T A N—SERUTAN, Station WAAT, Jersey City, N. J. And remember—when you read SERUTAN backwards—it spells—NATURE'S!

PAR. 3. Through the use of the representations hereinabove set forth, and others of similar import not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of respondents' said preparation, respondents have represented and do now represent, directly or by implication, that their said preparation is of substantial therapeutic value in restoring and maintaining natural elimination; that it stimulates and strengthens the digestive and eliminative organs and muscles, and promotes normal and regular action on the part of such organs and muscles; that it constitutes a cure or remedy for constipation and possesses substantial therapeutic value in the treatment of constipation.

PAR. 4. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, respondents' preparation possesses no therapeutic value with respect to restoring or maintaining natural elimination. It is wholly incapable of stimulating or strengthening the digestive or eliminative organs or muscles, or of promoting normal or regular action on the part of such organs or muscles. Said preparation does not constitute a cure or remedy for constipation, nor does it possess any therapeutic value in the treatment of constipation except insofar as its laxative properties may assist in the temporary evacuation of the intestinal tract. The active ingredient of respondents' preparation consists of the mucilaginous portion of psyllium seed, and the presence of such ingredient serves to give said preparation the properties of a mild laxative. Aside from such properties, said preparation is wholly without therapeutic value.

PAR. 5. The use by the respondents of the foregoing false, deceptive and misleading representations with respect to their said product has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading representations are true, and as a result of such erroneous and mistaken belief the purchasing public is induced to, and does, purchase substantial quantities of respondents' product.

PAR. 6. 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 October 4, 1940, issued and subsequently served its complaint in this proceeding upon respondents, Healthaids, Inc., a corporation, The Journal of Living Publishing Corporation, a corporation, and Victor H. Lindlahr, an individual, charging them 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 respondents' answer thereto, testimony and other evidence in support of and in opposition to the allegations of said 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, 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. (a) Respondent, Healthaids, Inc., of New Jersey (the respondent referred to in the caption as Healthaids, Inc.) is a corporation, organized and existing under the laws of the State of New Jersey, with its principal office and place of business located at 404-14 Tonnele Avenue, Jersey City, N. J.

(b) Respondent, the Journal of Living Publishing Corporation, is a corporation, organized and existing under the laws of the State of New York, with its principal office located at 1819 Broadway, New York, N. Y.

(c) Respondent, Victor H. Lindlahr, is an individual, with his principal office located at 1819 Broadway, New York, N. Y.

PAR. 2. (a) Healthaids, Inc., of New Jersey, hereinafter frequently referred to as Healthaids, is engaged in the manufacture, sale, and distribution of a medicinal preparation designated "Serutan." Said respondent causes its product, when sold, to be transported from its place of business in New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains a course of trade in said product in commerce among and between the various States of the United States and in the District of Columbia.

(b) The Journal of Living Publishing Corporation is engaged in the publication, sale, and distribution of a monthly magazine and of various booklets, pamphlets, circulars, and other written material directed to promoting the sale of Serutan. Matthew Rosenhaus and Maurice Haas, respectively president and treasurer of Healthaids, are members of the board of directors of the Journal of Living Publishing Corporation, and the other

members of said board of directors are Victor H. Lindlahr, Peter Lersch, and Ann White.

(c) Respondent, Victor H. Lindlahr, is editor of the "Journal of Living" and author of various books, pamphlets, circulars, and other written material distributed by the Journal of Living Publishing Corporation and Healthaids and devoted to promoting the sale of Serutan. He is employed by Healthaids to deliver radio talks which constitute the principal feature of a radio program broadcast by numerous radio stations located in various parts of the United States, which programs are devoted to promoting the sale of Serutan. Until some time after the issuance of the complaint in this proceeding the publication known as the "Journal of Living" was mailed to subscribers and others from the offices of Healthaids in Jersey City. The radio talks and writings of Lindlahr, which purport to set out his views on numerous subjects, are reviewed and revised before publication by a medical director employed by Healthaids. Respondent, Lindlahr, secured the equivalent of a high school education at the Lewis Institute in Chicago and then attended the Chicago College of Osteopathy. Upon completion of his course at the latter institution, he was licensed in 1918 to practice as an osteopath in Illinois. In 1923 he secured a degree as Doctor of Medicine from the St. Louis College of Physicians and Surgeons, and though he admitted that he knew this was a diploma mill and that he has never been licensed to practice as a doctor of medicine in any State of the United States, he testified that he considers himself entitled to use his M. D. degree for purposes of writing and that "it is as good as anybody else's for the purpose of writing." In the past Victor H. Lindlahr has promoted the sale of various other medicinal preparations. In his capacity as editor of the "Journal of Living" and as a writer and radio lecturer, he currently promotes the sale of Serutan and receives compensation for his services from the Journal of Living Publishing Corporation and from Healthaids.

(d) Through its radio programs, Healthaids directly advertises Serutan and promotes respondent Lindlahr as "an eminent diet authority," "famous editor of the Journal of Living," "the eminent nutritionist," and by other designations, and promotes the "Journal of Living" and various Lindlahr books and pamphlets. Lindlahr in his radio talks, books, pamphlets, and circulars promotes Serutan and the "Journal of Living." The "Journal of Living" directly advertises Serutan and promotes Lindlahr and his writings, which in turn promote Serutan. The essence of the entire arrangement is to promote the sale and distribution of Serutan, and to do so in as indirect and apparently disinterested guise as possible. Through these processes respondents are actually able to sell to the public publications which are fundamentally advertisements of Serutan disguised with titles such as "Eat Your Way to Beauty—The Famous Lindlahr Beauty Diet," "Eat Stay Young—The Fountain of Youth," "How to Gain Weight—The Famous Lindlahr 7-Day Weight Gaining Diet," "The Famous Lindlahr 7-Day Reducing Diet," and others. These publications point out how essential Serutan is to whatever the purpose of the booklet may be—beauty, health, longevity, weight reduction, weight gain, or other objective.

(e) The several respondents act in concert, cooperate with and assist one another in advertising and promoting the sale of Serutan to members of the public.

PAR. 3. 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 the product designated "Serutan" 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 their said product by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of the said product 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 hereinabove set forth by the United States mails, by advertisements in newspapers and periodicals, by radio continuities, and by circulars, leaflets, pamphlets, and other advertising literature are the following:

NO MORE LAXATIVES
SAY THOUSANDS OF GRATEFUL USERS!

Don't fool around with constipation . . . don't gamble with irritating physics and doubtful, "one-time" remedies. Thousands who were ready to give up hope have found blessed relief with Serutan, the new-type food auxiliary that contains no habit-forming drugs, no harsh roughage or irritants. * * * Send for FREE 36-page booklet "Truth about Constipation." (Comm. Ex. 3-D).

* * * * *

A NATURAL CORRECTIVE
WITHOUT LAXATIVES!

Why risk taking irritating "one time" remedies that may do serious harm? Let Serutan help you, as it has helped thousands of others. Not a cathartic, but a new-type food auxiliary designed to re-establish *natural* elimination. * * * Send for FREE 36-page booklet "Truth About Constipation" (Comm. Ex. 3-F).

* * * * *

Here is REAL Relief
from Constipation

Thousands of grateful people say that SERUTAN has rid them of the laxative habit . . . that it has helped them win back healthful regularity (Comm. Ex. 29-J, p. 18).

* * * * *

Serutan has brought grateful relief to thousands over 35, because it is one product specifically designed to help tone up and strengthen weak, sluggish digestive muscles, so that regularity may be maintained. So if you're over 35 and would like to get real relief; and keep as regular as a clock—try SERUTAN! (Comm. Ex. 29-Z-8).

* * * * *

For after 35, the digestive action which promotes regularity; is apt to be weaker, more sluggish. And today LAXATIVES which cannot help to improve THAT action may not be the TRUE answer to your problem. So try that effective product called SERUTAN—It's ESPECIALLY designed for folks over 35—to TONE UP and STRENGTHEN the digestive action which encourages regularity (Comm. Ex. 29-Z-19).

* * * * *

In my radio broadcasts in other large cities, such as New York, Philadelphia, Boston, etc., I have brought to the attention of thousands of *grateful people* what I consider to be the best and most advanced product for combating that "scourge of humanity"—constipation. And that product is Serutan. When you read Serutan backwards it spells Nature's. And that is exactly what it is—Nature's answer—Nature's way to overcome constipation without the use of drugs (Comm. Ex. 28-A).

* * * * *

So in order to get REAL relief from the miseries of common sluggishness, what you may need is something to help tone up the weakened action of those muscles that PROMOTE regularity. In other words . . . what you may need is SERUTAN. You see, SERUTAN is DIFFERENT . . . it's not a pill . . . not salts . . . not oil or liquid. As Victor H. Lindlahr has told you, Serutan is a HYDRO-GEL . . . a mild concentrated combination of purely vegetable ingredients that help nature thoroughly yet gently (Comm. Ex. 7).

* * * * *

New Drugless Food Auxiliary Reestablishes Regularity!

* * * Let the new food auxiliary, SERUTAN—help Nature re-establish internal cleanliness * * * SERUTAN is not a mere "one-time" help. It is designed to promote internal cleanliness by stimulating and strengthening the normal action of the digestive organs. SERUTAN has already shown thousands (many of whom had literally tried everything else without success) how to overcome food delay and enjoy the renewed good health that comes with internal cleanliness (Comm. Ex. 29-E).

* * * * *

"The Truth About Internal Cleanliness" has enabled thousands to free themselves from the cathartic habit. It may be the answer to your problem too . . . Send for your FREE copy right now. Just write your name and address plainly on a penny postcard and mail it to SERUTAN (Comm. Ex. 7).

* * * * *

What is needed is something to get at the cause of the trouble—something that will help strengthen the intestinal muscles and stimulate their natural, regular action. And that is exactly what SERUTAN is designed to do! * * * Thousands of grateful people say that SERUTAN has rid them of the laxative habit . . . that it has helped them win back youthful, healthful regularity, where everything else had failed (Comm. Ex. 22).

PAR. 4. Through the use of the representations quoted above, and many others of similar character purporting to describe the therapeutic properties of Serutan, respondents have represented, and now represent, directly and by implication, that Serutan is of substantial therapeutic value in restoring and maintaining natural elimination, that it stimulates and strengthens the digestive and eliminative organs and muscles and promotes normal and regular action on the part of such organs and muscles, that it constitutes a cure or remedy for constipation, and possesses substantial therapeutic value in the treatment of constipation.

PAR. 5. The product "Serutan" consists of equal parts of rice polishings and the epithelial tissue of psyllium seed. The rice polishings contain a small proportion of rice bran. The psyllium seed is that of the *Plantago Ovata* variety, and the portion intended to be used is the epithelial tissue,

but in fact small bits of the germ and endosperm of the seed are mixed with it. The epithelial tissue of the psyllium seed, when brought into contact with water, expands to 15 or 20 times its dry volume and forms a mucilaginous, jelly-like mass, and is the type of product commonly referred to as a hydrogel. The rice polishings included in Serutan are intended by the manufacturer to serve the purpose of preventing the hydrogel from becoming a too closely adhesive mass when expanded through the absorption of liquid. Serutan is sold to the public in dry form, made into small pellets about two millimeters in diameter by 4 millimeters in length, and the dosage recommended is approximately three teaspoonfuls per day. When taken as directed, Serutan acts as a mild irritant, bulk laxative and tends to bring about a temporary evacuation of the bowels. Its laxative action results from both its bulk and irritant properties. The bulk is provided primarily by the psyllium seed product which, after expanding through the absorption of liquid into a mucilaginous mass, retains the liquid absorbed and passes through the intestines in that form. A small portion of the indigestible residues of Serutan is broken down into volatile fatty acids which irritate the intestinal walls. The crude fibers contained in the rice polishings also have a direct irritant effect upon the intestinal walls. The bulk and irritant properties of Serutan thus tend to stimulate peristaltic action and result in bowel movement.

PAR. 6. (a) Constipation is usually a symptom of some other trouble and the proper method of treatment is to ascertain the cause, if possible, and correct it. Those cases of constipation where no organic lesion is detected are sometimes classified as functional, and may be due to various causes, including diet, poor habits, abuse of the digestive system, and some nervous conditions. Serutan does not constitute a cure or remedy for constipation, its therapeutic value being limited to the temporary relief afforded by its laxative action. Though a person suffering from constipation may secure temporary relief from the use of Serutan or some other laxative, if the cause of his constipation is not corrected, he will revert to a state of constipation when he ceases to take the laxative.

(b) Respondents' representation that Serutan has substantial therapeutic value in restoring and maintaining natural elimination is unwarranted. Normal elimination is a physiological process which takes place without the intervention of drugs, but if caused by anything other than normal foods or normal physiological processes is abnormal. Bowel movements induced through the taking of Serutan do not constitute natural or normal elimination.

(c) Respondents represent that Serutan stimulates and strengthens the digestive and eliminative organs and muscles. The digestive organs include the stomach, liver, gall bladder, and pancreas. The only therapeutic property possessed by Serutan is that it is a mild, irritant, bulk laxative which tends to stimulate peristaltic action by the intestines. It will not strengthen the digestive or eliminative organs or muscles or promote normal or regular action by them. Except for the tendency to stimulate peristaltic action by the intestines, it will not stimulate the digestive or eliminative organs or muscles.

(d) Serutan is not a cure or remedy for constipation and possesses no therapeutic value in the treatment of constipation, except that in its capacity as a laxative it may assist in the temporary evacuation of the intestinal tract.

PAR. 7. Respondents produced a number of medical expert witnesses

who testified generally as to the product "Serutan," and some of whom produced the results of studies made by them concerning Serutan. The Commission has given careful consideration to such testimony and other evidence. In the evaluation of the testimony of Dr. Harry Barowsky and his study entitled, "The Clinical and Roentgen Evaluation of the Effect of a Hemicellulose Product on Colonic Stasis in Gastro-intestinal Disease," substantial weight has been given to the testimony of Drs. L. J. Boyd and Thomas H. McGavack respecting the testimony of Dr. Barowsky and their inquiries concerning the studies testified to by Dr. Barowsky. Similarly, in considering and evaluating the testimony of Dr. Irwin W. Friedberg and his study entitled, "The Hydrogel Treatment of Colonic Stasis," consideration has been given to the stipulation concerning the testimony of Dr. Michael Schuman and the resolution adopted by the board of directors of the Jewish Memorial Hospital concerning Dr. Friedberg's work in connection with Serutan and the published reports thereof.

PAR. 8. The use by respondents of the false, deceptive, and misleading representations with respect to the product "Serutan," in the manner hereinabove set forth, has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false and misleading representations are true, and as a result of such erroneous and mistaken belief the purchasing public is induced to, and does, purchase substantial quantities of such product.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, 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, 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, Healthaids, Inc., of New Jersey, a corporation, and Journal of Living Publishing Corporation, a corporation, their respective officers, representatives, agents, and employees, and Victor H. Lindlahr, an individual, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of Serutan, or any product of substantially similar composition or possessing similar properties, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

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

(a) Is a cure or remedy for constipation; will restore or maintain natural elimination; will promote normal or regular action by the digestive or eliminative organs or muscles; or has any therapeutic value in the treatment of constipation in excess of the temporary relief afforded by its laxative action.

(b) Will strengthen the digestive or eliminative organs or muscles.

(c) Will stimulate the digestive or eliminative organs or muscles; but this shall not be construed to prohibit representations that said product tends to stimulate peristaltic action by the intestines.

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

It is further ordered, That respondents shall, within 60 days after the 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

IN THE MATTER OF

HAWKEYE SALES, INC. AND TIM LAKE

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

Docket 4919. Complaint, Feb. 23, 1943—Decision, Jan. 18, 1945

Where a corporation and its sales manager, engaged in the manufacture and interstate sale and distribution of their "Blu-V-Spray," and "Jermite," medicinal preparations for poultry; through statements in advertisements or in letters, circulars, leaflets and by other means,—

- (a) Falsely represented that use of their said "Blu-V-Spray" assured germ-free poultry, of greater weight and higher quality; would eliminate the necessity or expediency of killing sick poultry or adopting other cautionary measures, and avoid the possibility of ruining an entire flock of poultry by reason of sickness; was a competent and effective treatment for colds and other respiratory troubles of poultry; and would save the ives of the poultry and insure poultry against hazards of severe weather conditions;
- (b) Falsely represented that use of their said "Jermite" improved the physical fitness of poultry to the extent that the maximum amount of feed would be consumed and the full benefit thereof obtained; that it acted as an appetizer and stimulator when used in poultry feed and would aid in the proper digestion thereof; and that the use thereof with 20 pounds of buttermilk would give the same feeding results as 35 or 40 pounds of buttermilk without "Jermite"; and
- (c) Falsely represented that the combined use of "Blu-V-Spray" and "Jermite" insured substantial benefits worth hundreds of times the cost;

With the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such false representations were true and thereby into the purchase of substantial quantities of their said preparations:

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. Miles J. Furnas*, trial examiner.
Mr. R. P. Bellinger 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 Hawkeye Sales, Inc., a corporation, and Tim Lake, an individual, hereinafter referred to as respondents, have 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, Hawkeye Sales, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Iowa with its office and principal place of business located at 615 Tenth Street, Des Moines, Iowa. Respondent, Tim Lake, is an individual, and acts as sales manager of the corporate respondent above