

Syllabus

IN THE MATTER OF

PAUL CASE

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 4813. Complaint, Aug. 14, 1942—Decision, Oct. 24, 1947

Where an individual engaged in the interstate sale and distribution of his "Case Combination New Method Improved"—also designated as "The New Improved Case Combination Method" and "Case Combination Formula"—which consisted of two medicinal preparations, designated as "Formula No. 1" and "Formula No. 2," recommended for use in combination in the treatment of rheumatism, arthritis, sciatica, neuritis, and similar conditions; through advertisements in newspapers and periodicals, and by form letters, circulars, and other advertising media; directly and by implication—

(a) Represented that his said "Combination Method" was a cure or remedy and constituted a competent and effective treatment for rheumatism, sciatica, arthritis, neuritis, and neuralgia and that said treatment would relieve the pains symptomatic of, and associated with, such conditions, and that the longer the treatment was taken the greater the improvement and the more lasting the benefit; and

(b) Represented that the formulas for his said medicinal preparations constituted a recognized and accepted therapeutic treatment used and prescribed by the medical profession for the treatment of aforesaid diseases, and of pains that affect the joints and muscles, and that the use of each of said preparations in conjunction with the other increased the therapeutic value of each preparation;

When in fact they had no therapeutic value in the treatment of such conditions in excess of furnishing temporary relief from minor pains symptomatic of, or associated with such diseases and conditions; had no curative action on the underlying factors that cause the symptoms of pain; and various aforesaid representations were false;

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

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.

In a proceeding in which the complaint challenged respondent's representations in behalf of two preparations offered by him as a combination method for the treatment of rheumatism, sciatica, arthritis, neuralgia, and neuritis, and in which one of the respondents testified that hyperacidity and constipation were among the causative factors of such diseases, but admitted that this was his own theory and that it was contrary to accepted medical opinion, the testimony of other expert witnesses indicated that said theory was contrary to the consensus of such opinion.

Complaint

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In a proceeding in which the complaint charged that respondent, in connection with the offering and sale of his combination method for the treatment of rheumatism, sciatica, arthritis, neuralgia, asthma, and neuritis, consisting of his so-called Formula No. 1 and Formula No. 2, had failed to reveal that the latter, because of its irritant-laxative content, might be potentially dangerous when taken as directed or under usual conditions, the Commission was of the opinion, after considering the record and the nature of the remedies to be applied, that under the circumstances in the case and in view of the nature and extent of the testimony adduced in the proceeding, no warning as to potential danger should be required in the advertising thereof.

Before *Mr. Miles J. Furnas* and *Mr. Charles B. Bayly*, trial examiners.

Mr. Joseph Callaway for the Commission.

Mr. George Landesman, of New York City, for respondent.

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 Paul Case, an individual, hereinafter referred to as respondent, has 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 Paul Case is an individual trading and doing business under his own name with his principal office and place of business located at 33 Hamilton Street, Brockton, Mass.

PAR. 2. Respondent is engaged in the sale and distribution of an alleged treatment for pains affecting joints and muscles, and for the pains of rheumatism, arthritis, sciatica, and neuralgia, variously designated "Case Combination New Improved Method," "The New Improved Case Combination Method," and "Case Combination Formulae," hereinafter referred to as "Case Combination Method," consisting of two medicinal preparations designated Formula No. 1 and Formula No. 2, respectively.

Respondent causes said "Case Combination Method" and the individual preparations of which it is composed, when sold, to be transported from his place of business in the State of Massachusetts to the purchasers thereof located in various other States of the United States. At all times mentioned herein respondent has maintained a course of trade in his said "Case Combination Method" and the individual medicinal preparations of which it is composed, in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of his aforesaid business respondent has disseminated and has caused the dissemination of false advertisements concerning his said "Case Combination Method" and the individual medicinal preparations of which it is composed, by the United States mails and by various means in commerce, as commerce is defined in the Federal Trade Commission Act; and the respondent has also disseminated and has also caused the dissemination of false advertisements concerning the aforesaid "Case Combination Method" and the individual medicinal preparations thereof by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his aforesaid "Case Combination Method" and the individual medicinal preparations, aforesaid, 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 such false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, newspapers, form letters, circulars, and other advertising media, as aforesaid, are the following:

**"RHEUMATIC" PAINS
PROMPTLY RELIEVED**

if you are suffering from those agonizing aches and pains usually associated with rheumatic, arthritic, sciatic and neuralgia conditions, don't give up hope. Over 100,000 sufferers have been helped by the CASE COMBINATION METHOD. Now I want to send you absolutely FREE a generous trial of the NEW IMPROVED CASE COMBINATION METHOD. You owe it to yourself to send for the free trial supply TODAY. Enclose 10¢ only if you wish to help cover cost of postage in mailing.

In my desire to help those who suffer I am always glad to have the opportunity to send a free trial of the marvelous CASE COMBINATION METHOD for those distressing pains that wrack the joints and muscles, commonly called "rheumatic" pains.

Both of these formulae have been worked out scientifically by a doctor of high standing in the medical profession. Formula No. 1 contains a standard ingredient prescribed by doctors everywhere for relieving pain in rheumatic, arthritic, sciatic and neuralgic conditions.

Formula No. 2 plays an important part in the Method also. It contains powerful but harmless anti-acids, which tend to neutralize excess acidity often associated with rheumatic conditions. In addition it helps elimination from the bowels, which is important in relieving rheumatic pains.

The remarkable feature of the Case Combination Method is that it not only relieves pain but provides other beneficial effects as well. You will find in the envelope, 10 pink tablets (Formula No. 1) and 12 white tablets (Formula No. 2). When you are in pain, take 2 of the pink tablets (Formula No. 1) with a little

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water and repeat in 1 or 2 hours if needed for relief of pain. Stop taking the pink tablets when pain is relieved, but take them again if a pain comes back.

The white tablets (Formula No. 2) should be taken regularly, 2 tablets with a little water 3 times a day after meals, especially when a combined laxative and acid neutralizing medicine is needed. It is very important not to neglect their use because they improve the action of the pink tablet (Formula No. 1).

It is important to keep on taking the white tablets (Formula No. 2) regularly * * * the continued use of these tablets according to directions tends to neutralize excess acidity and also help elimination.

If you have been benefited by the Case Combination Method you should continue their use. Otherwise, your system will not get all the help that these medicines are capable of giving.

Possibly your pains are unusually severe or have a tendency to recur unless you continue faithful use of a medicine intended to give the relief you so earnestly desire. If so, I trust you will persevere and continue the wonderful Case Combination Method.

PAR. 4. Through the use of the statements and 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 the aforesaid "Case Combination Method," respondent represents, directly and by implication, that the "Case Combination Method" will relieve the pains associated with, and is a cure and remedy and constitutes a competent and effective treatment for, rheumatism, sciatica, arthritis, neuralgia, and excess acidity; and that the longer the treatment is taken, the greater the improvement and more lasting the benefit.

Through the use of the statements and representations hereinabove set forth, and others of similar import, not specifically set out herein, which purport to be descriptive of respondent's preparation Formula No. 2, respondent represents directly and by implication, that the medicinal preparation Formula No. 2 will improve the action of the medicinal preparation Formula No. 1 and that it is a cure and remedy and constitutes a competent and effective treatment for rheumatism, sciatica, arthritis, neuralgia, and excess acidity and that its regular use will result in permanent relief from such conditions.

Respondent further represents, directly and by implication, in the method and manner as hereinabove set forth, that excess acidity is often the cause of rheumatic conditions; that elimination of the bowels is an important and essential part of the treatment for rheumatic pains; that the qualitative and quantitative formulae for his medicinal preparations represent a recognized and accepted therapeutic treatment used and prescribed by the medical profession for the treatment of rheumatism, sciatica, arthritis, neuritis, excess acidity, and pains

that wrack the joints and muscles; that his medical preparation Formula No. 1 contains an ingredient that is a standard drug universally used by physicians in treating the pains associated with the aforesaid diseases.

PAR. 5. The foregoing statements and representations, and others of similar import, not specifically set out herein, are grossly exaggerated, false, and misleading.

The aforesaid "Case Combination Method" and the individual preparations constituting said method, sold and distributed as aforesaid, used separately or in any combination of one with the other, is not a cure or remedy for, nor do they jointly or separately, or in any combination of one with the other, have any generally recognized dependable therapeutic value in the treatment of, rheumatism, sciatica, arthritis, or neuralgia, in excess of furnishing temporary relief from minor pain often associated with such diseases. It will have no curative action on the underlying factors that cause such pain. It is not a cure or remedy for and does not constitute an effective treatment for excess acidity. Its continued use will not afford greater improvement or more lasting benefit.

The medicinal preparation Formula No. 2 is nothing more than an irritant cathartic with a small amount of alkali which will partly neutralize the hydrochloric acid of the stomach. It will not improve the action of the medicinal preparation Formula No. 1. It is not a cure and remedy for and has no generally recognized therapeutic value in the treatment of rheumatism, sciatica, arthritis, neuralgia, or excess acidity of the system. Its regular use will not result in any relief, permanent or otherwise, from such conditions.

Excess acidity is rarely, if ever, a contributing factor to or the cause of rheumatic conditions.

The forced evacuation of the bowels by the use of an irritant cathartic, such as respondent's preparation Formula No. 2 will not mitigate or relieve, or have any therapeutic value in the treatment of rheumatic pains.

The formulae for respondent's medicinal preparations do not represent a recognized and accepted therapeutic treatment used and prescribed by the medical profession for the treatment of rheumatism, sciatica, arthritis, neuralgia, excess acidity or pains that wreck the joints and muscles.

The medicinal preparation Formula No. 1 contains acetylsalicylic acid, an ingredient often prescribed by members of the medical pro-

fession for temporary relief of minor pains and aches. However, the diseases, rheumatism, sciatica, arthritis, and neuralgia are often accompanied by pains of such intensity and severity that acetylsalicylic acid cannot be relied upon to afford even temporary relief and it is, therefore, not universally prescribed by members of the medical profession in the treatment of such conditions.

PAR. 6. The advertisements disseminated by the respondent, as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations, or material with respect to consequences which may result from the use of the medicinal preparation "Formula No. 2," as directed, alone or in the "Case Combination Treatment" under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

Respondent's preparation "Formula No. 2" is dangerous to health in that its use as directed may result in chronic local irritation of the alimentary tract, gastro-intestinal disturbances and interfere with or upset normal digestive processes. The danger of such injury may be avoided only by appropriate limitation of the use of this irritant preparation.

Respondent's said preparation, Formula No. 2, is an irritant laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramps, colic, nausea, vomiting or other symptoms of appendicitis. Its frequent or continued use may result in dependence on a laxative.

PAR. 7. The use by said respondent of the foregoing false advertisements and deceptive and misleading statements and representations, and others of similar import, disseminated as aforesaid, has had and now 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 statements, representations and advertisements are true, and that said medicinal preparation, Formula No. 2, is safe for use, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's aforesaid "Case Combination Method" and the individual medicinal preparations designated as aforesaid.

PAR. 8. The aforesaid 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 August 14, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Paul Case, an individual, 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 the answer of the respondent thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were taken before a trial 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, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence and exceptions filed thereto, and briefs filed in support of the complaint and in opposition thereto (oral argument not having been requested); 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, Paul Case, is an individual trading and doing business under his own name, with his principal office and place of business located at 33 Hamilton Street, Brockton, Mass.

PAR. 2. Respondent is engaged in the sale and distribution of medicinal preparations which are recommended for use in combination in the treatment of rheumatism, arthritis, sciatica, neuritis, and similar conditions. These preparations are sold as a so-called treatment variously designated as "Case Combination New Method Improved," "The New Improved Case Combination Method," and "Case Combination Formula," and said medicinal preparations, in constituting said treatment, are designated as Formula No. 1 and Formula No. 2, respectively. This treatment consisting of Formula No. 1 and Formula No. 2 will hereinafter be referred to as the "Case Combination Method."

Respondent causes said Case Combination Method and the individual preparations of which it is composed, when sold, to be transported from his place of business in the State of Massachusetts to the purchasers thereof located in various other States of the United States.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said Case Combination Method and the individual preparations of which it is composed in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of his aforesaid business, the respondent has disseminated and has caused the dissemination of, false advertisements concerning his Case Combination Method and the individual medicinal preparations of which it is composed by United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act; and the respondent has also disseminated, and has caused the dissemination of, false advertisements concerning the aforesaid Case Combination Method and the individual medicinal preparations thereof by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his aforesaid Case Combination Method and the individual preparations 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 such false advertisements disseminated and caused to be disseminated as hereinabove set forth, by United States mails, by advertisements in newspapers and periodicals, and by form letters, circulars, and other advertising media, are the following:

**"RHEUMATIC" PAINS
PROMPTLY RELIEVED**

if you are suffering from those agonizing aches and pains usually associated with rheumatic, arthritic, sciatic and neuralgia conditions, don't give up hope. Over 100,000 sufferers have been helped by the CASE COMBINATION METHOD. Now I want to send you absolutely FREE a generous trial of the NEW IMPROVED CASE COMBINATION METHOD. You owe it to yourself to send for the free trial supply TODAY. Enclose 10¢ only if you wish to help cover cost of postage in mailing.

* * * * *

In my desire to help those who suffer I am always glad to have the opportunity to send a free trial of the marvelous CASE COMBINATION METHOD for those distressing pains that wrack the joints and muscles, commonly called "rheumatic" pains.

* * * * *

Both of these formulae have been worked out scientifically by a doctor of high standing in the medical profession. Formula No. 1 contains a standard ingredient prescribed by doctors everywhere for relieving pain in rheumatic, arthritic, sciatic and neuralgic conditions.

* * * * *

Formula No. 2 plays an important part in the Method also. It contains powerful but harmless anti-acids, which tend to neutralize excess acidity often as-

sociated with rheumatic conditions. In addition it helps elimination from the bowels, which is important in relieving rheumatic pains.

* * * * *

The remarkable feature of the Case Combination Method is that it not only relieves pain but provides other beneficial effects as well. You will find in the envelope 10 pink tablets (Formula No. 1) and 12 white tablets (Formula No. 2). When you are in pain, take 2 of the pink tablets (Formula No. 1) with a little water and repeat in 1 or 2 hours if needed for relief of pain. Stop taking the pink tablets when pain is relieved, but take them again if a pain comes back.

* * * * *

The white tablets (Formula No. 2) should be taken regularly, 2 tablets with a little water 3 times a day after meals, especially when a combined laxative and acid neutralizing medicine is needed. It is very important not to neglect their use because they improve the action of the pink tablet (Formula No. 1).

* * * * *

It is important to keep on taking the white tablets (Formula No. 2) regularly * * * the continued use of these tablets according to directions tends to neutralize excess acidity and also help elimination.

* * * * *

If you have been benefited by the Case Combination Method you should continue their use. Otherwise, your system will not get all the help that these medicines are capable of giving.

* * * * *

Possibly your pains are unusually severe or have a tendency to recur unless you continue faithful use of a medicine intended to give the relief you so earnestly desire. If so, I trust you will persevere and continue the wonderful Case Combination Method.

PAR. 4. Through the use of the statements and 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 the aforesaid Case Combination Method, respondent represents, directly and by implication, that the Case Combination Method is a cure or remedy and constitutes a competent and effective treatment for rheumatism, sciatica, arthritis, neuritis, or neuralgia and that said treatment will relieve the pains symptomatic of, and associated with, such conditions and that the longer the treatment is taken the greater the improvement and the more lasting the benefit.

Respondent further represents, directly and by implication, in his various form letters and other advertising material that the formulas for his medicinal preparations represent a recognized and accepted therapeutic treatment used and prescribed by the medical profession for the treatment of rheumatism, sciatica, arthritis, neuralgia, neuritis, and pains that affect the joints and muscles and that the use of each of said preparations in conjunction with the other increases the therapeutic value of each preparation.

Findings

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PAR. 5. The Commission finds that the foregoing statements and representations are grossly exaggerated, false, and misleading. The Case Combination Method and the individual preparations constituting said method, used either separately or in combination of one with the other, are not a cure or remedy for rheumatism, sciatica, arthritis, neuralgia, or neuritis and have no therapeutic value in the treatment of such conditions in excess of furnishing temporary relief from minor pains symptomatic of, or associated with, such diseases and conditions. Said Case Combination Method and the individual medicinal preparations of which it is composed have no curative action on the underlying factors that cause the symptoms of pain.

Formula No. 1 of said Case Combination Method is composed of the following ingredients:

	<i>Grains</i>
Acetylsalicylic acid (aspirin)-----	5
Potassium sulphate-----	$\frac{1}{4}$
Cimicifugin-----	$\frac{1}{4}$
Phytolaccin -----	$\frac{1}{8}$

By reason of the aspirin content in this preparation, it would tend, when taken as directed, to reduce fever when above normal and would tend to temporarily relieve the symptoms of pain associated with rheumatism, sciatica, arthritis, neuralgia, or neuritis if the severity of the pain is not too great, but has no therapeutic effect upon the underlying conditions causing said diseases. The ingredients cimicifugin, which is commonly known as bugbane, and phytolaccin, which is commonly known as pokeweed, are not recognized by the medical profession as having any therapeutic action in the treatment of any disease or condition. The amount of potassium sulphate contained in said preparation is too small to have any therapeutic effect.

Formula No. 2 of said Case Combination Method is composed of the following ingredients:

	<i>Grains</i>
Sodium citrate U. S. P-----	2
Sodium bicarbonate U. S. P-----	1
Ext. cascara sagrada U. S. P-----	1

This preparation is primarily an irritant-laxative preparation. It does not contain sufficient sodium citrate or sodium bicarbonate to be effective in combating hyperacidity of the stomach. This preparation has no recognized value in the treatment of rheumatism, sciatica, arthritis, neuralgia, or neuritis. It is not an effective treatment for such diseases or conditions and its use has no effect upon the development or course of such diseases or conditions.

The Commission further finds that the formulas for respondent's medicinal preparations do not represent a recognized or accepted therapeutic treatment for rheumatism, sciatica, arthritis, neuralgia, or neuritis. The use of said preparations in combination with each other does not increase or improve the therapeutic value of either preparation.

One of the expert witnesses called by the respondent testified that hyperacidity and constipation were among the causative factors of rheumatism, sciatica, arthritis, neuralgia, and neuritis but admitted that this was his own theory and that it was contrary to accepted medical opinion. The testimony of other expert witnesses indicated that this theory was contrary to the consensus of medical opinion.

PAR. 6. The complaint charges that the respondent has disseminated false advertisements in that the advertisements fail to reveal that respondent's preparation Formula No. 2, because of its irritant-laxative content, may be potentially dangerous when taken as directed or when taken under conditions that are customary and usual. Having given consideration to the record and to the nature of the remedy to be applied, the Commission is of the opinion that under the circumstances in this case and in view of the nature and extent of the testimony adduced in this proceeding, no warning as to potential danger should be required in the advertising of respondent's preparations.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, disseminated and caused to be disseminated as hereinabove described, in connection with the offering for sale, sale, or distribution of said medicinal preparations, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of such medicinal preparations because of such erroneous and mistaken belief.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondent,

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testimony and other evidence in support of and in opposition to the allegations of said complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, and briefs filed in support of the complaint and in opposition thereto; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Paul Case, an individual, and his agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of his medicinal preparations, either separately or in combination, under the designations "Case Combination New Method Improved," "The New Improved Case Combination Method," or "Case Combination Formula" or under any other name or names, or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, 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 respondent's preparations, whether used singly or in combination, have any therapeutic value in the treatment of rheumatism, sciatica, arthritis, neuritis, or neuralgia or similar conditions or diseases in excess of temporarily relieving minor pains which may be symptomatic of such diseases or conditions, or that said preparations possess curative properties in the treatment of any of such diseases or conditions.

(b) That said preparations, whether used singly or in combination, have any curative action or beneficial effect upon the underlying causes of rheumatism, sciatica, arthritis, neuritis, or neuralgia.

(c) That said preparations, whether used singly or in combination, have any beneficial effect upon the development or course of rheumatism, sciatica, arthritis, neuritis, or neuralgia or similar diseases or conditions.

(d) That the formulas for respondent's medicinal preparations represent a recognized or accepted therapeutic treatment for rheumatism, sciatica, arthritis, neuralgia, or neuritis or similar diseases or conditions.

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(e) That the use of respondent's preparations in combination with each other increases or improves the therapeutic value of either preparation.

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

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

ELMER L. BOYD, HERMA LOU BOYD, AND ELIZABETH
EPPS, TRADING AS PERMA-PLASTIC-SEAL COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 5424. Complaint, Feb. 27, 1946—Decision, Nov. 3, 1947

Where three individuals engaged in the interstate sale and distribution of paints and varnishes; in advertising their "Perma-Plastic-Seal" product in newspapers and magazines and in pamphlets, circular letters, and other advertising media, directly or by implication—

- (a) Represented that their said product was a plastic, which sealed all types of floors permanently, constituted a remarkable new laboratory discovery, and was different from any floor finish on the market;

The facts being that while it may have contained some of the ingredients used in the manufacture of plastics, such as resins, cellulose, and cellulose nitrate, it was not in fact a plastic as understood by the trade and purchasing public, but was a paint or varnish, which did not differ materially from many other floor finishes which had been on the market for many years, would not satisfactorily cover every type of surface, and was in no sense a remarkable new laboratory discovery;

- (b) Falsely represented that it was suitable for covering every type of surface, such as linoleum, rubber, concrete, wood, cork, inlaid asphalt tile, bar tops, dance floors, and gymnasium floors; produced a cellophane-like surface; and dried rapidly;
- (c) Falsely represented that it out-performed wax in every way; would last for months under heavy traffic; rejuvenated old flooring and restored the original color of floors to which it was applied; and
- (d) Falsely represented that its use created a nonskid and slipproof condition on the surfaces to which it was applied; and that it resembled tile; and,

Where said individuals, engaged as aforesaid—

- (e) Falsely represented through the use of the word "plastic," in their trade name and in the name of their said product, that the latter was a plastic; With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to their product, and thereby cause it to purchase substantial quantities thereof:

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

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Wayne Van Osdon, of Detroit, Mich., for respondents.