

IN THE MATTER OF
FAY A. NEWCOMB, DOING BUSINESS AS DR. F. A.
NEWCOMB

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

Docket 4962. Complaint, May 11, 1943—Decision, Mar. 23, 1949

Where an individual engaged in the interstate sale and distribution of a home treatment for various diseases and ailments, and, more particularly, cataract of the eye, and which consisted of (1) a double-contact electric device, (2) a liquid "Ray Solution" (formerly "Electric Ray Solution"), and (3) a liquid for internal use designated "Cataract Tonic," together with which said individual recommended the use of a prescribed and limited diet; in newspaper advertisements, pamphlets, form letters, testimonials, circulars, and other advertising—

- (a) Falsely represented that the use of his said home treatment constituted a competent, dependable and effective remedy or treatment for cataracts of the eyes, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, and some thirty-five other specified ailments including nervous conditions, arthritis, neuritis, sinus trouble, jaundice, colitis, anemia, diabetes, apoplexy, paralysis, rheumatism, asthma, pleurisy, constipation, prostatic trouble, high blood pressure, gout, appendicitis, bronchitis, bruises, boils and infections, deafness and earache and hay fever and diseases of the kidneys;

The facts being the value of said treatment was limited to such temporary palliative relief as the electric device, used as directed, might afford, due to the heat supplied to the affected area, for symptoms of arthritis, rheumatism, and earache;

- (b) Falsely represented that deposits of lime in the crystalline lens of the eye could be removed through absorption by the blood, and that the absorption method was recognized and used by the best doctors in Europe and the United States in the treatment of cataracts; and
- (c) Falsely represented that said "Cataract Tonic" eliminated excess salts from the blood and prevented the formation of cataracts in the eyes;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and with capacity and tendency so to do, and thereby to induce a portion of said public to purchase said device and 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.

In said proceeding, in which the complaint also charged respondent with false and misleading advertisements by reason of failure to disclose affirmatively in advertising facts material with respect to the harmful consequences which might result from the use of said preparations—which contained potassium iodide, and one of which contained an irritant laxative—in which it further appeared that subsequent to the issuance of the complaint the Commission

had administratively determined that dangers resulting from the use of such preparations under prescribed or customary conditions or appropriate directions might not impair the public health and were not of sufficient seriousness to justify requirement of affirmative disclosure in all advertising of harmful consequences which might result from their use; and in which it further appeared that the evidence was not sufficient to enable the Commission to determine to what extent, if any, harmful effects might be produced by the use of the treatment under prescribed or usual conditions: No findings of fact were made with respect thereto.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.

Mr. Oscar E. Learnard, of St. Lawrence, Kans., *Mr. Robert L. Robertson*, of Kansas City, Mo., and *Mr. P. L. Moreland*, of Washington, D. C., 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 Fay A. Newcomb, an individual trading and doing business as Dr. F. A. Newcomb, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Fay A. Newcomb, is an individual doing business as Dr. F. A. Newcomb, at 927½ Massachusetts Street, Lawrence, Kans. The respondent is now and for several years last past has been engaged in the sale and distribution of a home treatment for various disorders, diseases, and ailments of the human body, and particularly cataract of the eye.

In the course and conduct of his aforesaid business the respondent causes his home treatment, when sold, to be transported from his place of business in the State of Kansas to 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 said treatment, in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent's said home treatment consists of a double-contact electric machine, a liquid designated as "Electric Ray Solution," used in connection with the electric machine, and a liquid designated as "Cataract Tonic" for internal use. Respondent recommends the use

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of a prescribed and limited diet in connection with and as a part of said treatment.

The electric machine is housed in a portable cabinet and is equipped to operate on an electric current of 110 volts. In operation, one of its terminals is connected to a metal plate which is covered by a wet cloth upon which the patient places one of his hands. The other terminal is connected with an electrode which is covered by a piece of cotton which has been immersed in and saturated with the Electric Ray Solution. This electrode is placed over the patient's closed eye and the current turned on. The device is equipped with a current-control knob and the recommended current strength for eye treatment is one and one-half milliamperes. The eye electrode is held over the eye for 5 minutes and then transferred to the other eye for a period of 5 minutes. This is repeated giving each eye a total treatment of 10 minutes. One teaspoonful of the Cataract Tonic at mealtime is prescribed in eye treatments. In treatments for other parts of the body the same general technique is employed but for longer periods of time and with greater current intensity. The Cataract Tonic is not prescribed, however, except in the eye treatment.

PAR. 3. In the course and conduct of his aforesaid business the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false misleading advertisements concerning his said treatment and the several components thereof by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said treatment and the several components thereof by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said treatment in commerce as commerce is defined in the Federal Trade Commission Act.

Among the 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, by pamphlets, form letters, circulars, testimonials and other advertising literature, are the following:

I am glad to recommend Dr. F. A. Newcomb's treatment for cataract. I am a graduate nurse and have been afflicted with cataracts in both eyes. After using Dr. Newcomb's treatment, my vision is now normal and my health greatly improved.

By chance I heard of Dr. Newcomb's treatment, and he has proved to me, without a doubt, that there is a safe, simple, non-operative treatment for cataracts which really gets results. Under his treatment my vision has cleared and my eyesight is restored to normal.

Of all the five God-given senses, eyesight is the most precious. One clings to it as he would to life itself. The most pitiful thing one can look at in life is a person who, having lost this sense of sight, is destined to grope his way in darkness. There is no reason why this should happen to any one with cataracts, if he will heed this message. He need fear blindness no longer. There is a simple, safe and effective treatment at hand.

Double-contact electric machine recommended for the treatment of cataract, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, nervous conditions. General treatment of arthritis, neuritis, sinus trouble, nephritis, jaundice, colitis, colic, anemia, diabetes, apoplexy, paralysis, rheumatism, neuralgia, asthma, lumbago, pleurisy, constipation, prostatic trouble, high blood pressure, gout, dropsy, appendicitis.

Asthma, pleurisy, bronchitis, chest colds: Use the black electrode with the electric solution over the chest and the red electrode saturated with plain water over the shoulder blades.

Bruises, burns, carbuncles, boils and all infections: Use the black terminal saturated with the electric solution over the infection and the red terminal elsewhere on the body.

Deafness and ear ache: Wet a small piece of cotton with the solution and put into each ear and place one electrode over each ear.

Glaucoma: Use the electric machine once each day the same as it is used for cataract cases * * *

Head colds, sinusitis, and hay fever: Use the black terminal over the sinus and the red terminal under the hand.

Constipation, kidney or lumbago treatment: Use the black electrode with the solution over the kidneys and the red electrode over the bowels.

After the eyes are restored to normal with the aid of "gasses" treatments and tonic, the patient should use about two bottles of the tonic each year, using one dose a day or one dose every two days as a preventative of cataract.

You have your choice of two methods: Operation or the absorption method. Absorption of cataracts is a simple matter. First stop the intake of lime salts into the body, and then by use of the electric machine, produce absorption of the lime salts deposit in the eye back into the blood.

The surgeons would like people to think that cataract is a growth. It is not a growth: This lens liquid becomes thick and waxy with a gray appearance, which is lime salts between the layers of the lens. As the liquid is made from the blood, its lime contents must be absorbed by the blood in order to have clear vision.

USED BY MEN OF INTERNATIONAL REPUTATION. A similar kind of treatment is being used by the best doctors of Europe and the United States, by men of international reputation and is criticised by men who do not understand.

PAR. 4. By and through the use of the aforesaid statements and representations and others of similar import and nature not specifically

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set out herein, respondent represents that the use of his treatment is a cure or remedy, and constitutes a competent, effective treatment, for cataracts of the eyes, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, nervous conditions, arthritis, neuritis, sinus trouble, nephritis, jaundice, colitis, colic, anemia, diabetes, apoplexy, paralysis, rheumatism, neuralgia, asthma, lumbago, pleurisy, constipation, prostatic trouble, high blood pressure, gout, dropsy, appendicitis, bronchitis, chest colds, bruises, burns, carbuncles, boils and all infections, deafness and earache, head colds, hay fever, and diseases of the kidneys; that deposits of lime in the crystalline lens of the eye can be removed through absorption by the blood and that the absorption method is recognized and used by the best doctors in Europe and the United States in the treatment of cataracts; that respondent's Cataract Tonic eliminates excess salts from the blood and prevents the formation of cataracts in the eyes and that said treatment is safe and may be used and taken without ill effects.

PAR. 5. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, the use of respondent's device, alone, or in connection with his Electric Ray Solution, his Cataract Tonic and diet, or any combination of them, is not a cure or remedy, nor does said treatment constitute a competent or effective treatment, for any of the various disorders, ailments and diseases enumerated in paragraph 4 above. Deposits of lime which may be formed in the crystalline lens of the eye cannot be effectively removed through absorption by the blood. The so-called absorption method is not recognized and used by the best doctors in the United States and Europe for the treatment of cataracts. Respondent's cataract tonic will not eliminate excess salts from the blood and will not prevent the formation of cataracts in the eyes. The use of said treatment is not safe and harmless and may result in serious and irreparable injury under certain conditions.

PAR. 6. The advertisements disseminated by respondent 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 the consequences which may result from the use of the device and preparations to which the advertisements related under the conditions prescribed in said advertisements, or under such conditions as are customary and usual.

In truth and in fact, respondent's preparations Electric Ray Solution and Cataract Tonic contain potassium iodide and their use may be harmful to those having goiter or tuberculosis in either the active

or arrested stage. Respondent's preparation Cataract Tonic is a laxative and is potentially dangerous when taken by one suffering from abdominal pains, stomach ache, cramps, colic, nausea, vomiting, or other symptoms of appendicitis. The use of said treatment for glaucoma may delay proper diagnosis and treatment, resulting in atrophy of the optic nerve and blindness.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to his treatment and the various component parts thereof, disseminated as aforesaid, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and to induce a portion of the purchasing public because of such erroneous and mistaken belief, to purchase the respondent's treatment or parts thereof.

PAR. 8. The foregoing 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 May 11, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, Fay A. Newcomb, an individual trading and doing business as Dr. F. A. Newcomb, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After respondent filed his answer and amended answer, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing by the Commission upon the complaint, the answer and amended answer thereto, testimony and other evidence, recommended decision of the trial examiner, exceptions thereto filed by counsel for respondent, and briefs and oral argument in support of and in opposition to the complaint; 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, Fay A. Newcomb, is an individual trading and doing business as Dr. F. A. Newcomb, with his office and principal place of business at 927½ Massachusetts Street, Lawrence, Kans. Respondent is now, and for more than ten years last past has been, engaged in the offering for sale, sale, and distribution of a home treatment for various disorders, diseases, and ailments of the human body, and more particularly, cataract of the eye.

PAR. 2. (a) Respondent's home treatment consists of a double-contact electric device, a liquid formerly designated "Electric Ray Solution," now designated "Ray Solution," and a liquid designated "Cataract Tonic," prescribed for internal use. Respondent recommends the use of a prescribed and limited diet in connection with, and as a part of, said treatment.

(b) The formula for the "Ray Solution" is 3 drams of potassium iodide, mixed in 12 ounces of water. Twelve ounces of "Cataract Tonic" contains 3½ drams potassium iodide U. S. P., 2 drams iron ammonium citrate, 2 ounces echinasea, and syrup of senna sufficient to fill a 12-ounce bottle.

(c) The electric machine is housed in a portable cabinet and is equipped to operate on an electric current of 110 volts. In operation, one of its terminals is connected to a metal plate, which is covered by a wet cloth upon which the patient places one of his hands. The other terminal is connected with an electrode, which is covered by a piece of cotton which has been immersed in, and saturated with, the "Ray Solution." This electrode is placed over the patient's closed eye and the current turned on. The device is equipped with a current-control knob and the recommended current strength for eye treatment is 1½ milliamperes. The eye electrode is held over the eye for 5 minutes and then transferred to the other eye for a period of 5 minutes. This is repeated, giving each eye a total treatment of 10 minutes. One teaspoonful of the "Cataract Tonic" at mealtime is prescribed in eye treatments. In treatments for other parts of the body the same general technique is employed but for longer periods of time and with greater current intensity. The "Cataract Tonic" is not prescribed, however, except in the eye treatment.

PAR. 3. In the course and conduct of his aforesaid business, respondent causes, and has caused, his said device and preparations, when sold, to be shipped from his place of business in the State of Kansas to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia; and

maintains, and at all times mentioned herein has maintained, a course of trade in said device and preparations in commerce among and between the various States of the United States and the District of Columbia.

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

(b) Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as hereinbefore set forth, by United States mail, by advertisements in newspapers, by pamphlets, form letters, circulars, testimonials, and other advertising, are the following:

I am glad to recommend Dr. F. A. Newcomb's treatment for cataract. I am a graduate nurse and have been afflicted with cataracts in both eyes. After using Dr. Newcomb's treatment, my vision is now normal and my health greatly improved.

By chance I heard of Dr. Newcomb's treatment, and he has proved to me, without a doubt, that there is a safe, simple, non-operative treatment for cataracts which really gets results. Under his treatment my vision has cleared and my eyesight is restored to normal.

Of all the five God-given senses, eyesight is the most precious. One clings to it as he would to life itself. The most pitiful thing one can look at in life is a person who, having lost this sense of sight, is destined to grope his way in darkness. There is no reason why this should happen to anyone with cataracts, if he will heed this message. He need fear blindness no longer. There is a simple, safe and effective treatment at hand.

Double-contact electric machine recommended for the treatment of cataract, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, nervous conditions. General treatment of arthritis, neuritis, sinus trouble, nephritis, jaundice, colitis, colic, anemia, diabetes, apoplexy, paralysis, rheumatism, neuralgia, asthma, lumbago, pleurisy, constipation, prostatic trouble, high blood pressure, gout, dropsy, appendicitis.

Asthma, pleurisy, bronchitis, chest colds: Use the black electrode with the electric solution over the chest and the red electrode saturated with plain water over the shoulder blades.

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Bruises, burns, carbuncles, boils and all infections: Use the black terminal saturated with the electric solution over the infection and the red terminal elsewhere on the body.

Deafness and ear ache: Wet a small piece of cotton with the solution and put into each ear and place one electrode over each ear.

Glaucoma: Use the electric machine once each day the same as it is used for cataract cases * * *.

Head colds, sinusitis, and hay fever: Use the black terminal over the sinus and the red terminal under the hand.

Constipation, kidney or lumbago treatment: Use the black electrode with the solution over the kidneys and the red electrode over the bowels.

After the eyes are restored to normal with the aid of "glasses," treatments and tonic, the patient should use about two bottles of the tonic each year, using one dose a day or one dose every two days as a preventative of cataract.

You have your choice of two methods: Operation or the absorption method. Absorption of cataracts is a simple matter. First, stop the intake of lime salts into the body, and then by use of the electric machine, produce absorption of the lime salts deposit in the eye back into the blood.

The surgeons would like people to think that cataract is a growth. It is not a growth: This lens liquid becomes thick and waxy with a gray appearance, which is lime salts between the layers of the lens. As the liquid is made from the blood, its lime contents must be absorbed by the blood in order to have clear vision.

USED BY MEN OF INTERNATIONAL REPUTATION. A similar kind of treatment is being used by the best doctors of Europe and the United States, by men of international reputation and is criticised by men who do not understand.

PAR. 5. Through the use of the foregoing statements and representations, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the therapeutic and curative properties of his electric device, preparations, and diet, respondent represents, and has represented, that the use of his home treatment constitutes a competent, dependable, and effective remedy, cure, or treatment for cataracts of the eyes, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, nervous conditions, arthritis, neuritis, sinus trouble, nephritis, jaundice, colitis, colic, anemia, diabetes, apoplexy, paralysis, rheumatism, neuralgia, asthma, lumbago, pleurisy, constipation, prostatic trouble, high blood pressure, gout, dropsy, appendicitis, bronchitis, chest colds, bruises, burns, carbuncles, boils and all infections, deafness and earache, head colds, hay fever, and diseases of the kidneys; that deposits of lime in the crystalline lens of the eye can be removed through absorption by the blood and that the absorption method is recognized and used by the best doctors in Europe and the United States in the treatment of cataracts; that respondent's "Cataract Tonic" eliminates excess salts from the blood and prevents the formation of cataracts in the eyes.

PAR. 6. (a) The statements and representations set forth in paragraphs 4 and 5 above are grossly exaggerated, false, misleading, and deceptive. In truth and in fact, the use of respondent's electric device, alone or in connection with his "Ray Solution," "Cataract Tonic," and recommended diet, or any combination of these, does not constitute a competent, effective, or dependable remedy, cure, or treatment for any of the various disorders, ailments, and diseases set forth and referred to in paragraph 5 above. However, the use of respondent's electric device as directed may, due to the heat which said device supplies to the affected area, afford some degree of temporary palliative relief for symptoms of arthritis, rheumatism, and earache, but will not cure these ailments.

(b) Deposits of lime which may be formed in the crystalline lens of the eye cannot be effectively removed through absorption by the blood. The so-called absorption method is not recognized and used by the best doctors in the United States and Europe for the treatment of cataracts. Respondent's "Cataract Tonic" will not eliminate excess salts from the blood and will not prevent the formation of cataracts in the eyes.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his home treatment, consisting of his electric device, "Ray Solution," "Cataract Tonic," and prescribed diet, designated as aforesaid, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations, and advertisements are true and do induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's device and preparations.

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.

Subsequent to the issuance of said complaint, the Commission has administratively determined that the dangers resulting from the use of preparations containing iodides or irritant laxatives, such as respondent's, both of which contain potassium iodide, and one of which also contains an irritant laxative, under the conditions prescribed for their use or under appropriate directions or under such conditions as

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are customary or usual, may not impair the public health and are not of sufficient seriousness to justify a requirement that respondent affirmatively disclose in advertising all facts material with respect to the harmful consequences which may result from the use of said preparations. Therefore, no findings of fact have been made pursuant to the charges of paragraph 6 of the complaint. It appears that the evidence adduced does not supply a sufficiently substantial basis upon which the Commission may properly determine to what extent, if any, harmful effects may be produced by the use of respondent's recommended treatment under conditions prescribed for its use or under such conditions as are customary or usual, and therefore no findings of fact are made with respect thereto.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer and amended answer of the respondent, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, exceptions thereto filed by counsel for respondent, and briefs and oral argument in support of and in opposition to the complaint; 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, Fay A. Newcomb, an individual, trading and doing business as Dr. F. A. Newcomb, or under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of a home treatment for various diseases, disorders, and ailments of the human body, which treatment consists of an electric device, a preparation designated "Ray Solution" used therewith, a preparation designated "Cataract Tonic," and a recommended diet, or of any other treatment consisting of an electric device of substantially similar character or a preparation or preparations of substantially similar composition or possessing substantially similar properties, whether sold alone or in combination with each other, under the same name or names or any other name or names, do forthwith cease and desist from, directly or indirectly:

A. Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or by any other means in commerce as "commerce" is defined in the Federal Trade Commission Act,

which advertisement represents, directly or through inference,

1. That said electric device or "Ray Solution" or "Cataract Tonic" or recommended diet, whether used alone, in connection with each other, or in any combination, constitutes a remedy or cure, or competent, effective, or dependable treatment, for cataracts of the eyes, opacities of the vitreous and aqueous humor, corneal ulcers, optic nerve atrophy, amblyopia, asthenopia, dimness and painful vision, nervous conditions, arthritis, neuritis, sinus trouble, nephritis, jaundice, colitis, colic, anemia, diabetes, apoplexy, paralysis, rheumatism, neuralgia, asthma, lumbago, pleurisy, constipation, prostatic trouble, high blood pressure, gout, dropsy, appendicitis, bronchitis, chest colds, bruises, burns, carbuncles, boils and all infections, deafness and earache, head colds, hay fever, or diseases of the kidneys, unless such representations are clearly and expressly limited to the degree of temporary palliative relief which may be afforded for symptoms of arthritis, rheumatism, or earache as the result of heat supplied by said electric device.

2. That deposits of lime which may be formed in the crystalline lens of the eye can be effectively removed through absorption by the blood or that the absorption method of removal is recognized and used by the best doctors in the United States and Europe for the treatment of cataracts unless and until a substantial portion of such persons recognize and use such method of treatment.

3. That the use of the preparation "Cataract Tonic" will eliminate excess salts from the blood or prevent the formation of cataracts in the eyes.

B. Disseminating, or causing the dissemination of, 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 home treatment, which advertisement contains any of the representations prohibited in paragraph A hereof.

It is further ordered, That, for the reasons stated in the conclusion of the findings as to the facts herein, the other charges of the complaint be, and the same hereby are, dismissed without prejudice to the right of the Commission to institute such further proceedings as future facts may warrant.

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 it.

IN THE MATTER OF
COOPER TIRE AND RUBBER COMPANY AND THE COOPER
CORPORATION

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

Docket 5581. Complaint, Sept. 17, 1948—Decision, Mar. 28, 1949

Where a corporation engaged in the manufacture and, through its wholly owned subsidiary, interstate sale and distribution of first-grade tires, and of "seconds," the latter consisting of blemished and "obsolete" tires, namely, tires in which the thickness at some point or points was below standard, discontinued or slow moving sizes or designs, and tires with discolored or black-marred white side-walls;

In selling said second-grade tires in accordance with the practice whereby (1) the serial number or a part thereof is buffed off the blemished tire, and a paper sticker bearing word "blemish"—easily pulled off when the tire is mounted—is affixed to the tread, (2) the brand mark "XX" is affixed to the bead of the obsolete tire, either on the side or top, and, (3) said seconds are wrapped in strip paper before shipment to dealers for sale at substantially lower prices than the first-grade tires to the general public, which is unaware of the significance of the aforesaid brand mark or of the buffing off of the serial number—

Offered, sold and delivered said tires without adequately and conspicuously marking them so that the public might be informed as to their second grade nature; with the result of placing in the hands of unscrupulous dealers a means and instrumentality whereby they might lead the public into the mistaken belief that said tires were in fact first grade, and into the purchase thereof as such:

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. Charles S. Cox 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 Cooper Tire & Rubber Co., a corporation, and The Cooper Corp., a corporation, herein-after 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. Cooper Tire & Rubber Co. is a corporation organized, existing and doing business under and by virtue of the laws of the