

IN THE MATTER OF
ATLANTIC RESEARCH FOUNDATION, INC.,¹ REBA G.
STERN, LORETTA McERLAIN, ET AL.

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

Docket 5663. Complaint, June 2, 1949—Decision, Mar. 2, 1950

Where two individuals engaged in the compounding and advertisement, and interstate sale and distribution of a drug under the name "A. R. F. 501", and formerly officers of a corporation through which, prior to its dissolution, they carried on such business; in advertisements disseminated by the mail, in circulars and pamphlets, and by other means—

- (a) Represented falsely that their said preparation, used as directed, was a competent and effective treatment for arthritis, sciatica and neuritis, and would cure or arrest the progress of said diseases or conditions;

The facts being that its use would result in no more than a temporary reduction of pain in the area immediately surrounding the point of its injection; and

¹ The Commission on the same date issued an order dismissing the complaint as to certain respondents, as follows:

"This matter came on to be heard in regular course upon motion, filed September 30, 1949, by counsel for certain respondents to dismiss the complaint as to them and the answer thereto, filed November 10, 1949, by counsel in support of the complaint, by which said motion is not opposed.

"The complaint in this proceeding charges the corporate respondent, its officers and directors, and the individual respondents, all of whom are named in the caption hereof, with the use of unfair and deceptive acts and practices in commerce. It alleges that said respondents have disseminated and caused to be disseminated in commerce, by United States mails and by other means, certain advertisements containing false, misleading, and deceptive statements and representations with respect to a drug preparation which they offered for sale, sold, and distributed in commerce under the trade name "A. R. F. 501" for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said preparation in commerce. It further alleges that respondents, by and through the use of the words "Research Foundation" as a part of the corporate name "Atlantic Research Foundation, Inc.," represent that the corporate respondent consists of a group or association of specialists engaged in scientific research, whereas it is, in fact, not such a group or association but a commercial enterprise operated for profit.

"From the motion to dismiss, the answer thereto, and the record herein, it appears that the respondent Atlantic Research Foundation, Inc., a former New Jersey Corporation, was dissolved on July 25, 1949, by appropriate action, taken in accordance with the laws of the State of New Jersey. By this action, respondent Reba G. Stern, its former vice president and treasurer; respondent Loretta McErlain, its former secretary; and respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker, its former directors, were deprived of any power or authority to act in their respective official capacities in further carrying out the business, policies, acts and practices of the dissolved respondent corporation. It further appears that the individual respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker, for a considerable period of time prior to the dissolution of the respondent corporation, had not actively engaged in managing its affairs, controlling its policies, or carrying out any of its acts or practices, either in their respective individual capacities or as directors of said corporation, in the offering for sale, sale, and distribution of the preparation "A. R. F. 501," and that they have submitted an affidavit executed by

(b) Falsely represented through the use of the words "Research Foundation", as included in the trade name and corporate name employed by them, and displayed on letterheads, circulars, cards and otherwise, that they operated or controlled a group or association of specialists engaged in carrying on and promoting scientific research, experiment and development, and which had been provided with an endowment for such activities; when in fact they merely operated a commercial enterprise conducted for profit;

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 induce it to purchase their said preparation:

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. B. G. Wilson for the Commission.

Mr. J. Harold Kilcoyne and *Mr. James M. Graves*, of Washington, D. C., for respondents.

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 Atlantic Research Foundation, Inc., a corporation, Reba G. Stern and Loretta McErlain, individually, and as officers of said corporation, and Louis St. John, Dr. Bernard Crane and Claude E. Schlenker, individually, and as directors of said Atlantic Research Foundation, Inc., 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 Atlantic Research Foundation, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New Jersey. Reba G. Stern is president and treasurer

each of them to the effect that they will not in the future resume the advertising, sale, or distribution of said preparation.

"The Commission having duly considered the matter and being now fully advised in the premises, and being of the opinion that in the foregoing circumstances the public interest does not require further corrective action in this matter at this time as to the dissolved corporate respondent, as to respondents Reba G. Stern and Loretta McErlain acting in their capacities as officers of the dissolved corporate respondent, or as to respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker acting as individuals or as directors of said dissolved corporate respondent, and that the motion to dismiss should be granted:

"*It is ordered* that the complaint herein be, and the same is, hereby dismissed as to the dissolved corporate respondent, Atlantic Research Foundation, Inc., as to the respondents Reba G. Stern and Loretta McErlain in their capacities as officers of the dissolved corporate respondent but not in their capacities as individuals, and as to respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker as individuals and directors of the dissolved corporate respondent.

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and Loretta McErlain is secretary of said Atlantic Research Foundation, Inc. The corporate respondent and individual officers have their office and principal place of business located at 3 South Iowa Avenue, Atlantic City, N. J.

The addresses of the said individual directors of Atlantic Research Foundation, Inc., are as follows: Louis St. John, Central Pier, Boardwalk, Atlantic City, N. J., Dr. Bernard Crane, 306 Pacific Avenue, Atlantic City, N. J., and Claude E. Schlenker, 805 Atlantic Avenue, Atlantic City, N. J. The individual officers and individual directors direct and control the policies and practices of said corporate respondent.

PAR. 2. Respondents are now and have been for several years last past, engaged in the business of compounding, selling and distributing a drug preparation as "drug" is defined in the Federal Trade Commission Act.

The designation used by the said respondents for their said preparation and the composition and directions for use are as follows:

Designation: A. R. F. 501 formerly called Arthranol and Arthronol.

Drugs used in compounding preparation:

A. R. F. 501 Salt.....	16.00 grams
Dextrose, U. S. P.....	40.00 grams
Chlorobutanol.....	5.00 grams

The procedure for compounding said preparation is as follows:

Dissolve the five (5) grams of chlorobutanol in 800 cc. of water. Then dissolve the A. R. F. 501 salt and the dextrose in 400 cc. of the solution. When dissolved add the balance of the water to make 800 cc. Adjust to ph 7.3

Composition of preparation: Each 1 cc. ampule has approximately the following composition—

Ammonium benzoate.....	6.5 milligrams
Ammonium salicylate.....	4.0 milligrams
Ammonium chloride.....	2.0 milligrams
Ammonium iodide.....	0.7 milligrams
Di-basic ammonium phosphate.....	5.0 milligrams
Chlorobutanol.....	6.25 milligrams
Dextrose.....	50. milligrams
Water, q. s.....	1000. milligrams

Directions for Use: Directions for use of A. R. F. 501

Formerly Arthranol

The administration of A. R. F. 501 is hypodermic.

The injection should be intramuscular to obtain best results.

An intravenous injection is unnecessary.

The dose is 1 cc. Each ampule contains a sufficient amount to permit withdrawal of 1. cc.

We have chosen the biceps as the best site for injection.

Results will be consistent if this method is used. We have observed that when injections are made in the locale of greater involvement or pain (knee, foot, planter aspect, shoulder or hip), spectacular response to the treatment has frequently been manifested. I have personally always in so-called neuritic pain of arm or shoulder, located a visible tumefaction over the cervical vertebrae from third to fifth as a rule, or a tender indurated area. Injection in this site gives relief in from two to five minutes, and continues for many hours after. The mechanism is probably twofold. Nerve block, and a correction of the underlying causative factor. In Sciatica my practice is to inject along the course of nerve, usually in gluteal area, in affected side. Here, again it is to be noted and emphasized that pes-planus is a most common causative factor. Failure to observe this state and its proper correction will contribute largely to your loss in obtaining the desired benefits.

NOTE: Inflammatory areas have been freely and safely injected with excellent results. The best results have been obtained from the above method of administration. However, injections may be given daily and increased in amount up to 4 cc. without danger or reaction, at the discretion of the physician.

The said respondents cause their said preparation when sold to be transported from their place of business in the State of New Jersey to the purchasers thereof located in various States of the United States and in the District of Columbia. Respondents maintain and have maintained a course of trade in said preparation between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of their business the respondents subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning their said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, by means of circular letters and respondents have disseminated and caused the dissemination of advertisements concerning the preparation "A. R. F. 501" by means of circular letters referred to above, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among and typical of the statements and representations contained in said advertisements disseminated as aforesaid are the following:

May we invite your attention to a remedy for the treatment of arthritis, sciatica and neuritis that is almost specific in this most trying group.

PAR. 5. Through the use of the advertisements containing the statements and representations hereinabove set forth, respondents have represented that their said preparation, used as directed, is a competent and effective treatment for arthritis, sciatica, and neuritis, and that said preparation will cure or will arrest the progress of said diseases or conditions.

PAR. 6. The said advertisements are misleading in material respects and are "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, respondents' said preparation is not a competent or effective treatment for such diseases and conditions as arthritis, sciatica, and neuritis, nor will it cure or arrest their progress. The effect of this preparation in such conditions is limited to a temporary reduction of the pain immediately surrounding the area into which the preparation is injected.

PAR. 7. The respondents, by and through the use of the words "Research Foundation" as a part of the corporate name "Atlantic Research Foundation, Inc.," on letterheads, circulars, cards and otherwise, represent that the corporate respondent "Atlantic Research Foundation, Inc.," consists of a group or association of specialists having for their aim the discovery of new facts and theories; their correct interpretation from a scientific and technical standpoint; to further and promote advancement in knowledge and technique in scientific fields, and to conduct research and experiments in that respect; and that said corporate respondent has been provided with an endowment for use in carrying out scientific research. Such representations are false and misleading. In truth and in fact, said respondent is a commercial enterprise conducted for profit and is not engaged in the activities of research as described above and is not endowed with funds for carrying on such activities.

PAR. 8. The use by the respondents of the aforesaid statements and representations disseminated as aforesaid has had and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such statements and representations are true, and to induce a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase said drug preparation.

PAR. 9. The aforesaid acts and practices of 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 June 2, 1949, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Acting upon motion of certain respondents, the Commission, by order duly entered herein, dismissed the complaint as to all respondents except Reba G. Stern and Loretta McErlain acting in their individual capacities. On September 30, 1949, these respondents, in their individual capacities, filed their respective answers admitting all material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and answers, 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. Respondents Reba G. Stern and Loretta McErlain are individuals and were officers of Atlantic Research Foundation, Inc., before its dissolution on July 25, 1949. They have their office and principal place of business at 3 South Iowa Avenue, Atlantic City, N. J. Respondents are now, and for several years last past have been, engaged in compounding, advertising, offering for sale, selling, and distributing a drug or medicinal preparation under the trade name "A. R. F. 501."

PAR. 2. In the course and conduct of their aforesaid business, respondents cause, and have caused, their said preparation, when sold, to be shipped and transported from their place of business in the State of New Jersey to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia; and maintain, and at all times mentioned herein have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

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PAR. 3. "A. R. F. 501" is compounded as follows:

A. R. F. 501 Salt-----	16.00 grams
Dextrose, U. S. P-----	40.00 grams
Chlorobutanol-----	5.00 grams

Dissolve the five (5) grams of chlorobutanol in 800 cc. of water. Then dissolve the A. R. F. 501 salt and the dextrose in 400 cc. of the solution. When dissolved add the balance of the water to make 800 cc. Adjust to ph. 7.3.

After compounding, each 1 cc. ampule contains approximately the following:

Ammonium benzoate-----	6.5 milligrams
Ammonium salicylate-----	4.0 milligrams
Ammonium chloride-----	2.0 milligrams
Ammonium iodide-----	0.7 milligrams
Di-basic ammonium phosphate-----	5.0 milligrams
Chlorobutanol-----	6.25 milligrams
Dextrose-----	50. milligrams
Water, q. s.-----	1000. milligrams

Directions for use of this preparation are:

The administration of A. R. F. 501 is hypodermic.

The injection should be intramuscular to obtain best results.

An intra-venous injection is unnecessary.

The dose is 1 cc. Each ampule contains a sufficient amount to permit withdrawal of 1 cc.

We have chosen the biceps as the best site for injection.

Results will be consistent if this method is used. We have observed that when injections are made in the locale of greater involvement or pain (knee, foot, planter aspect, shoulder or hip), spectacular response to the treatment has frequently been manifested. I have personally always in so-called neuritic pain of arm or shoulder, located a visible tumefaction over the cervical vertebrae from third to fifth as a rule, or a tender indurated area. Injection in this site gives relief in from two to five minutes, and continues for many hours after. The mechanism is probably two-fold. Nerve block, and a correction of the underlying causative factor. In Sciatica my practice is to inject along the course of nerve, usually in gluteal area, in affected side. Here, again it is to be noted and emphasized that pesplanus is a most common causative factor. Failure to observe this state and its proper correction will contribute largely to your loss in obtaining the desired benefits.

NOTE: Inflammatory areas have been freely and safely injected with excellent results. The best results have been obtained from the above method of administration. However, injections may be given daily and increased in amount up to 4 cc. without danger or reaction, at the discretion of the physician.

PAR. 4. (a) In carrying on their aforesaid business, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, advertisements concerning their said preparation by 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, advertisements concerning their said preparation by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their preparation 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 mails, in circulars and pamphlets, and by other means and methods, are the following:

May we invite your attention to a remedy for the treatment of arthritis, sciatica and neuritis that is almost specific in this most trying group.

(c) Through the use of the foregoing statements and representations, which purport to be descriptive of the therapeutic and medicinal values of respondents' said preparation, respondents represent, and have represented, that their preparation "A. R. F. 501," when used as directed, is a competent and effective treatment for arthritis, sciatica, and neuritis and that said preparation will cure or will arrest the progress of said diseases or conditions.

PAR. 5. The aforesaid statements and representations are grossly exaggerated, false, misleading, and deceptive. In truth and in fact, said preparation is not a competent or effective treatment for such diseases or conditions as arthritis, sciatica, and neuritis and will not cure or arrest their progress. The use of said preparation, however, in such conditions will result in a temporary reduction of pain in the area immediately surrounding the point of its injection.

PAR. 6. In the course and conduct of their aforesaid business, the respondents adopted as and for one of their trade names "Atlantic Research Foundation, Inc.," under which they formerly carried on their business, which said name, including the words "Research Foundation," respondents have used during part of the time herein mentioned, in soliciting the sale of and selling their said preparation. These words have been used on letterheads, circulars, cards, and otherwise, which have been distributed in commerce among and between the various states of the United States and the District of Columbia. Through the use of the words "Research Foundation" as aforesaid, respondents have represented, directly and by implication, that they operate or control a group or association of specialists engaged in carrying on and promoting scientific research, experiment, and devel-

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opment and have been provided with an endowment for use in carrying out such activities. Said representations are false, misleading, and deceptive. In truth and in fact, respondents operate, and have operated, a commercial enterprise conducted for profit and are not now, and have not, in any manner engaged in scientific research, experiment, or development and are not, and have not been, endowed with funds for carrying on such activities.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their medicinal preparation, disseminated as aforesaid, and the use by them of the foregoing false, misleading, and deceptive representations in their trade name 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, representations, and advertisements are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase their preparation "A. R. F. 501."

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents Reba G. Stern and Loretta McErlain, filed by them in their capacities as individuals, in which said answers, said respondents admit all the material allegations of fact set forth in the complaint and waive all intervening procedure and further hearing as to said facts; and the Commission, by order entered herein, having duly dismissed the complaint as to all other respondents, and having made its findings as to the facts and conclusion that the individual respondents Reba G. Stern and Loretta McErlain have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the individual respondents Reba G. Stern and Loretta McErlain, trading as individuals under their own names or under any other name or names, their agents, representatives, and employees, directly or through any corporate or other device, in connec-

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tion with the offering for sale, sale, and distribution of their medicinal preparation designated "A. R. F. 501," or any other preparation or preparations of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other names, do forthwith cease and desist from directly or indirectly:

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

- a. That said preparation "A. R. F. 501" constitutes a competent or effective treatment, cure, or remedy for such diseases or conditions as arthritis, sciatica, or neuritis, or that the use of said preparation will arrest the progress of such diseases or conditions or will relieve such conditions except to the extent of temporarily relieving pain in the immediate area surrounding the point of its injection.

2. 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 preparation which advertisement contains any of the representations prohibited in paragraph 1 hereof.

3. Using the words "Research Foundation" or any other word or words of similar import or meaning as a trade name; or representing through any other means or device or in any manner that they operate or control a group or association of specialists engaged in scientific research, experiment, or development.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with it.

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IN THE MATTER OF
ACE WINDOW SCREEN CO. OF AMERICA, INC.

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

Docket 5687. Complaint, Aug. 11, 1949—Decision, Mar. 3, 1950

Where a corporation engaged in the manufacture and interstate sale and distribution of a coated screen wire designated "Aluma-Kote"—

- (a) Represented, directly and by implication, through statements on carton containers, on invoices, and in advertisements in periodicals, circulars, pamphlets and other advertising literature, that said wire was coated with pure aluminum and was therefore long lasting, and that tests had shown it to be one of the finest grades of screen wire on the market; and
- (b) Represented through the use of the words "Aluma-Kote" as a term or trade name applied to its said product, that the screen was coated with pure aluminum, and through the use of the word "Everlast" in connection therewith, that it was a product of special and outstanding durability;

The facts being that said product was not coated with pure aluminum, but was sprayed with a solution of three-fourths varnish or shellac and one-fourth powdered aluminum; such coating, when exposed to the elements, peels off or is otherwise destroyed in a relatively short time and does not significantly increase the durability of the screen wire to which applied; and no reliable tests had been conducted which demonstrated that the product was one of the finest on the market, or that the coating thereon had any significant effect in increasing its durability;

With tendency and capacity to mislead and deceive a substantial number of retailers and a substantial portion of the purchasing public, into the erroneous belief that said representations were true, and of thereby inducing their purchase of said product; and with result of placing in the hands of retailers a means whereby they were enabled to mislead and deceive the purchasing public into the erroneous belief that such claims were true:

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

Mr. George M. Martin for the Commission.

Mr. Paul P. Preston, of Chicago, Ill., 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 the Ace Window Screen Co. of America, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing