

Syllabus

IN THE MATTER OF
STEELCO STAINLESS STEEL, INC., AND CLYDE C. CARRCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5530. Complaint, Mar. 9, 1948—Decision, Mar. 15, 1950*

While various mineral elements and vitamins are required by the body as a whole, and essential to the strength and functioning thereof, statements and representations which attributed to various mineral elements and vitamins specific or unique functions in connection with specified tissues or organs, and asserted that the method of cooking was responsible for their loss or destruction, or conservation, as the case might be, were false in their breadth, express and implied, and misleading and deceptive in their lack of qualification.

As respects the vitamins, foods or other preparations containing vitamin A do not increase resistance to disease, and vitamin A is not effective in preventing or relieving anemia, pellagra, gallstones or eye trouble generally, vitamin B is not effective in preventing or relieving nervous diseases generally or paralysis, vitamin C does not increase one's strength and endurance and will not prevent or relieve muscular diseases or loss of weight, and vitamin D is not effective in the treatment or prevention of bone disorders generally. And as respects vitamin E, there is no scientific evidence that it plays any role in reproduction in human beings.

With regard to the effect of cooking on minerals and vitamins, the former are not appreciably damaged or destroyed by the heat used in any method. In the case of the latter, vitamin C and some elements of vitamin D are destroyed by prolonged high temperatures; other vitamins are not. As respects losses in cooking, minerals and vitamins B₁ and C leach out in boiling water depending upon the solubility of the compounds in which they occur in food, and if the water is not consumed in gravies, sauces or otherwise, there is loss of said food elements, depending on the amount in the food before cooking, which in turn depends upon the nature of the food, the soil in which grown, the manner of harvesting and storage, and the exposure to light and air between maturity and preparation, matters which, for all practical purposes, govern the food elements derived from the consumption of cooked foods as much as the manner of their cooking. And except for persons already deficient in such food elements or on the border line, or those on restricted diets, the maximum loss from any method of cooking in general use would be insignificant from a nutritional standpoint and would not affect the health of a person in normal health or on a normal diet.

Where a corporation and its president, who was its majority stockholder, engaged in the competitive interstate sale and distribution of cooking utensils; in selling their said products through salesmen who were their agents or employees and not independent contractors or dealers, and whom they furnished with sales manuals, instruction books, advertising matter, charts.

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order books, chattel mortgages for deferred payment sales, and sample outfits, and who were authorized to receive the sales price of their products and deposits on deferred payment sales, to evaluate and make trade-in allowances on used cooking utensils, and to conduct cooking demonstrations with their utensils, along with lectures and sales talks, in the homes of prospects, and who usually devoted their full time to selling said merchandise to customers—

- (a) Represented that certain designated minerals were essential and had a specific effect in connection with the functions and structures of various organs and tissues of the body, and that various organs and tissues had special requirements for certain designated mineral elements and vitamins;
- (b) Represented that each of some 20 minerals—including sulphur, calcium, magnesium, potassium, chlorine, fluorine, sodium, iron, iodine, silicon, and manganese—had certain specific effects: in the case of sulphur, purifying, toning the system, and intensifying feeling and emotions; in the case of phosphorus, nourishing the brain cells, building power of thought, and stimulating the growth of hair and bone; etc.;
- (c) Represented and implied that each of the vitamins A, B, C and D had certain specified preventive or affirmatively beneficial effects, that vitamin E was necessary for reproduction, and that all of the aforesaid vitamins were destroyed by water and high temperature; and
- (d) Represented through a depiction of the body and statements in connection therewith, associating various tissues and organs with specified minerals and vitamins, that designated organs and tissues had special requirements for certain vitamins and mineral elements, such as sulphur, iodine, and silicon, in the case of the hair; fluorine and vitamin A, in the case of the eyes, etc.;

The facts being that while the body as a whole requires the vitamin and mineral elements set forth the designated organs and tissues do not have such special requirements, and specific minerals and vitamins do not have the results above specifically attributed thereto; with the exception of silicon in the case of the hair and teeth;

- (e) Represented by way of supplementing the various above statements, that by using their said products one would obtain all the food elements necessary to provide good health, and might expect to receive all the aforesaid beneficial effects to the various organs and other parts, and that the use of their products was the only method of cooking which would provide such benefits;

The facts being that food elements derived from the consumption of cooked foods is for all practical purposes governed as much by the nature of the food and the manner of its production and storage as by that in which cooked; and while their products constitute satisfactory utensils, some adapted to pressure cooking, and to cooking with high temperatures for short periods of time with a minimum of water—methods currently recommended by some dietitians, as conserving the necessary food elements—there are cooking utensils of other manufacture, composition and design which provide equally satisfactory use and results, and are just as adaptable to the cooking methods recommended;

- (f) Represented falsely that their utensils provided a cooking method which was especially conducive to good health, was new and revolutionary, and

faster than any other method, and would effect savings in food, fuel and replacement, and in medical, hospital, medicine, and dental bills; and saving of time and efficiency, as compared with all other methods; that stainless steel, of which their utensils were made, was a new metal; and that said utensils had been endorsed and recommended by noted food, dietetic and medical authorities;

- (g) Represented that they owned, operated, or controlled a factory wherein their utensils were made; and a research or other laboratory wherein they were tested and improved; that their salesmen were bonded for the protection of their customers; and that upon purchase delivery would be made immediately or within from 30 to 90 days;

The facts being their utensils were made to specifications on contract by an independent corporation and they had no laboratory; their salesmen were not bonded; and they did not make immediate delivery, and in some instances did not accomplish delivery for several years;

- (h) Represented falsely that boiling food destroyed its iodine content; that constipation was caused by a lack of magnesium in cooked food; and that the preparation of food in their utensils as recommended would aid digestion; and that the consumption of food thus cooked would insure improved health;

The facts being that iodine is found in food only in combination with other chemical elements; and while, if such compound is soluble, boiling will leach it out, the loss is insignificant; and said representations were otherwise false;

- (i) Falsely represented to prospective purchasers that food cooked in other utensils resulted in destruction of essential minerals and vitamins, and in decayed teeth, faulty elimination, rickets, organic heart disease, ill health and many other diseases, and that water disturbed the "chemical balance" in food;

- (j) Misleadingly and deceptively made it a practice, when deferred payments were not promptly met, to write the delinquent on letterheads of the "Federal Acceptance Company," whereby purchasers were led to believe that they were dealing with an independent commercial paper corporation;

The facts being said Federal Acceptance Company was merely a name invented and used by them for collection purposes; and

Where a number of their salesmen, for whose acts and statements in connection with the sale or offer of their products they were fully responsible, and notwithstanding instruction to sell their utensils on their merits, without disparagement of competitive products—

- (k) Falsely represented, over a substantial number of years, over representative areas, and in a substantial number of instances, to prospective purchasers, that cooking food in aluminum ware would cause cancer, ulcers, bad health, decayed teeth, indigestion and poison, bacterial and metallic; that minerals and vitamins essential to health were lost by cooking therein; that their use was bad for children and pregnant women; that aluminum ware retained an odor and destroyed the color of food; that water boiled in aluminum ware utensils—as stated by one—was the same as embalming fluid; that granite ware was unhealthy because it chipped; and that aluminum ware was porous and allowed bacteria to collect;

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Whereby some of those to whom such representations were made were frightened into discarding their currently used cooking utensils and into buying the products of said corporation and individual, and persuading others to do likewise;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of thereby inducing their purchase of substantial quantities of said cooking utensils; and that trade was unfairly diverted to them from their competitors through such disparagement of competitive products, to the substantial injury of their competitors in commerce:

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

As respects the representation by respondents in said proceeding with respect to the alleged destruction of essential minerals and vitamins through cooking in utensils other than their own, and the harmful results thereof, that water disturbed the "chemical balance" in food, said expression was meaningless to the food experts who testified on the point.

The allegations of the complaint concerning the representation that the peeling and coring of foods and vegetables took the value out of them and constituted enemies of health were not sustained by the evidence.

Before *Mr. Frank Hier*, trial examiner.

Mr. Joseph E. Callaway for the Commission.

Nash & Donnelly, and *Mr. Earl M. Friesenecker*, of Chicago, Ill., 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 Steelco Stainless Steel, Inc., a corporation, and Clyde C. Carr individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said act and, it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Steelco Stainless Steel, Inc., is a corporation, organized, existing, and doing business under, and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 433 East Erie Street, Chicago, Ill. Respondent Clyde C. Carr is an officer of, and formulates and controls the policies, activities, and practices of corporate respondent, including the acts and practices hereinafter alleged. The address of respondent Carr is the same as that of corporate respondent.

PAR. 2. Respondents are now, and for more than 5 years last past, have been engaged in the sale and distribution of stainless steel cooking utensils in commerce between and among the various States of the United States and in the District of Columbia. Respondents cause and have caused said products, when sold, to be transported from their aforesaid place of business in the State of Illinois to purchasers thereof located in other States of the United States and in the District of Columbia. There is now and has been, at all times mentioned herein, a constant course of trade in said products sold by respondents between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now and have been in substantial competition with other corporations and with persons, firms, and partnerships likewise engaged in the business of selling and distributing cooking utensils made from steel or other metals or materials in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. The advertising and selling of respondents' cooking utensils are conducted principally through the medium of agents, representatives or employees through personal solicitation and contact with the general public. The method chiefly employed by said agents, representatives or employees, at respondents' direction, is the giving of demonstrations of respondents' products before groups of prospective purchasers at which times, various pamphlets, leaflets, charts, circulars and other written matter are exhibited and distributed accompanied by sales talks, taken from sales manuals supplied by the respondents, all with respect to the characteristics, nature and effectiveness of said products used in the preparation of food.

PAR. 5. Among and typical of the statements and representations contained in said pamphlets, leaflets, charts, circulars and other written matters and the sales talks of said agents, representatives or employees, used in connection with the offering for sale, sale and distribution of respondents' said products, in commerce, are the following:

FOOD IS HEALTH

The letter T indicates element injured by temperatures. The letter W indicates element is dissolved out either partially or wholly by warm or hot water.

Essential Organic Mineral Salts

Effects

(T) Sulphur—
Brain, Nerves, Liver

Purifies—tones system—intensifies feeling and emotions.

(T) Phosphorus—
Brain, * * *

Nourishes the brain cells; builds power of thought; stimulates growth of hair and bone.

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<i>Essential Organic Mineral Salts</i>		
(WT) Calcium	<i>Effects</i>	
* * * Lungs	* * * ; gives vitality, endurance ; heals wounds ; counteracts acid.	
(WT) Magnesium— Nerves, Intestines	Relaxes nerves ; refreshes system. Prevents and relieves constipation.	
(W) Potassium— Tissue, Glands	Liver activator ; strongly alkaline ; makes tissue elastic, muscles supple, creates grace, beauty, good disposition.	
(T) Chlorine— Glands, Intestines	Cleans ; expels waste ; freshens ; purifies, disinfects.	
(T) Fluorine— Lungs, Tendons, Veins	Strengthens ; cements, builds resistance ; hardens.	
(W) Sodium— Glands, Stomach, Blood	Aids digestion ; counteracts acidosis ; halts fermentation ; purifies blood ; dissolves congestion.	
(W) Iron * * *	Absorbs oxygen ; for feeding and growth of cell structure through oxidation ; gives energy, vitality, rosy cheeks.	
(T) Iodine— Glands, Brain	* * * ; normalizes gland and cell action ; ejects and counteracts poisons.	
(W) Silicon— Nails, Skin, Teeth, Hair	Gives keen hearing ; sparkling eyes ; pearly teeth and nails ; glossy hair ; tones system.	
(W) Manganese— Heart, Brain, Tissue	Increases resistance ; strengthens ; coordinates thought and action ; improves memory.	
<i>Principal Body Organs</i>	<i>Function</i>	<i>Food Elements Needed</i>
Heart	Blood Circulation	Manganese, Calcium, Fluorine, Sodium
Vein, Arteries		
Bones	Supportive Masticatory	* * * Fluorine Silicon
Teeth, Nails	Protective	* * *
* * *	* * *	* * *
	* * *	
Nerves	Communicative Servants of Brain	Magnesium, Silicon, Sulphur, Phosphorus
Lungs	Receive and Transmit Oxygen ; Receive and eliminate Carbon Dioxide	Calcium, Fluorine, Potassium
Stomach	Digestive	All 16 elements organic—natural balance
Intestines	Digestive Eliminative	Potassium, Sodium, Magnesium, Chloride, Sulphur
Liver	Blood Purifier Bile Secretion	Potassium, Sodium
Kidneys	Eliminative	Potassium, Sodium
Glands	Chemical Balance	Iodine, Potassium, Chlorine, Sodium
Skin	Eliminative Protective	Phosphorus Manganese, Silicon

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<i>Principal Body Organs</i>	<i>Function</i>	<i>Food Elements Needed</i>
Muscles	Structural	Potassium, Sodium, Manganese,
Tissue		Silicon
Ligaments	Operative	Potassium, Sodium, Manganese,
		Silicon
Generative	Reproduction	Phosphorus, Calcium, Potassium,
		Silicon

VITAMINS

Fat Soluble A—	* * *	Injured by high temperature. Effective
Growth		in preventing and relieving Anemia. Pellagra,
Resistance to Disease		Gall Stones, Xerophthalmia (eye trouble).
Water Soluble B—	* * *	Injured by high temperatures. Pre-
Normal Function Organs		vents and relieves Beri Beri (nervous disease),
		Paralysis.
Water Soluble C—	* * *	Destroyed by high temperatures. Pre-
Strength, Endurance		vents, relieves—Scurvy, Muscular Disease, Loss
		of Weight.
Fat Soluble D—	* * *	Injured by high temperatures. Prevents
Bone Development		Rickets, Bone Disorders.
Maintenance		
Water Soluble E—	* * *	Destroyed by high temperatures.
Reproduction		

PAR. 6. By means of the aforesaid statements and representations, respondents have represented and implied that certain designated minerals are essential and have a specific effect in connection with the functions and structure of various organs and tissues of the human body; that various organs and tissues of the human body have special requirements for certain designated mineral elements and vitamins.

By means of the aforesaid statements and representations, respondents have represented and implied that sulphur purifies and tones the human system and intensifies feeling and emotions; that phosphorus nourishes the brain cells, builds power of thought and stimulates the growth of the hair; that calcium gives vitality, endurance, heals wounds and counteracts acids; that magnesium relaxes nerves, refreshes the human system, prevents and relieves constipation; that potassium is a liver activator, makes tissues elastic, muscles supple, creates grace, beauty and a good disposition; that chlorine cleans, freshens, purifies, disinfects and expels waste from the human body; that fluorine has a beneficial effect on the lungs, tendons and veins by strengthening, cementing, hardening and building the resistance of those tissues, tendons, and veins; that sodium aids digestion, counteracts acidosis, halts fermentation, purifies blood, dissolves congestion; that iron gives energy, vitality and rosy cheeks; that iodine normalizes

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glands and cell action and ejects and counteracts poisons; that silicon gives keen hearing, sparkling eyes, pearly teeth and nails, glossy hair and tones the human system; that manganese increases resistance, strengthens thought and action and improves memory.

Further, by means of said statements and representations, respondents have represented and implied that vitamin A affords resistance to disease and is effective in preventing and relieving anemia, pellagra, gallstones and xerophthalmia (eye trouble); that vitamin B prevents and relieves nervous disease and paralysis; that vitamin C imparts strength and endurance and prevents and relieves muscular disease and loss of weight; that vitamin D prevents bone disorders; that vitamin E is necessary for reproduction; and that all of the aforesaid vitamins are destroyed by water and temperature.

In one of respondents' aforesaid charts, there is a picturization of the human body in connection with which there appear statements associating various tissues and organs of the human body with various specified minerals and vitamins as follows:

Hair—Sulphur, Iodine, Silicon;
Eyes—Fluorine, Vitamin-A;
Teeth—Calcium, Silicon, Vitamin-D;
Liver—Chlorine;
Stomach—Sulphur, Vitamin-B;
Intestine—Magnesium;
Adrenal Gland—Magnesium, Vitamins—A, B, C, and G;
Muscles—Potassium;
Brain—Manganese, Phosphorus, Vitamins—B and G;
Thyroid Gland—Iodine;
Throat—Vitamin-A;
Heart—Potassium, Vitamins-A, G;
Gall Bladder—Sodium;
Kidney—Magnesium;
Blood Stream—Iron, Oxygen, Hydrogen, Vitamin-A.

PAR. 7. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, while the mineral elements referred to are essential to the structure and functioning of the human body as a whole, the designated mineral elements do not have specific or unique functions in connection with the organs and tissues specified in said statements and representations. While the human body taken as a whole requires all of the vitamins and mineral elements set forth in the aforesaid statements and representations, with the exception of the mineral element Silicon, the designated organs and tissues of the body do not have special requirements for the vitamins and mineral elements aforesaid as indicated in the said state-

ments and representations. In truth and in fact, sulphur does not purify or tone the human system nor does it intensify feeling and emotions. Phosphorus does not nourish the brain cells, build power of thought, or stimulate the growth of hair; calcium does not give vitality, endurance, heal wounds, or counteract acid; magnesium does not relax the nerves, refresh the human system or prevent or relieve constipation; potassium is not a liver activator, does not make tissues elastic, muscles supple, and does not create grace, beauty, or good disposition; chlorine does not cleanse, freshen, purify, disinfect, or expel waste matter from the human system; fluorine does not strengthen, cement, harden or build the resistance of the lungs, tendons, or veins; sodium does not aid digestion, counteract acidosis, halt fermentation, purify blood, or dissolve congestion; iron does not give energy, vitality, or rosy cheeks; iodine does not normalize glands and cell action and does not eject or counteract poisons; silicon does not give keen hearing, sparkling eyes, pearly teeth and nails and glossy hair, nor does it tone the human system; manganese does not increase resistance, does not strengthen or coordinate thought and action and does not improve the memory.

In truth and in fact, vitamin A containing foods or other vitamin containing preparations do not increase resistance to disease. Vitamin A is not effective in preventing or relieving anemia, pellagra, gallstones or eye trouble generally; vitamin B is not effective in preventing or relieving nervous diseases generally or paralysis; vitamin C does not increase an individual's strength and endurance nor will it prevent or relieve muscular diseases or loss of weight; vitamin D is not effective in the treatment or prevention of bone disorders generally. There is no scientific evidence that vitamin E plays any role in connection with reproduction in human beings.

PAR. 8. By means of the various statements made in the advertising literature and chart set out and described in paragraphs 5 and 6, respondents represented that by using their said products in the preparation of food, one will obtain all the food elements necessary to provide good health and may expect to receive all the beneficial effects to the various organs and other parts of the body enumerated therein, and that the use of respondents' products is the only method of cooking which will provide these benefits. In truth and in fact, the food elements derived from the consumption of cooked foods is governed, for all practical purposes, by the nature of the food and not by the

dorsed and recommended by the outstanding authorities in medicine and dietetics in the United States, as the ideal method of cooking; that by using respondents' said utensils, savings can be effected in foods, fuel, replacements, doctor bills, hospital bills, medicine bills, dental bills and loss of time and efficiency as compared with all other methods of cooking; that stainless steel is a new metal; that respondents' said utensils afford faster cooking of food than any other cooking utensils.

PAR. 10. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, respondents' said utensils do not constitute a cooking method which is especially conducive to health. Said method of cooking is not new or revolutionary. The consumption of food cooked in said utensils will not insure improved health nor will it promote happiness. The mineral content of foods is not destroyed or affected by heat; while some of the vitamins and minerals may be affected by prolonged exposure to elevated temperatures and may be dissolved by water, there is no significant loss of these substances in any of the procedures commonly employed in cooking, provided the cooking water is used to make gravies, sauces, etc., and not thrown away. Moreover, there are other methods of cooking which will preserve the vitamins and minerals in foods to the same extent as will result from the use of respondents' product; water does not disturb the chemical balance in food; failure to use respondents' said utensils will not result in decayed teeth, ill health, faulty elimination, rickets, organic heart disease, or any other disease; constipation is not caused by lack of magnesium in food; boiling food does not destroy the iodine content therein; peeling and coring fruits and vegetables does not take the value therefrom or constitute enemies to health; the preparation of food in respondents' said utensils will not aid digestion; said utensils have not been indorsed and recommended by the outstanding authorities in medicine and dietetics in the United States as the ideal method of cooking; the use of respondents' said utensils will not effect savings in foods, doctor's bills, hospital bills, medicine bills, dental bills and loss of time and efficiency as compared with the results which will follow the use of cooking utensils sold by respondents' aforesaid competitors; stainless steel is not a new metal; respondents' said utensils do not afford faster cooking of food than other like or similar utensils sold by respondents' aforesaid competitors.

PAR. 11. Respondents, in the course and conduct of their business as aforesaid and for the purpose of inducing the purchase of their cooking utensils in said commerce, have made and are now making

false and misleading statements and representations in their aforesaid advertising literature and through their agents, representatives, and employees, as to their business status. Respondents through the use of such statements as "Research in this laboratory keeps Steelco years ahead," have represented and now represent that they own, operate or control a research laboratory within the common and usual meaning of the word, when used in connection with the scientific construction of cooking utensils, that is, a place or places appropriately equipped for and devoted to experimental study in the application of scientific principles in an endeavor to develop and to verify new qualities in said products by the testing and analysis of the metallic contents contained therein by persons skilled in the manufacture thereof. Respondents also, by the use of such statements, as "Steelco Stainless Steel, Inc., General Offices and Factory, Chicago, Illinois," have represented and now represent that they own, operate, or control a factory wherein their said products are manufactured; and that respondents now are and have been the manufacturers of said products.

In truth and in fact, respondents neither own, operate, or control a research laboratory or any laboratory, or a factory wherein their said products are manufactured, but buy their products from others.

PAR. 12. There is a preference on the part of a substantial portion of the purchasing public for dealing with the manufacturer of products sold by it and a preference for dealing with a concern which maintains and operates a research laboratory, or a laboratory, in connection with its business.

PAR. 13. In the course and conduct of their aforesaid business in the offering for sale, sale and distribution of their said products in commerce, respondents by means of the aforesaid advertising matter and in newspapers and in oral statements and representations made by their representatives, agents, or employees, have represented to persons ordering said products that delivery thereof would be made immediately; within 30 to 90 days or within some other specified period of time; and that respondents' representatives were and are bonded for the protection of their customers.

Said statements and representations were false, misleading, and deceptive. In truth and in fact, respondents did not make delivery of such products immediately, within 30 to 90 days, or within the other designated periods of time. Respondents' said representatives were and are not bonded for the protection of their customers.

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PAR. 14. Respondents, in the course and conduct of their said business for the purpose of collecting sums of money due them by their customers on sales contracts have used on their letterheads and elsewhere the following:

FEDERAL ACCEPTANCE CO.
Commercial Papers.

FEDERAL ACCEPTANCE COMPANY

By means of said statements or representations, respondents have represented and implied that the Federal Acceptance Co. is a financial company separate and apart from respondents and engaged in the purchase of commercial papers; that is, promissory notes, contracts, accounts, and acceptances from the payee and in the collection thereof for their own account.

In truth and in fact, such statements or representations are false, misleading, and deceptive. The Federal Acceptance Co. is not a financial company engaged as aforesaid, but is merely a name used by respondents for the purpose of collecting sums of money due it under contracts with their customers.

PAR. 15. In the course and conduct of their aforesaid business for the purpose of inducing the purchase of their said products in commerce, respondents have made disparaging statements and representations in their aforesaid advertising matter and through their aforesaid agents, representatives, and employees with respect to utensils sold and distributed in commerce by their competitors aforesaid. Such disparaging statements were and are to the effect that the consumption of food prepared or kept in aluminum utensils will cause cancers, stomach trouble, anemia, blood poisons, and various other ailments, afflictions, and diseases; that food so prepared or kept in aluminum utensils is detrimental to the health of the users thereof and that the preparation of food in aluminum utensils causes formation of poisons.

In truth and in fact, aluminum has been used in the manufacture of cooking utensils for many years. During that period of time it has been found to be a highly satisfactory material for use in cooking utensils. Further, in truth and in fact, the consumption of food prepared or kept in aluminum kitchen utensils will not cause cancers, stomach trouble, anemia, blood poisons, and other ailments, afflictions, and diseases of the human body. Foods so prepared or kept in aluminum utensils are not detrimental to the health of the users thereof by reason of the use of aluminum utensils. Poisons are not formed from the preparation of foods in aluminum utensils.

PAR. 16. There are, among the competitors of the respondents in commerce as herein set out, manufacturers and distributors of like or similar commodities who truthfully advertise and represent their respective products and who refrain from unfairly disparaging the products of competitors in the manner and form herein set out by which the respondents disparage their competitors' products.

PAR. 17. The aforesaid false, misleading, deceptive, and disparaging statements and representations so made by respondents, as above alleged, have had and now have the tendency and capacity to and do mislead and deceive a substantial part of the consuming public into the false and erroneous belief that cooking utensils made from aluminum are undesirable and harmful, as above alleged, and are dangerous to the consumers of food prepared in said cooking utensils and that all of said statements and representations made by respondents with reference to said aluminum cooking utensils are true.

As a result thereof, trade has been unfairly diverted to respondents from those competitors herein referred to. As a consequence thereof, substantial injury has been and is being done by respondents to their competitors in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 18. The use by the respondents of the foregoing acts and practices and the false, misleading, and deceptive statements and representations disseminated as aforesaid has had and now has the capacity and tendency to deceive and does mislead and deceive a substantial number of the public into the erroneous and mistaken belief that all of said statements and representations are true and induces a substantial number of the public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' said product.

PAR. 19. The methods, acts, and practices of respondents, as hereinabove alleged, are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce and 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 March 9, 1948, issued and subsequently served its complaint in this proceeding on the respondents Steelco Stainless Steel, Inc., a corporation, and Clyde C. Carr, individually and as an officer of respondent corporation, charging them

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with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. After the filing of respondents' answer to the complaint, 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 before the Commission on the complaint, answer thereto, testimony and other evidence, the trial examiner's recommended decision, to which no exceptions were filed, briefs in support of and in opposition to the allegations of the complaint, and oral argument of counsel; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Steelco Stainless Steel, Inc., is a corporation organized, existing, and doing business under the laws of the State of Illinois, with its principal office and place of business located at 4450 to 4458 Ravenswood Avenue, Chicago, Ill.

PAR. 2. Respondent Clyde C. Carr is president of, and the majority stockholder in, the corporate respondent, and has been such since he organized the corporation. The only other officers and stockholders are his son-in-law and daughter, who, together with him, constitute the board of directors. By virtue of stock ownership, officership, and active direction, the policies, activities, and practices of the corporate respondent are his.

PAR. 3. Respondents are now and for a number of years have been engaged in commerce between the States of the United States and the District of Columbia, causing their products, when sold, to be transported from the State of Illinois to purchasers located in other States in a constant course of trade in such products.

PAR. 4. Respondents in the course and conduct of their business are and have been in substantial competition with other corporations, firms, partnerships, and individuals similarly engaged in selling cooking utensils in commerce among the States of the United States and the District of Columbia.

PAR. 5. In the sale of their products, respondents enter into contracts, called franchises, with salesmen, designated as dealers, and furnish the latter with sales manuals, instruction books, advertising matter, pamphlets, leaflets, charts, circulars, order books, chattel mortgages for deferred payment sales, and sample outfits of respondents' products. Such agents have authority to receive the sales price of respondents' products, to receive deposits on deferred-payment sales, to evaluate and allow trade-in allowances on used cooking utensils, and to conduct demonstrations of cooking with respondents' utensils in the homes of prospects, giving lectures and sales talks in the course thereof. Such salesmen, in most instances, devote their full time to respondents and do not sell other merchandise. These salesmen do not purchase respondents' products for resale to the consumer but sell them on behalf of respondents. Such salesmen are agents or employees of respondents and are not independent contractors or independent dealers. Respondents are fully responsible for such salesmen's acts and statements made in connection with the sale or offering for sale of their products and germane thereto.

PAR. 6. Typical of the statements and representations contained in said pamphlets, leaflets, charts, circulars, and other written matter and the sales talks of said agents, representatives, or employees, used in connection with the offering for sale, sale, and distribution of respondents' said products, in commerce, are the following:

FOOD FOR HEALTH

* * *

The letter T indicates element injured by temperatures.

The letter W indicates element is dissolved out either partially or wholly by warm or hot water.

* * *

<i>Essential Organic Mineral Salts</i>	<i>Effects</i>
(T) Sulphur— Brain, Nerves, Liver	Purifies—tones system—intensifies feeling and emotions.
(T) Phosphorus— Brain, * * *	Nourishes the brain cells; builds power of thought; stimulates growth of hair and bone.
(WT) Calcium * * * Lungs	* * *; gives vitality, endurance; heals wounds; counteracts acid.
(WT) Magnesium— Nerves, Intestines	Relaxes nerves; refreshes system. Prevents and relieves constipation.
(W) Potassium— Tissue, Glands	Liver activator; strongly alkaline; makes tissues elastic, muscles supple, creates grace, beauty, good disposition.

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(T) Chlorine— Glands, Intestines	Cleans; expels waste; freshens; purifies, disinfects.	
(T) Fluorine— Lungs, Tendons, Veins	Strengthens; cements, builds re- sistence; hardens.	
(W) Sodium— Glands, Stomach, Blood	Aids digestion; counteracts acido- sis; halts fermentation; purifies blood; dissolves congestion.	
(W) Iron— * * *	Absorbs oxygen; for feeding and growth of cell structure through oxidation; gives energy, vital- ity, rosy cheeks.	
(T) Iodine— Glands, Brain	* * *; normalizes gland and cell action; ejects, and counteracts poisons.	
(W) Silicon— Nails, Skin, Teeth, Hair	Gives keen hearing; sparkling eyes, pearly teeth and nails; glossy hair; tones system.	
(W) Manganese— Heart, Brain, Tissues	Increases resistance; strengthens; co-ordinates thought and action; improves memory.	

<i>Principal Body Organs</i>	<i>Function</i>	<i>Food Elements Needed</i>
Heart	Blood Circulation	Manganese, Calcium Fluorine, Sodium
Vein, Arteries		
* * *	* * *	* * *
Bones	Supportive	* * * Fluorine, Silicon
Teeth, Nails	Masticatory, Protective	* * *
* * *	* * *	* * *
Nerves	Communicative Servants of Brain	Magnesium, Silicon, Sulphur Phosphorous
Lungs	Receive and Transmit Oxy- gen. Receive and Elim- inate Carbon Dioxide	Calcium, Fluorine, Potassium
Stomach	Digestive	All 16 elements organic—nat- ural balance
Intestines	Digestive Eliminative	Potassium, Sodium, Magne- sium, Chlorine, Sulphur
Liver	Blood Purifier. Bile Secre- tion	Potassium, Sodium
Kidneys	Eliminative	Potassium, Sodium
Glands	Chemical Balance	Iodine, Potassium Chlorine, Sodium
Skin	Eliminative Protective	Phosphorus, Manganese, Sili- con
Muscles	Structural	Potassium, Sodium, Mangan- ese, Silicon
Tissue		
Ligaments	Operative	Potassium, Sodium, Mangan- ese, Silicon
Generative Organs	Reproduction	Phosphorus, Calcium, Potas- sium, Silicon

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Vitamins

Fat Soluble A— Growth Resistance to Disease	* * * Injured by high temperatures. Effective in preventing and relieving Anemia, Pellagra, Gallstones, Xerophthalmia (eye trouble).
Water Soluble B— Normal Function Organs	* * * Injured by high temperatures. Prevents and relieves Beri Beri (nervous disease), Paralysis.
Water Soluble C— Strength, Endurance	* * * Destroyed by high temperatures. Prevents, relieves—Scurvy, Muscular Disease, Loss of Weight.
Fat Soluble D— Bone Development Maintenance	* * * Injured by high temperatures. Prevents Rickets, Bone Disorders.
Water Soluble E— Reproduction	* * * Destroyed by high temperatures.

PAR. 7. By means of the aforesaid statements and representations respondents have represented and implied that certain designated minerals are essential and have a specific effect in connection with the functions and structure of various organs and tissues of the human body; that various organs and tissues of the human body have special requirements for certain designated mineral elements and vitamins.

Also by means of the aforesaid statements and representations, respondent have represented and implied that sulphur purifies and tones the human system and intensifies feeling and emotions; that phosphorus nourishes the brain cells, builds power of thought, and stimulates the growth of the hair; that calcium gives vitality and endurance, heals wounds, and counteracts acids; that magnesium relaxes nerves, refreshes the human system, prevents and relieves constipation; that potassium is a liver activator, makes tissues elastic and muscles supple, creates grace, beauty and a good disposition; that chlorine cleans, freshens, purifies, disinfects, and expels waste from the human body; that fluorine has a beneficial effect on the lungs, tendons, and veins by strengthening, cementing, hardening, and building the resistance of those tissues, tendons, and veins; that sodium aids digestion, counteracts acidosis, halts fermentation, purifies blood, dissolves congestion; that iron gives energy, vitality, and rosy cheeks; that iodine normalizes glands and cell action and ejects and counteracts poisons; that silicon gives keen hearing, sparkling eyes, pearly teeth and nails, and glossy hair, and tones the human system; that manganese increases resistance, strengthens thought and action, and improves memory.

Further, by means of said statements and representations, respondents have represented and implied that vitamin A affords resistance to

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disease and is effective in preventing and relieving anemia, pellagra, gallstones, and xerophthalmia (eye trouble); that vitamin B prevents and relieves nervous disease and paralysis; that vitamin C imparts strength and endurance and prevents and relieves muscular disease and loss of weight; that vitamin D prevents bone disorders; that vitamin E is necessary for reproduction; and that all of the aforesaid vitamins are destroyed by water and temperature.

In one of respondents' aforesaid charts, there is a picturization of the human body in connection with which appear statements associating various tissues and organs of the human body with various specified minerals and vitamins as follows:

Hair—Sulphur, Iodine, Silicon
Eyes—Fluorine, Vitamin-A
Teeth—Calcium, Silicon, Vitamin-D
Liver—Chlorine
Stomach—Sulphur, Vitamin-B
Intestine—Magnesium
Adrenal gland—Magnesium, Vitamins-A, B, C, and G
Muscles—Potassium
Brain—Manganese, Phosphorus, Vitamin-B-G
Thyroid gland—Iodine
Throat—Vitamin-A
Heart—Potassium, Vitamin-A-G
Gall bladder—Sodium
Kidney—Magnesium
Blood stream—Iron, Oxygen, Hydrogen, Vitamin-A

PAR. 8. These statements and representations are false in their breadth, express and implied, and misleading and deceptive in their lack of qualification. While the mineral elements referred to are essential to the structure and functioning of the human body as a whole, the designated mineral elements do not have the specific or unique functions in connection with the organs and tissues specified in said statements and representations. While the human body taken as a whole requires all of the vitamins and mineral elements set forth in the aforesaid statements and representations, with the exception of the mineral element silicon, the designated organs and tissues of the body do not have special requirements for the vitamins and mineral elements aforesaid as indicated in the said statements and representations. Sulphur does not purify or tone the human system nor does it intensify feeling and emotions. Phosphorus does not nourish the brain cells, build power of thought, or stimulate the growth of hair; calcium does not give vitality and endurance, heal wounds, or counteract acid; magnesium does not relax the nerves, refresh the human system, or prevent or, as found in human food, relieve constipation;

potassium is not a liver activator, does not make tissues elastic or muscles supple, and does not create grace, beauty, or good disposition; chlorine does not cleanse, freshen, purify, disinfect, or expel waste matter from the human system; fluorine does not strengthen, cement, harden, or build the resistance of the lungs, tendons, or veins; sodium, as found in human food, does not aid digestion, counteract acidosis, halt fermentation, purify blood, or dissolve congestion; iron does not give energy, vitality, or rosy cheeks; iodine does not normalize glands and cell action and does not eject or counteract poisons; silicon does not give keen hearing, sparkling eyes, pearly teeth and nails, and glossy hair, nor does it tone the human system; manganese does not increase resistance, does not strengthen or coordinate thought and action, and does not improve the memory.

Vitamin-A-containing foods or other vitamin-A-containing preparations do not increase resistance to disease. Vitamin A is not effective in preventing or relieving anemia, pellagra, gallstones, or eye trouble generally; vitamin B is not effective in preventing or relieving nervous diseases generally or paralysis; vitamin C does not increase an individual's strength and endurance, nor will it prevent or relieve muscular diseases or loss of weight; vitamin D is not effective in the treatment or prevention of bone disorders generally. There is no scientific evidence that Vitamin E plays any role in connection with reproduction in human beings.

Minerals are not appreciably damaged or destroyed by the heat used in any method of cooking. Vitamin C and some elements of vitamin B are destroyed by prolonged high temperatures; other vitamins are not. Depending upon the solubility of the compounds in which they occur in foods, minerals and vitamins B₁ and C are leached out in boiling water. If the water is not consumed, there is loss of these food elements. This amount of loss depends on the amount in the food before cooking, which in turn depends on the soil in which grown, the manner of harvesting and storage, and the exposure of light and air between maturity and preparation. Except for persons already deficient in these food elements or on the borderline, or those on restricted diets, the maximum loss, from any method of cooking in general use, would be insignificant from a nutritional standpoint.

PAR. 9. Supplementing the various statements made in the advertising literature and charts set out and described in paragraphs 6 and 7, respondents represented that by using their said products in the preparation of food, one will obtain all the food elements necessary to provide good health and may expect to receive all the beneficial effects to the various organs and other parts of the body enumerated therein,

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and that the use of respondents' products is the only method of cooking which will provide these benefits. In fact, the food elements derived from the consumption of cooked foods is governed as much, for all practical purposes, by the nature of the food and the manner of its production and storage, as by the manner in which it is cooked. Moreover, there are other cooking utensils and methods of cooking which will retain the various food elements to the same extent or to a greater extent than is obtained by the use of respondents' products. Respondents' products are satisfactory cooking utensils, some of them adapted to pressure cooking, others to cooking with high temperatures for short periods of time with but a minimum of water—two methods currently recommended by some dietitians as conserving the necessary food elements. There are on the market, however, cooking utensils of other manufacture, composition, and design which provide equally satisfactory use and results and which are just as adaptable to the cooking methods recommended.

PAR. 10. In connection with, and to induce the purchase of, their cooking utensils, respondents have represented:

- (a) That their utensils used as recommended provide a cooking method especially conducive to good health.
- (b) That such method is new and revolutionary.
- (c) That such method is faster than any other method.
- (d) That such method will effect savings in food, fuel, replacement, medical, hospital, medicine, and dental bills and loss of time and efficiency as compared with all other methods of cooking.
- (e) That stainless steel, of which their utensils are made, is a new metal.
- (f) That their utensils have been endorsed and recommended by noted food, dietetic, and medical authorities.
- (g) That respondents own, operate, or control a factory wherein their utensils are manufactured.
- (h) That respondents own, operate, or control a research or other laboratory wherein their products are tested and improved.
- (i) That their salesmen are bonded for the protection of respondents' customers.
- (j) That upon purchase respondent corporation would make delivery immediately, or within from thirty to ninety days.
- (k) That boiling food destroys the iodine content thereof.
- (l) That the consumption of food cooked in respondents' utensils according to their instructions will insure improved health.
- (m) That constipation is caused by a lack of magnesium in cooked food.

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(n) That the preparation of food in respondents' utensils as recommended will aid digestion.

PAR. 11. The representations enumerated in Paragraph Ten are false, misleading, or deceptive, in these respects:

(a) Respondents' utensils, used as recommended, do not provide a cooking method which is any more conducive to health than other methods and other utensils.

(b) Respondents' recommended method of cooking has been known and has been in use with other equally adapted utensils for a substantial number of years.

(c) Such method is faster than some other methods, but not faster than any other.

(d) Such method will not effect any of the savings in food, medical, hospital, medicine, or dental bills or loss of time or efficiency as compared with the use of other utensils.

(e) Stainless steel as a metal has been in use since World War I and has been used in cooking utensils for at least five or six years.

(f) Qualified food and dietetic authorities had seen no endorsements of respondents' products by dietetic or medical authorities, although they routinely keep abreast of such matters as part of their professional duties, and one had made an unsuccessful search for such endorsements. No evidence of the claimed endorsements was offered.

(g) Respondents' utensils are manufactured to specification on contract by an independent corporation, which is neither owned, operated nor controlled by respondents.

(h) Respondents do not own, operate, or control any laboratory.

(i) Respondents' salesmen are not bonded for the protection of respondents' customers.

(j) Respondents did not make delivery immediately, or within sixty to ninety days, of utensils sold. In some instances, delivery was not accomplished for several years.

(k) Iodine is not found in food in its elemental state but always in combination with other chemical elements. If the resulting compound is soluble, boiling will leach it out, but the loss is insignificant.

(l) The consumption of food cooked as recommended in respondents' utensils will not insure improved health.

(m) Constipation is not caused by a lack of magnesium in cooked food.

(n) The preparation of food in respondents' utensils as recommended will not aid digestion any more than such preparation in other utensils.

PAR. 12. There is a preference by a substantial portion of the purchasing public for dealing with the manufacturer of products sold by the manufacturer and a preference for dealing with a concern which maintains and operates a laboratory for the testing and improvement of its products.

PAR. 13. Respondents have also represented to prospective purchasers that food cooked in utensils other than theirs results in destruction of essential minerals and vitamins, and in decayed teeth, faulty elimination, rickets, organic heart disease, ill health, and many other diseases, and that water disturbs the chemical balance in food.

PAR. 14. These representations also are false or misleading and deceptive in their breadth and lack of qualification. Failure to use respondents' utensils does not result in the diseases enumerated or any other disease. The mineral content of food is not destroyed or affected by heat. Some vitamins and minerals, depending on their solubility or the solubility of the compounds in which they occur in food, may be destroyed or reduced by prolonged high temperature in water, but there is no such loss as will affect the health of any person in normal health or on a normal diet. The only effect would be on those already deficient in their food element intake, on the borderline, or on restricted diets. If the water in which the food is cooked is not thrown away but is used for gravies or sauces, there is no loss. There are other methods of cooking and other utensils just as effective as respondents' in the preservation of vitamins and minerals occurring in foods. Water does not affect the "chemical balance" in food except as indicated, assuming that term means the loss of food elements from long boiling. This expression used by respondents was meaningless to the food experts who testified on the point.

PAR. 15. Respondents offer their utensils for sale on a deferred payment plan, taking a deposit or initial payment at the time of sale and a conditional sales contract for the balance. It was their practice when deferred payments were not promptly made to write the delinquent on letterheads of the Federal Acceptance Co. Purchasers were thereby led to believe that they were then dealing with an independent commercial paper corporation having no corporate relationship with respondents. Federal Acceptance Company is not a corporation but is merely a name invented and used by respondents for collection purposes. Although it appears on the conditional sales contracts with the corporate respondent's name, there is nothing on such contracts which would apprise the ordinary purchaser that it is not a corporation but just a name. This practice is misleading and deceptive.

PAR. 16. Respondents instructed their salesmen to sell their utensils on their merits without disparagement of competitive products. Nevertheless, over a substantial number of years, over a representative area, and in a substantial number of instances a number of respondents' salesmen, in the course of their demonstration and selling talks, represented to prospective purchasers that cooking food in aluminum ware would cause, in the consumer of the food, cancer, ulcers, bad health, decayed teeth, indigestion, and poisoning, bacterial and metallic; that minerals and vitamins essential to health were lost by cooking therein; that their use was bad for children and pregnant women; that aluminum ware retained an odor and destroyed the color of food. One salesman stated that water boiled in aluminum ware utensils was the same as embalming fluid. Representations were also made that granite ware was unhealthy because it chipped and that aluminum ware was porous and allowed bacteria to collect. The effect of these representations was to frighten some of those to whom they were made into discarding their currently used cooking utensils and buying respondents' products and persuading others to do likewise.

PAR. 17. These representations were false and deceptive. Aluminum has been used in the manufacture of cooking utensils for many years. It has been found to be a satisfactory material for use in cooking utensils. The consumption of food prepared or kept in aluminum kitchen utensils will not cause cancer, stomach trouble, anemia, blood poisoning, or other ailments, affections, or diseases of the human body. Foods so prepared or kept in aluminum utensils are not detrimental to the health of the users thereof by reason of the use of aluminum utensils. Poisons are not formed from the preparation of foods in aluminum utensils.

PAR. 18. The above-described false, misleading, deceptive, and disparaging statements and representations made by respondents or their agents have had, and now have, the capacity and tendency to deceive and mislead and have misled and deceived, and do mislead and deceive, a substantial portion of the purchasing public into an erroneous belief in their truth, and have induced, and do induce, a substantial number of the public, because of such belief, to purchase substantial quantities of respondents' products. As a result of the disparagement of competitors' products, trade has been unfairly diverted to the respondents from their competitors, whereby substantial injury has been, and is being, done by respondents to their competitors in commerce among the States of the United States and the District of Columbia. The allegations of the complaint concerning the representation that the peeling and coring of fruits and vegetables take the value out of

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them and constitute enemies of health were not sustained by the evidence.

CONCLUSION

The methods, acts, and practices of respondents as hereinabove found are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce and 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, answer of the respondents, testimony and other evidence in support of and in opposition to the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, briefs, and oral argument of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered That the respondent Steelco Stainless Steel, Inc., a corporation, and its officers, agents, representatives, and employees, and respondent Clyde C. Carr, as president thereof or in any other capacity therefor, and individually, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of cooking utensils made of stainless steel, or any other product of substantially similar composition, design, construction, or purpose, do forthwith cease and desist from representing, directly or by implication,

1. That the vitamins or minerals as found in human food have the specific effect as set out below:

(a) That sulphur purifies or tones the human system or intensifies feelings and emotions;

(b) That phosphorus nourishes the brain cells, builds power of thought, or stimulates the growth of hair;

(c) That calcium gives vitality, endurance, heals wounds, or counteracts acid;

(d) That magnesium relaxes the nerves, refreshes the human system, or prevents or relieves constipation;

(e) That potassium is a liver activator, makes tissues elastic, muscles supple, creates grace, beauty, or a good disposition;

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(*f*) That chlorine cleanses, freshens, purifies, or disinfects, or expels waste matter from the human system;

(*g*) That fluorine strengthens, cements, hardens, or builds the resistance of the lungs, tendons, or veins;

(*h*) That sodium aids digestion, counteracts acidosis, halts fermentation, purifies blood, dissolves congestion;

(*i*) That iron gives energy, vitality, or rosy cheeks;

(*j*) That iodine normalizes glands and cell action and ejects and counteracts poisons;

(*k*) That silicon gives keen hearing, sparkling eyes, pearly teeth or nails, or glossy hair, or tones the human system;

(*l*) That manganese increases resistance, strengthens thought or action, or improves memory;

(*m*) That vitamin A increases resistance to disease or is effective in preventing or relieving anemia, pellagra, gallstones, or eye trouble generally;

(*n*) That vitamin B is effective in preventing or relieving nervous diseases generally or paralysis;

(*o*) That vitamin C increases an individual's strength or endurance, or will prevent or relieve muscular disease or loss of weight;

(*p*) That vitamin D is effective for prevention of bone disorders generally;

(*q*) That vitamin E plays any role in connection with reproduction in human beings.

2. That ordinary cooking methods in utensils other than respondents' will result in destruction or loss of vitamins, minerals, or other food elements so as to prevent the consumer from receiving his minimal requirements;

3. That respondents' cooking utensils used as recommended constitute a cooking method especially conducive to good health;

4. That the consumption of food cooked in respondents' utensils will insure improved health;

5. That the use of respondents' cooking utensils as recommended is the only method by which vitamins, minerals, and other food elements may be preserved in cooked food;

6. That there is such a thing as chemical balance in food;

7. That failure to use respondents' cooking utensils in the manner recommended will result in ill health, decayed teeth, faulty elimination, rickets, organic heart disease, or any other disease;

8. That the method of cooking made possible through the use of respondents' utensils is new or revolutionary;

9. That constipation is caused by lack of magnesium in cooked food;

10. That boiling food destroys the iodine content thereof;

11. That respondents' utensils have been endorsed or recommended by outstanding authorities in medicine or dietetics;

12. That respondents' utensils and cooking instructions for the use thereof afford a faster method of cooking than like or similar utensils sold by respondents' competitors;

13. That the use of respondents' utensils in the manner recommended will effect savings in food, time, efficiency, medical, hospital, medicine, or dental bills as compared with the results from the use of cooking utensils sold by respondents' competitors;

14. That stainless steel is a new metal;

15. That the preparation of food in respondents' utensils will aid digestion more than the preparation of food in other cooking utensils;

16. That respondents' cooking utensils used in the manner recommended will retain the minerals and vitamins of food cooked therein to a greater extent than will the utensils sold by any of respondents' competitors;

17. That respondents own, operate, or control a factory in which their products are manufactured;

18. That respondents own, operate, or control a laboratory in connection with their product;

19. That the Federal Acceptance Co., or any other name used by them for the purpose of collecting money due them, is a separate concern;

20. That respondents' representatives are bonded for the protection of their customers, unless such becomes the fact;

21. That respondents' cooking utensils can be delivered immediately or within any certain specified time after purchase contrary to the facts;

22. That the consumption of food prepared or kept in aluminum utensils will cause cancer, stomach trouble, ulcers, indigestion, high blood pressure, decayed teeth, or be poisonous to the human body;

23. That aluminum is not a satisfactory metal for use in cooking utensils or that the consumption of food prepared or kept in aluminum utensils is detrimental to the health of the users.

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

Syllabus

IN THE MATTER OF

TERMITGAS, INC., CHARLES H. LEWIS, DAVID S.
LEWIS AND BERNARD B. LEWISCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5631. Complaint, Dec. 31, 1948—Decision, Mar. 15, 1950*

Where a father and two sons, engaged in the interstate sale and distribution of a mixture which they advertised for the destruction and prevention of termites and other insects and sold in containers with labels bearing the name and address of a corporation owned and controlled by them, but which had never done business as a corporation; in advertising said product in newspapers, pamphlets, booklets, letterheads, billheads and other advertising media, in some of which they depicted a can of the product labeled as above set forth—

- (a) Represented that the concern indicated by one of the trade names employed by them was established in 1890; that a significant portion of the business was that of importing and exporting industrial chemicals; and that they were termite experts and entomologists;

The facts being that while the father had been engaged in the business of retailing industrial chemicals to small industries and laboratories for about 40 years, the firm name in question was adopted about 15 years ago and the business here concerned was not begun until about 12 years ago; while the three individuals had in the past exported and imported small quantities of industrial chemicals, the limited extent of such business did not justify the designation of "importers" and "exporters"; their experience in the destruction and control of termites was not sufficient to warrant classifying any of them as experts; and none was an entomologist;

- (b) Represented that their said termitgas worked miracles, and was a new "atomic bomb" spray for termites; that the owner or occupant could use it himself; that 1 gallon was adequate to control termites in a six-room house, and, used as a spray, was sufficient to insure a building such as a home, barn, or cottage against termite infestation; and that there was nothing like it for complete destruction of termites;

The facts being that it was not a miracle chemical, did not utilize atomic energy in the killing of termites and designation thereof as an "atomic bomb spray" was unwarranted; it is impossible to state with any degree of accuracy the amount of said product required to rid a building of termites without a careful inspection of the premises by a person with knowledge of their habits; there are a number of chemicals which, as known for a considerable period, are effective when properly applied as termite killers, but neither they, nor the product concerned, are effective when sprayed on the wood or around the foundation of a building, since, thus applied, they do not reach the termites in the ground or inside the wood; and, even properly applied, the product cannot be depended upon to prevent infestation or reinfestation of a building containing wood for longer than a year;