

Syllabus

IN THE MATTER OF
NEO-MINERAL COMPANY, INC. ET AL.

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

Docket 5711. Complaint, Nov. 17, 1949—Decision, Dec. 1, 1951

Where a corporation and three officers thereof, engaged in the interstate sale and distribution of their "Neo-Mineral" preparation; through statements in advertisements disseminated through the mails—

- (a) Falsely represented that their said product was a competent and effective treatment for and would cure stomach and kidney ailments, bloating, constipation, and bowel adhesions, rheumatism, arthritis, and other conditions; would relieve the pain of rheumatism or arthritis; would cure headaches, nervousness and dizzy spells; restore vitality, energy and weakened sexual powers; improve the appetite and increase the weight of the user; enrich the blood, and correct tiredness, poor appetite and lack of ambition to work or play; and restore sparkle in the eye and mental brilliance, and correct and cure similar symptoms and conditions;
- (b) Falsely represented that it contained no drugs and restored health without use thereof, that it contained the same minerals in therapeutic amounts as were found in the mineral waters of the best mineral springs, and that its use would produce the benefits ordinarily ascribed to the use of such mineral waters;
- (c) Falsely represented that it kept the colon free from waste matter, and that the black stools and evidence of impurities in the urine following its use demonstrated these results;

The facts being that such stools and impurities in the urine were due to chemical reaction of the iron compounds in the preparation with sulphur compounds in the fecal matter and had no therapeutic significance; and

- (d) Represented that 68% of all persons over 35 suffered from nutritional mineral-iron anemia, and that when a person was nervous, dull, tired, lazy, had headaches and dizzy spells, had a poor appetite and was underweight, where the eyes lacked sparkle and the mind brilliance, such or similar conditions indicated a lack of minerals in the blood, and the use of said preparation would correct them and restore health;

The facts being there are no reliable medical statistics showing that 68% or any other percent of persons over 35 suffer from nutritional mineral-iron anemia, and the preparation would not accomplish the results claimed;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such statements were true and thereby induce purchase of its 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.

As regards the corporation laws of the state of Michigan, under which the corporate respondent was brought into being, the examiner in the proceeding took official notice of certain provisions in connection with the filing of a

Complaint

48 F. T. C.

certificate of dissolution in its behalf, and the question as to whether or not the cease and desist order should be entered against the corporate respondent as well as against the individual respondents in their capacities as officers and directors.

In said matter which involved the sale of drugs, while no charge was made in the complaint of any harmful propensities thereof, it was concluded that although a certificate of dissolution had been filed, the corporate respondent as well as the individual respondents in their representative capacities as officers and directors should be included in the order to cease and desist, notwithstanding the fact that the former was dissolved on January 20, 1950, "by expiration of term," since the applicable corporation laws of Michigan provide that the corporate body continue for three years after dissolution for the purpose, among other things, of disposing of its assets; and, since the stock in trade of the product "Neo-Mineral" is an asset to be liquidated, under the circumstances of the false and fraudulent advertising found to exist in connection with sale of its said product, preventive measures should be taken effectively to prohibit and prevent such a disposition thereof.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Morton Nesmith and *Mr. John M. Doukas* for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of authority vested in it by said Act, the Federal Trade Commission having reason to believe that Neo-Mineral Company, Inc., a corporation, and Charles Manteris, Peter J. Hioureas, and Peter Lucas, individually and as officers 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 thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Neo-Mineral Company, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Michigan with its principal offices located at 2280 14th Street, Detroit, Michigan.

Respondents Charles Manteris, Peter J. Hioureas and Peter Lucas are President, Vice-President and Secretary-Treasurer, respectively of said corporation, and as such officers, they formulate, direct and control the policy and practices of said corporation. The address of said individual respondents is the same as that of the corporate respondent.

PAR. 2. Said respondents are now and for the past year have been engaged in the business of selling and distributing a preparation containing drugs as "drug" is defined in the Federal Trade Commission

Act. The designation used by the respondents for their "preparation" and the formula and directions for its use are as follows:

Designation: Neo-Mineral

Formula: An aqueous solution containing:

Ferric sulfate.....	4.22 g. per 100 cc
Ferrous sulfate.....	.04 g. per 100 cc
Aluminum sulfate.....	.93 g. per 100 cc
Calcium sulfate.....	.19 g. per 100 cc
Magnesium sulfate.....	.33 g. per 100 cc
Phosphoric acid.....	.020 g. per 100 cc
Manganese.....	.0065 g. per 100 cc
Copper.....	less than .001 g. per 100 cc

Directions for use:

IMPORTANT: NEVER TAKE NEO-MINERAL UNDILUTED Take one teaspoonful twice daily, in a full glass of water, or fruit juice if preferred. Take Neo-Mineral after meals.

Respondents cause said drug preparation when sold to be shipped from their place of business in the State of Michigan to dealers and individuals located in the various other States of the United States and the District of Columbia. Said dealers in turn sell such drug preparation to the general public. Respondents maintain and at all times mentioned herein have maintained a course of trade in said preparation in commerce 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 business, respondents since March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning said preparation by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in the Kalamazoo Gazette, Kalamazoo, Michigan, February 8, 1949, and March 24, 1949; The Sturgis Daily Journal, Sturgis, Michigan, January 21, 1949; The Huntington Advertiser, Huntington, West Virginia, May 6, 1949, May 12, 1949, and May 13, 1949; The Cincinnati Inquirer, Cincinnati, Ohio, March 16, 1949, and March 23, 1949; The Courier Journal, Louisville, Kentucky April 20, 1949, and Detroit News, Detroit, Michigan, April 6, 1949; and respondents have disseminated and caused the dissemination of advertisements concerning their preparation by various means including but not limited to the advertisements referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

Complaint

48 F. T. C.

AMAZING

DISCOVERY

FOR SICK PEOPLE

Stomach Ailments, Weak Kidneys, Rheumatic Pains, Arthritis, Neuritis—
Drugless Health

If you are a sufferer of these ailments try NEO-MINERAL. You may be astounded at the results. You need not guess—you will see facts. * * *

Rich Red Blood

MEDICAL records show 68% of men and women over 35 suffer from nutritional iron anemia. When you feel nervous, dull, lazy and have dizzy spells, no ambition to work or play, a poor appetite, feel blue, when your eyes lack sparkle, and your mind brilliance, when headaches get the best of you, and you feel old before your time, when the sexual powers weaken, and life seems not worth living, with worry wearing you down—it may be simply lack of minerals in your blood. NEO-MINERAL is then what you need. Wonder Minerals. Rheumatism and Arthritis are dreadful diseases. Acid condition in the blood is often their cause. What could be the remedy? For thousands of inquirers, minerals have been used to relieve pain and suffering of these ills. People on advice of doctors go to mineral springs to find cure or relief. The late President Roosevelt used to go to Warm Springs in Georgia. He was helped or would not have gone there regularly twice a year.

YEAR after year, people rush to mineral springs and spas, to drink and bathe in their miraculous water. We have all heard of the wondrous springs of Lourdes, France, the famous Thronion in Ancient Greece, where according to legend, Hercules, the god of eternal strength and youth, drank its waters and bathed to be forever young.

AMAZING RESULTS

NEO-MINERAL contains minerals you get at the world's best springs. Watch your elimination from your bowels a day or two after using it. The waste, black as the color of your shoes, will start to break away, and you will SEE it. Also examine your urine. You will see impurities—poisonous waste coming out of your kidneys, relieving you, and then realize the priceless value of NEO-MINERAL.

NEO-MINERAL is not a physic and does not interfere with the food in the stomach. It cleans and purifies the intestines, thoroughly relieving gas, toxins, acids, and bloating. After these poisons are out of the system and the kidneys purified, we begin to feel the arthritis and rheumatism leaving and Nature starting to complete the recovery. * * * REGARDLESS of how long you have been suffering and how many medicines you have tried before, NEO-MINERAL may be the remedy you need.

SICK!

SUFFERERS OF STOMACH AILMENTS,

WEAK KIDNEYS, RHEUMATIC PAINS,

ARTHRITIS, NEURITIS

and other disorders, such as Headaches, Indigestion, Acids, Toxins, Bloating, Weak Back, Frequent Rising at Night, Lumbago, Leg Pains, Lack of Vitality and

Energy, Poor Appetite, may be greatly relieved by the help of a natural remedy—
NEO-MINERAL * * *

Spastic Constipation * * * Our Guarantee. We urge EVERYONE TO
TRY NEO-MINERAL * * *.

Constipation is the cause of this atonic abnormal colon. Keep colon free from
poisonous waste matter.

Bowel Adhesions—Proper diet, keeping colon clean, always helps to avoid the
condition of this colon.

DRUGLESS HEALTH

PAR. 5. Through the use of the statements in the advertisements hereinabove set forth and others of the same import, not specifically set out herein, respondents represented that their preparation Neo-Mineral, taken as directed, is a competent and effective treatment for and will cure stomach ailments, kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis, neuritis, lumbago, headaches, nervousness, dizzy spells, weak back, night risings, and leg pains, will restore vitality, energy, and weakened sexual powers; will improve the appetite and increase the weight of the user; that its use will relieve the pains of rheumatism and arthritis; that said preparation does not contain drugs and restores health without the use of drugs; that it contains the same minerals in therapeutic amounts as are found in the mineral waters of the best mineral springs and that the use of the preparation will produce the benefits ordinarily ascribed to the use of such mineral waters; that its use will enrich the blood and build rich, red blood; that said preparation keeps the colon free from waste matter, and that the black stools and evidences of impurities in the urine following its use demonstrate these results; that 68% of all persons over 35 years of age suffer from nutritional mineral-iron anemia; that when a person is nervous, dull, tired, lazy, has headaches and dizzy spells, lacks ambition to work or play, has a poor appetite and is underweight, when eyes lack sparkle and the mind brilliance or when other similar conditions exist, such conditions indicate a lack of minerals in the blood and that the use of the said preparation, as directed, will correct them and that its use will restore health to all persons who may suffer ill health.

PAR. 6. The aforesaid 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' preparation Neo-Mineral has no value in the treatment of stomach ailments, kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis and neuritis and the pains thereof, weak back, night risings and leg pains, and, except to the extent hereinafter set forth, has no value in the treatment of headaches, nervousness and dizzy spells, lack of vitality, energy, ambition, sparkle in the eyes and

brilliance of the mind, poor appetite, underweight, weakened sexual powers and similar conditions, in building rich, red blood and in restoring or benefiting the health of the user. Practically all of the ingredients contained in said preparation are drugs and any results obtained through its use are by reason of a drug contained therein. It does not contain the same minerals as exist in water from the best mineral springs and the benefits obtained through its use are not comparable to those following the use of such waters. Said preparation will not keep the colon free from waste matter. Black stools and evidences of impurities in the urine are not indicative of any such result. Any black color of the stools following the taking of the preparation is due to the chemical reaction of the iron compounds in the preparation with sulphur compounds in the fecal matter and has no therapeutic significance. The use of the preparation will not cause impurities to appear in the urine. There are no reliable medical statistics showing that 68% or any other percent of persons over 35 suffer from nutritional mineral-iron anemia.

PAR. 7. There are a considerable number of disease conditions embraced under the generic term "anemia"; some of these anemias result from a deficiency of iron in the body, while the remainder result from a variety of other causes. Only that type of anemia involving a deficiency of iron in the body which has resulted from an inadequate intake of iron in the diet may be benefited by Neo-Mineral taken as directed; the preparation is not of value in the treatment of iron deficiency anemia resulting from an inadequate absorption of iron by the intestine or an increased loss of iron as in chronic bleeding; the preparation would also be without value in the treatment of pernicious anemia and other macrocytic anemias, or the anemias caused by derangements of the blood-forming organs of the body or conditions resulting in increased destruction of red blood cells; it is also without value in the treatment of anemia secondary to severe or chronic diseases such as cancer, kidney disease, infections, etc. Of the cases of anemia encountered in medical practice, only a very small percentage is caused by an inadequate intake of iron in the diet, and it is only in this very small percentage of cases that Neo-Mineral may have any therapeutic value; also, it is only in this very small percentage of cases of anemia that the preparation would be effective in enriching the blood or in tending to produce rich, red blood.

Such symptoms or conditions as headaches, nervousness and dizzy spells, tiredness, dullness, laziness, lack of vitality, energy, ambition, sparkle in the eyes and brilliance of the mind, poor appetite, underweight, weakened sexual powers and similar conditions may be due to anemia resulting from an inadequate intake of iron in the diet;

these symptoms may also be due to any of the numerous other types of anemia and they may also be due to a wide variety of disease conditions which are in no wise related to anemia. In only an extremely small percentage of persons having the aforementioned symptoms are the symptoms the result of anemia due to a simple deficiency of iron in the diet, and it is only in this extremely small percentage of cases that Neo-Mineral will have any therapeutic value in the correction or relief of the aforementioned symptoms.

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

PAR. 9. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated December 1, 1951, the initial decision in the instant matter of Trial Examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JAMES A. PURCELL, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 17, 1949, issued and subsequently served its complaint in this proceeding upon Neo-Mineral Company, Inc., a corporation, Charles Manteris, Peter J. Hioureas, and Peter Lucas, charging respondents with the use of unfair and deceptive acts and practices, in commerce in violation of said Act. After the issuance of said complaint respondents filed their answer in which they admitted all of the material allegations of facts set forth in said complaint and waived all intervening procedure and further hearing as to the said facts. Thereafter, the proceeding regularly came on for final consideration by the above-named Trial Examiner theretofore duly designated by the Commission upon said complaint and answer thereto and proposed findings and conclusions

Findings

48 F. T. C.

submitted by the attorneys in support of the complaint, none such having been submitted on behalf of the respondents.

Said Trial Examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Neo-Mineral Company, Inc., was a corporation organized and doing business under and by virtue of the laws of the State of Michigan with its principal offices located at 2280 14th Street, Detroit, Michigan. Said respondent corporation was dissolved on January 20, 1950.

Respondents Charles Manteris, Peter J. Hioureas and Peter Lucas were President, Vice-President and Secretary-Treasurer, respectively of said corporation, and as such officers, they formulated, directed and controlled the policy and practices of said corporation. The addresses of said individual respondents are the same as that of the corporate respondent.

PAR. 2. At the time of issuance of the complaint, and for at least one year prior thereto, respondents were engaged in the business of selling and distributing a preparation containing drugs, as the word "drug" is defined in the Federal Trade Commission Act. On January 20, 1950, the corporate respondent was dissolved "by expiration of term" and a certified copy of certificate to that effect appears of record herein, although, by their joint and several answer filed herein, all respondents admit that the sale and distribution of their product continued until sometime in the month of March 1950.

Respondents sold and designated their preparation as "Neo-Mineral," the formula of which, and directions for its use being, as follows:

Formula: An aqueous solution containing:

Ferric sulfate.....	4.22 g. per 100 cc
Ferrous sulfate.....	.04 g. per 100 cc
Aluminum sulfate.....	.93 g. per 100 cc
Calcium sulfate.....	.19 g. per 100 cc
Magnesium sulfate.....	.33 g. per 100 cc
Phosphoric acid.....	.020 g. per 100 cc
Manganese.....	.0065 g. per 100 cc
Copper, less than.....	.001 g. per 100 cc

Directions for Use:

IMPORTANT: NEVER TAKE NEO-MINERAL UNDILUTED. Take one teaspoonful twice daily, in a full glass of water, or fruit juice if preferred. Take Neo-Mineral after meals.

Respondents caused said drug preparation when sold to be shipped from their place of business in the State of Michigan to dealers and individuals located in the various other States of the United States and the District of Columbia. Said dealers in turn sell such drug preparation to the general public. Respondents maintained and at all times mentioned herein have maintained a course of trade in said preparation in commerce 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 business, respondents, since March 21, 1938, have disseminated certain advertisements concerning said preparation by means of the United States Mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, the purpose whereof being to induce, directly or indirectly, the purchase of said preparation by the public.

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

AMAZING
DISCOVERY
FOR SICK PEOPLE

Stomach Ailments, Weak Kidneys, Rheumatic Pains, Arthritis, Neuritis
Drugless Health

If you are a sufferer of these ailments try NEO-MINERAL. You may be astounded at the results. You need not guess—you will see facts. * * *

Rich Red Blood

MEDICAL records show 68% of men and women over 35 suffer from nutritional iron anemia. When you feel nervous, dull, lazy and have dizzy spells, no ambition to work or play, a poor appetite, feel blue, when you eyes lack sparkle, and your mind brilliance, when headaches get the best of you, and you feel old before your time, when the sexual powers weaken, and life seems not worth living, with worry wearing you down—it may be simply lack of minerals in your blood. NEO-MINERAL is then what you need. Wonder Minerals. Rheumatism and Arthritis are dreadful diseases. Acid condition in the blood is often their cause. What could be the remedy? For thousands of inquirers, minerals have been used to relieve pain and suffering of these ills. People on advice of doctors go to mineral springs to find cure or relief. The late President Roosevelt used to go to Warm Springs in Georgia. He was helped or would not have gone there regularly twice a year.

YEAR after year, people rush to mineral springs and spas, to drink and bathe in their miraculous water. We have all heard of the wonderful springs of Lourdes, France, the famous Thronion in Ancient Greece, where according to legend, Hercules, the god of eternal strength and youth, drank its waters and bathed to be forever young.

Findings

48 F. T. C.

AMAZING RESULTS

NEO-MINERAL contains minerals you get at the world's best springs. Watch your elimination from your bowels a day or two after using it. The waste, black as the color of your shoes, will start to break away, and you will SEE it. Also examine your urine. You will see impurities—poisonous waste coming out of your kidneys, relieving you and then realize the priceless value of NEO-MINERAL.

NEO-MINERAL is not a physic and does not interfere with the food in the stomach. It cleans and purifies the intestines, thoroughly relieving gas, toxins, acids and bloating. After these poisons are out of the system and the kidneys purified, we begin to feel the arthritis and rheumatism leaving and Nature starting to complete the recovery. * * * REGARDLESS of how long you have been suffering and how many medicines you have tried before, NEO-MINERAL may be the remedy you need.

SICK!

SUFFERERS OF STOMACH AILMENTS,

WEAK KIDNEYS, RHEUMATIC PAINS,

ARTHRITIS, NEURITIS

and other disorders, such as Headaches, Indigestion, Acids, Toxins, Bloating, Weak Back, Frequent Rising at Night, Lumbago, Leg Pains, Lack of Vitality and Energy, Poor Appetite, may be greatly relieved by the help of a natural remedy—NEO-MINERAL * * *

Spastic Constipation * * * Our Guarantee. We urge EVERYONE TO TRY NEO-MINERAL * * *.

Constipation is the cause of this atonic abnormal colon. Keep colon free from poisonous waste matter.

Bowel Adhesions—Proper diet, keeping colon clean, always helps to avoid the condition of this colon.

DRUGLESS HEALTH

PAR. 5. Through use of the statements in the foregoing advertisements and others of similar import not specifically set out herein, respondents represented that their preparation, Neo-Mineral, taken as directed, is a competent and effective treatment for and will cure stomach ailments, kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis, neuritis, lumbago, headaches, nervousness, dizzy spells, weak back, night risings and leg pains; will restore vitality, energy and weakened sexual powers; will improve the appetite and increase the weight of the user; that its use will relieve the pains of rheumatism and arthritis; that said preparation does not contain drugs and restores health without the use of drugs; that it contains the same minerals in therapeutic amounts as are found in the mineral waters of the best mineral springs and that the use of the preparation will produce the benefits ordinarily ascribed to the use of such mineral waters; that its use will enrich the blood and build rich, red blood; that

said preparation keeps the colon free from waste matter, and that the black stools and evidences of impurities in the urine following its use demonstrate these results; that 68% of all persons over 35 years of age suffer from nutritional mineral-iron anemia; that when a person is nervous, dull, tired, lazy, has headaches and dizzy spells, lacks ambition to work or play, has a poor appetite and is underweight, when eyes lack sparkle and the mind brilliance or when other similar conditions exist, such conditions indicate a lack of minerals in the blood and that the use of the said preparation, as directed, will correct them and that its use will restore health to all persons who may suffer ill health.

PAR. 6. The aforesaid 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' preparation Neo-Mineral has no value in the treatment of stomach ailments, kidney ailments, bloating, constipation, bowel adhesions, rheumatism, arthritis and neuritis and the pains thereof; weak back, night risings and leg pains; has no value in the treatment of headaches, nervousness and dizzy spells, lack of vitality, energy, ambition, sparkle in the eyes and brilliance of the mind, poor appetite, underweight, weakened sexual powers and similar conditions; in building rich, red blood and in restoring or benefiting the health of the user. Practically all of the ingredients contained in said preparation are drugs and any results obtained through its use are by reason of a drug contained therein. It does not contain the same minerals as exist in water from the best mineral springs and the benefits obtained through its use are not comparable to those following the use of such waters. Said preparation will not keep the colon free from waste matter. Black stools and evidences of impurities in the urine are not indicative of any such result but are due to chemical reaction of the iron compounds in the preparation with sulphur compounds in the fecal matter, and have no therapeutic significance. The use of the preparation will not cause impurities to appear in the urine. There are no reliable medical statistics showing that 68% or any other percent of persons over 35 suffer from nutritional mineral-iron anemia.

CONCLUSIONS

Notwithstanding the certificate of dissolution of the corporate respondent, hereinabove referred to, the Trial Examiner concludes that an order should be entered against the corporate respondent, as well also against the individual respondents in their representative capacities as officers and directors of the corporation for the following

Conclusions

48 F. T. C.

reasons: (1) This matter involves the sale of drugs and, while no charge is made in the complaint of any harmful propensities thereof, nevertheless all precautions should be availed of in the present proceeding to leave no avenue open for possible evasion of an order; (2) the Corporation Laws of the State of Michigan under which Neo-Mineral Company, Inc., was brought into being, and of which laws the Examiner takes official notice, provide for a number of steps to be taken subsequent to the filing of a certificate of dissolution, in order to effectively accomplish that purpose, the most important of which provides that after dissolution the corporate body shall continue for a period of three years for the purpose, *inter-alia*, of disposing of its assets. Obviously, the stock in trade, if any, of the product, "Neo-Mineral," is an asset to be liquidated and, while the record does not disclose the present inventory, preventive measures should be availed of to effectively prohibit and prevent a disposition thereof under the circumstances and conditions of the false and fraudulent advertising herein found to exist. These reasons are given because of the oft-repeated statement that "it is a futile thing to place an order against a dead horse." The "horse" in this instance may be *in extremis* but will not be officially dead for all purposes until January 20, 1953, and even then may be legally revived. Pertinent passages of the applicable provision of the Michigan laws are footnoted.¹

The use by the respondents of the aforesaid statements and representations disseminated as aforesaid, has had and now has the tend-

¹ Concerning the dissolution of the corporation, aside from the certificate of dissolution, there is nothing of record herein to show that all of the provisions of the Michigan laws have been complied with in order to make such dissolution absolute, i. e., compliance with section 48 of Act No. 327, P. A. 1931, providing that:

"Within 30 days after any such dissolution a certificate signed by the holders of at least three-fourths of each class of outstanding stock shall be filed with the Michigan Corporation and Securities Commission and a duplicate original thereof with the County Clerk where its registered office is located in the manner provided in section five for original articles, * * * showing that all the debts and liabilities have been paid or provision for the payment thereof made and the assets have been distributed pro rata among the shareholders or provisions for such distribution made." (Paragraph 73, as amended by L. 949, Act No. 29.)

The same section of the act provides, with great detail for the preservation and safe-keeping of the corporate records for a period of ten years, concerning which provision there is likewise no evidence of compliance. Said section further provides, *inter-alia*:

"All corporations whose charters shall have expired by limitation * * * shall nevertheless continue to be bodies corporate for the further term of three years from such expiration * * * for the purpose of prosecuting and defending suits for or against them and of enabling them gradually to settle and close their affairs and to dispose of and convey their property and divide their assets but not for the purpose of continuing the business for which such corporations were organized."

Respondents, by their admission answer, assert that they continued conduct of the business until March of 1950, despite dissolution on January 20, 1950. What assurance can there be, short of an order against all named respondents, that such practices will not be resumed in the future?

487

Order

ency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such statements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' said preparation.

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

ORDER

It is ordered, That the respondent Neo-Mineral Company, Inc., a corporation, and its officers, and the respondents Charles Manteris, Peter J. Hioureas, and Peter Lucas, individually and as officers of said respondent corporation, and said respondents' respective representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of the preparation designated "Neo-Mineral," or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same or any other name, do forthwith cease and desist from directly or indirectly:

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

(a) That said preparation, when used as directed, is a competent or effective treatment for, or will cure, stomach ailments; kidney ailments; bloating; constipation; bowel adhesions; rheumatism; arthritis; neuritis; lumbago; weak back; night risings and leg pains; or will relieve the pains of rheumatism or arthritis; or that said preparation has any therapeutic value in the treatment of such conditions.

(b) That said preparation is a competent or effective treatment for, or will cure, headaches; nervousness; dizzy spells; or will restore vitality, energy and weakened sexual powers; will improve appetite and increase the weight of the user; or will enrich the blood and build rich, new red blood; or will correct dullness; tiredness; laziness; poor appetite, or a lack of ambition to work or play; or will restore sparkle in the eye; mental brilliance, or correct and cure similar symptoms and conditions, unless such representations be expressly limited to those instances in which the symptoms and conditions to be treated are due solely to iron deficiency anemia resulting from an inadequate intake of iron in the diet.

Order

48 F. T. C.

(c) That said preparation does not contain drugs, or restores health without the use of drugs.

(d) That said preparation contains the same minerals in therapeutic amounts as are found in the mineral waters of the best known mineral springs, or that its use will produce the benefits ordinarily ascribed to the use of such mineral waters.

(e) That said preparation keeps the colon free from waste matter, and that black stools and evidences of impurities in the urine demonstrate the therapeutic value of respondents' product in eliminating waste.

(f) That 68 percent or any other percentage or number of men and women over 35 years of age, or in any other age bracket, suffer from nutritional mineral-iron anemia.

(g) That said preparation will restore health to all persons who may suffer ill health.

(2) Disseminating or causing to be disseminated 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 its product, Neo-Mineral, any advertisement which contains any of the representations prohibited in Paragraph (1) of this order.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered that the respondents herein shall, within sixty (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 the order to cease and desist [as required by said declaratory decision and order of December 1, 1951].

Syllabus

IN THE MATTER OF
RADIO TRAINING ASSOCIATION OF AMERICA 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 5536. Complaint, Apr. 20, 1948—Decision, Dec. 5, 1951*

Where a corporation and its president who were engaged in the interstate sale and distribution of a course of home study instruction in the fields of radio and television; in advertising in newspapers and magazines of general circulation and through form letters, directly and by implication—

- (a) Represented that a person who completed their course was assured of proper preparation and ample training for a successful career as a technician in said fields of science;
- (b) Represented that the course embraced all the practical training necessary for success in said fields, and that its satisfactory completion properly equipped one with the necessary qualifications to obtain and hold high salaried positions in the radio and television industries and supplied him with adequate radio shop knowledge for a lucrative future in radio; and
- (c) Represented that they had a modernly equipped radio and television laboratory in Hollywood in which those students who satisfactorily completed their home study course could obtain at least two weeks or eighty hours of practical training and experience in television work, the expenses of which, including round-trip transportation from the student's home, and lodging while receiving said training in their laboratory, were all included in the original tuition fee;

The facts being that their course consisted entirely of instruction in the theory of radio and television; the techniques referred to cannot be acquired except by actual experience in working with radio and television sets in a shop or laboratory, preferably under the supervision of a trained instructor, and without such practical training a person is not qualified for any technical position in the radio field; the best that a person could reasonably expect of such a course was that by its successful completion he would be somewhat better qualified to enter the trade as an apprentice than one who had had no practical training or experience in techniques and had not studied the theory of radio or television; and they had no laboratory nor any means of providing purchasers of their course with practical training or laboratory experience; and they bore no transportation and lodging expense and furnished their purchasers with nothing of value other than a home study course in theory;

- (d) Represented through the use of the word "Association" in their corporate name that their enterprise was an organization composed of persons primarily interested in its activities from an educational standpoint; and
- (e) Represented that they had the endorsement of or some connection with the radio and television manufacturing and distributing industry and acted as a medium through which its experts were trained, through use of their corporate name, "Radio Training Association of America," together with such statements as "training men for the radio industry for over 25 years," "We are seeking ambitious, mechanically inclined men—to learn Radio and