

IN THE MATTER OF
DOLCIN CORPORATION ET AL.

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

Docket 5692. Complaint, Aug. 18, 1949—Decision, Dec. 2, 1952

The terms "arthritis" and "rheumatism" are general terms, sometimes used interchangeably, which may refer to any of many diseases or pathological conditions including rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, which are characterized by such symptoms or manifestations as pain, stiffness, and inflammatory and destructive changes in the joints and tissues of the body.

Such pathological conditions are of known as well as unknown origin, examples of the former being infectious arthritis, such as arthritis of syphilis, arthritis of gonorrhea, and arthritis associated with pneumonia and tubercular infections, as well as gout, which is connected with disturbances of metabolism; while examples of the latter include rheumatoid arthritis, osteomyelitis and rheumatic fever.

The various pathological conditions generally referred to as arthritis and rheumatism progress and develop differently. Likewise, they require different treatment, which will vary not only between different types of such ailments, but between different individuals suffering from the same ailment, and between different stages in the progress thereof. An adequate, effective, or reliable treatment for any kind of "arthritis" or "rheumatism" must, therefore, be predicated upon individual diagnosis, in order to determine whether the patient has arthritis or rheumatism, the particular kind of such ailment present, and whether it arose from a known or an unknown cause.

An adequate, effective, and reliable treatment for any of the various types of ailments included in the general terms "arthritis" and "rheumatism" may involve application of various therapeutic measures, including diet, rest or change of occupation, various types of physiotherapy such as orthopedic or thermal procedures, and medication; and delay of proper diagnosis, with consequent failure to administer appropriate treatment, may result in irreversible pathological changes, causing a crippled, useless joint or extremity, especially in those forms of arthritis and rheumatism known to be caused by specific infections.

There is no drug or combination of drugs, regardless of how administered, which will constitute an adequate, effective, or reliable treatment for the various forms of arthritis or rheumatism, or which can restore to normal the pathological changes which result from arthritic or rheumatic ailments.

Aspirin is one of the safest analgesics known and is widely prescribed by physicians in large dosages for temporary relief of pain and fever in arthritic and rheumatic conditions, and while serious results from such excessive use are

rare, less serious but undesirable effects such as headache, nausea, and vomiting will occur in persons unable to tolerate it.

Where a corporation and its three officers, engaged in the interstate sale and distribution of their "Dolcin" tablets, sale of which in 1948 exceeded \$1,000,000; in advertising through broadcasts and in professional and trade journals of national circulation, and in various circulars and pamphlets distributed throughout the United States, directly or by implication—

(a) Falsely represented that said product constituted an adequate, effective and reliable treatment for rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis and all other forms of rheumatism and arthritis and the symptoms and manifestations thereof, and would arrest the progress, correct the underlying causes, and cure and prevent the recurrence of such ailments and conditions; and

(b) Falsely represented that said preparation constituted an adequate, effective and reliable treatment for so-called "growing pains" in children, and that its use would prevent rheumatic fever, which may be preceded by such pains;

The facts being that the ingredient calcium succinate, to be therapeutically operative, must be administered intravenously and content thereof was entirely too small to have any effect; the only active ingredient, acetylsalicylic acid, or aspirin, was insufficient to relieve the severe aches, pains, and discomforts attendant upon arthritic and rheumatic conditions, though as an analgesic and antipyretic it might afford temporary relief to the minor aches and pains; and, except for such temporary relief, Dolcin could not be depended upon to have any effect whatever upon the symptoms accompanying rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, etc.; and it would not in other respects accomplish results claimed therefor;

(c) Falsely represented that it was non-toxic; that it could be used over prolonged periods of time without harmful effects; that aspirin is sometimes harmful; and that persons adversely affected by aspirin can take "Dolcin" with safety;

The facts being that "Dolcin", by virtue of its aspirin content, might be toxic to some extent and could not be taken over prolonged periods without danger of harmful effects nor be taken safely by persons adversely affected by aspirin; and

(d) Falsely represented that said preparation was inexpensive in that it was "economical" to purchase and of "low cost";

The facts being that while the price of 100 tablets of a well-known brand of aspirin, its only therapeutically operative ingredient, was 59¢, and that of many other brands lower, its retail price for 100 tablets was \$2, and it therefore was not economical, inexpensive, or of low cost;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true and thereby into the purchase of substantial quantities of said preparation, and with tendency and capacity so to do:

Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce.

As respects the allegation of the complaint that the administration of "Dolcin" over prolonged periods of time to persons suffering from rheumatic fever might result in serious hemorrhage and even death: the record contained no substantial evidence to support the same.

Complaint

49 F. T. C.

Before *Mr. Abner E. Lipscomb* and *Mr. William L. Pack*, hearing examiners.

Mr. Joseph Callaway for the Commission.

Mr. Michael F. Markel, of Washington, D. C., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Dolcin Corporation and Victor van der Linde, George Shimmerlik and Albert T. Wantz, individually and as officers of Dolcin 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 Dolcin Corporation is a corporation organized under the laws of the State of New York, and having its office and principal place of business at 683 Fifth Avenue, city and State of New York.

Respondents Victor van der Linde, George Shimmerlik and Albert T. Wantz are now, and at all times mentioned herein have been, directors of respondent Dolcin Corporation, and respectively the President, Treasurer and Secretary thereof; all said individual respondents have offices and principal places of business at 683 Fifth Avenue, New York, New York. The said individual respondents are now, and at all times mentioned herein have been in control of the management, policies and operation of Dolcin Corporation, particularly in respect to the acts, practices and methods herein alleged.

PAR. 2. Respondents are now, and have been for more than two years last past, engaged in the business of selling and distributing a certain drug product, as "drug" is defined in the Federal Trade Commission Act.

The designation used by respondents for the said product, and the formula and directions for use thereof are as follows:

Designation: Dolcin.

Formula: Each tablet contains 2.8 grains of calcium succinate and 3.7 grains of acetylsalicylic acid, plus excipients.

Directions: Ordinarily from 8 to 12 tablets daily.

Respondents cause the said product, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned

herein have maintained, a course of trade in the said product in commerce between and among the various States of the United States and in the District of Columbia. Respondents' volume of business in such commerce is substantial, sales of Dolcin in 1948 being in excess of one million dollars.

PAR. 3. In the course and conduct of their business respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning Dolcin by the United States mails, and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce directly or indirectly its purchase.

These advertisements include, but are not limited to the following:

Radio continuities which were placed subsequent to October 7, 1948, for respondent by Victor van der Linde Company with, and broadcast by, approximately 120 radio stations throughout the country, including, but not limited to, the following stations:

The Don Lee Network, with its headquarters at Los Angeles, California, comprised of 45 stations on the west coast of the United States.

WOR—New York, N. Y.

WFIL—Philadelphia, Pa.

WPEN—Philadelphia, Pa.

WGN—Chicago, Ill.

WTAC—Worcester, Mass.

WOL—Washington, D. C.

WIND—Gary, Ind.

Radio continuities broadcast from the following stations:

KMA on or about May 22, 23 and 30, 1948.

WTCN, between September 1 and Sept. 10, 1948.

WNAY, on or about September 4, 5 and 6, 1948.

WJR, on or about December 19, 1948.

Advertisements in "Osteopathic Profession," issue of April, 1949, and an issue somewhat prior thereto, "American Druggist," issue of January 1, 1949; Utica (N. Y.) "Observer Dispatch," issue of November 7, 1948;

Pamphlet entitled "Dolcin Therapy in Arthritis";

Circular letter entitled "Dolcin Therapy";

Circular entitled "Here is what you should do about your Arthritis and Rheumatism";

Complaint

49 F. T. C.

Circular entitled "Dolcin Therapy for Arthritis and Rheumatic Disorders," and accompanying circular headed "Important."

Respondents have also disseminated and caused the dissemination of the advertisements referred to above for the purpose of inducing, and the said advertisements were likely to induce, directly or indirectly, the purchase of Dolcin in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Through the use of the said advertisements respondents have made, directly and by implication, the representations shown in the following sub-paragraphs, identified as (A) to (H) inclusive. The said advertisements, by reason of the said representations are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act by reason of the true facts which are set forth in sub-paragraphs (1) to (9) inclusive.

(A) That Dolcin is an adequate, effective and reliable treatment for all kinds of arthritis and rheumatism, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago and bursitis.

(1) Dolcin, however taken, is not an adequate, effective or reliable treatment for any kind of arthritis or rheumatism, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, or bursitis.

(B) That Dolcin will arrest the progress of, will correct the underlying causes of, and will cure rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, and the various kinds of rheumatism and arthritides and prevent their recurrence.

(2) Dolcin, however taken, will not arrest the progress of, will not correct the underlying causes of and will not cure rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any kind of arthritis or rheumatism, nor prevent their recurrence.

(C) That Dolcin is an adequate, effective and reliable treatment for so-called "growing pains" in children and that its use will avert rheumatic fever, of which such pains may be indicative.

(3) Dolcin, however taken, is not an adequate, effective or reliable treatment for so-called "growing pains" in children, nor will its use avert rheumatic fever.

(D) That Dolcin is an adequate, effective and reliable treatment for the symptoms and manifestations of all kinds of arthritis, or rheumatism, rheumatic fever myositis, fibrositis, neuritis, sciatica, lumbago and bursitis, and will afford complete and immediate relief from the aches, pains, and discomforts thereof.

(4) Dolcin is not an adequate, effective or reliable treatment for the symptoms or manifestations of any kind of arthritis or rheu-

matism, rheumatic fever, myositis, fibrositis, neuritis, sciatica, lumbago or bursitis; the aches, pains and discomforts incident to those ailments may be of such nature that they will be in no way alleviated by the use of Dolcin, however taken, and in other cases the relief afforded will be limited to such degree of temporary and partial analgesic and antipyretic effects as its aspirin content may afford in the individual case.

(5) The effect of Dolcin when used in any of the ailments mentioned herein is limited to temporary and partial relief of minor aches and pains, and fever.

(E) That Dolcin can be used over prolonged periods of time without harmful effects on the body.

(6) The prolonged administration of Dolcin may produce harmful effects on the body.

(F) That Dolcin can be taken with safety and immunity by persons who are adversely affected by aspirin.

(7) Aspirin is the common name for the acetylsalicylic acid in Dolcin, and Dolcin cannot be taken with safety and impunity by persons who are adversely affected by aspirin.

(G) That aspirin is toxic and Dolcin is not.

(8) Dolcin is qualitatively just as toxic as aspirin.

(H) That Dolcin is inexpensive.

(9) Dolcin is not inexpensive in comparison to simple aspirin which is the only therapeutically active component of Dolcin.

PAR. 5. The said advertisements are "false advertisements" for the further reason that they fail to reveal facts material in the light of the representations made therein with respect to the administration of Dolcin in cases of rheumatic fever, or material with respect to the consequences which may result from the use of Dolcin under the conditions prescribed in said advertisements relating to rheumatic fever. In truth and in fact, the prolonged administration of Dolcin to persons having rheumatic fever may result in serious hemorrhage and in death.

PAR. 6. The use by respondents of the said false advertisements with respect to Dolcin has had the capacity and tendency to mislead and deceive, and has misled and deceived, a substantial portion of the purchasing public into the erroneous and mistaken belief that the representations and statements contained therein were true and into the purchase of substantial quantities of Dolcin by reason of said erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and con-

stitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDERS AND DECISION OF THE COMMISSION

Order denying appeal from initial decision of hearing examiner and decision of the Commission and order to file report of compliance, Docket 5692, December 2, 1952, follows:

This matter came on to be heard by the Commission upon respondents' appeal from the initial decision of the hearing examiner, briefs in support of and in opposition to said appeal and oral argument of counsel. In support of their appeal respondents have set out in their appeal brief extensive exceptions to certain of the findings as to the facts, conclusion and provisions of the order and to certain procedural rulings of the hearing examiner. These exceptions have been fully considered and denied by the Commission in a separate order issued simultaneously herewith.

This matter relates to the truth or falsity of certain claims made by respondents in advertisements of the preparation Dolcin. There is no contest as to the actual advertisements or as to the ingredients of the preparation. The contest is as to the meaning of the advertisements and the effects of using the preparation as directed.

The record shows that respondents claimed in their advertising that, in addition to providing relief from the symptoms of arthritic and rheumatic conditions, Dolcin would attack the underlying causes of the conditions themselves. An example is the following excerpt from one of respondents' advertising pamphlets:

7. *Is DOLCIN just another palliative * * * a product for relieving pain for a few hours?* The answer is very definitely that DOLCIN is *not* just a palliative masking pain and discomfort for a few hours. DOLCIN is designed to RELIEVE PAIN PROMPTLY but, also, the DOLCIN treatment is directed to the disturbances in metabolism which are a very important part of the background of the Rheumatic State, and is designed to give prolonged relief from symptoms.

The greater weight of the evidence is that other than aspirin none of the ingredients in Dolcin have any value in connection with arthritic and rheumatic conditions and that the only value of aspirin taken in this connection is that it provides temporary relief from the less severe pains and fever accompanying these conditions. Respondents admit their preparation will not prevent the underlying causes, cure or arrest the progress of arthritic or rheumatic conditions. However, they do contend that it will relieve stiffness and swelling accompanying such conditions in certain cases in addition to providing pain relief. The greater weight of the evidence is contrary to respond-

ents' contention and fully supports the findings of the hearing examiner in his initial decision.

The record also shows that respondents claimed in their advertising that Dolcin is non-toxic, may be taken safely in large quantities over prolonged periods even by persons adversely affected by aspirin. The greater weight of the evidence shows that the aspirin in Dolcin has exactly the same effect as if taken alone and that certain persons are adversely affected by aspirin and should not take it in large quantities or over a prolonged period. Aspirin is one of the safest analgesics known and is widely prescribed by physicians in large dosages for temporary relief of pain and fever in arthritic and rheumatic conditions. Serious results from such excessive use are rare. However, less serious but undesirable effects such as headache, nausea, vomiting will occur in persons unable to tolerate aspirin. Respondents' representations to the contrary are false and deceptive as found by the hearing examiner in his initial decision.

For these reasons as well as those set out in its ruling on respondents' exceptions, the Commission is of the opinion that all of the findings as to the facts contained in the initial decision are supportable by reliable, substantial, and probative evidence of record; that the conclusion contained therein is correct; and that the order to cease and desist therein is proper upon this record and is required to provide proper relief from respondents' illegal practices; and

The Commission, therefore, being of the opinion that respondents' appeal from the hearing examiner's initial decision is of no merit and that said initial decision is appropriate in all respects to dispose of this proceeding:

It is ordered, That the appeal of respondents from the initial decision of the hearing examiner be, and it hereby is, denied.

It is further ordered, That the initial decision of the hearing examiner shall on the 2nd day of December, 1952 become the decision of the Commission.

It is further ordered, That the respondents 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 contained in said initial decision, a copy of which is attached hereto.

Commissioner Carretta not participating for the reason that oral argument on the merits was heard prior to his appointment to the Commission.

Said initial decision, thus adopted by the Commission as its decision, follows:

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 18, 1949, issued and subsequently served its complaint in this proceeding upon respondents Dolcin Corporation, a corporation, and Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individually and as officers of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondents' answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before the above-named hearing examiner theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said hearing examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel, oral argument not having been requested; and said hearing 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 Dolcin Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 683 Fifth Avenue, New York, New York.

Respondents Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individuals, are now and at all times mentioned herein have been directors of said corporate respondent, and, respectively, the president, treasurer, and secretary thereof, and with their offices located at the principal place of business thereof; and are now, and at all times mentioned herein have been, in control of the management, policies, and operation of the said corporate respondent, including the acts, practices and methods herein found.

PAR. 2. The respondents are now, and for several years last past have been, engaged in the offering for sale, sale and distribution in commerce, among and between the various States of the United States and in the District of Columbia, of a certain medicinal preparation designated "Dolcin," which is a "drug" within the meaning of the

566

Findings

Federal Trade Commission Act, and for which the formula and directions for use are as follows:

Formula:

Each tablet contains:

Calcium succinate, 2.8 grains.

Acetylsalicylic acid, 3.7 grains.

Plus excipients.

Directions for Use:

GENERAL DIRECTIONS

Read these directions CAREFULLY so that you may learn how you can get GREATEST BENEFIT from DOLCIN.

In cases of long-standing, where joint-stiffness and pain are acute before starting the DOLCIN Treatment, it is recommended that twelve DOLCIN Tablets be taken daily (3 tablets, 4 times, as explained above) for at least one week, and until the acute symptoms are relieved. Follow this with eight tablets daily for two or three months * * * and then four tablets a day for two months. *It is most important to continue taking DOLCIN for a few months after relief has been obtained*, for it is an established fact that Rheumatic activity usually persists in the body for considerable period after the acute symptoms have subsided.

Where stiffness of joints is not extreme and muscular pains are not severe * * * or when the case is not one of long standing * * * take eight DOLCIN Tablets daily for the first month (two tablets with a glass of water at each meal and two tablets before retiring for the night). After one month, reduce doses to four tablets daily (one tablet, four times a day) for three months. Then take two tablets daily (one morning, one night) for three months even though all symptoms have disappeared long before.

It makes no difference whether the DOLCIN at mealtime is taken before, during or after eating * * * BUT TAKE YOUR DOLCIN REGULARLY. * * *

Respondents cause the said product, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in the said product in commerce between and among the various States of the United States and in the District of Columbia. Respondents' volume of business in such commerce is substantial, sales of the drug preparation "Dolcin" in 1948 being in excess of one million dollars.

PAR. 3. In the course and conduct of their business, respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination, by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of certain advertisements of the drug preparation "Dolcin," for the purpose of inducing, and which were likely to induce, directly or in-

directly, its purchase; and have disseminated and caused the dissemination of such advertisements for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said drug preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among such advertisements were radio broadcasts disseminated subsequent to October 7, 1948, by various broadcasting stations, and advertisements published in various professional and trade journals having national circulation and in various pamphlets and circulars distributed throughout the United States. Typical of the statements and representations contained in such advertisements are the following:

**"HERE IS WHAT YOU SHOULD DO ABOUT
YOUR ARTHRITIS AND RHEUMATISM—**

1. *Get a bottle of DOLCIN* tablets and start your DOLCIN treatment at once.*
2. *What is DOLCIN?* It is a product which is the result of a new, scientific approach to the treatment of rheumatism and arthritis; it is a development of fundamental biochemical research.

DOLCIN# tablets contain ingredients which medical authorities accept as being correct in the treatment of symptoms of rheumatism and arthritis. DOLCIN is made under strictest laboratory control and is constantly tested for purity of ingredients and for pharmaceutical uniformity.

3. *What does DOLCIN do?* The DOLCIN treatment combines PROMPT RELIEF of pain PHYSIOLOGICAL ACTION freedom from ill-effects and LOW COST. Thus DOLCIN fills a long-sought objective in the therapy of the Rheumatic State. Rheumatism in its various forms . . . arthritis, myositis, fibrositis and certain forms of bursitis, sciatica and neuritis * * * is, by far, the most prevalent and disabling of all chronic ailments. Rheumatism is not merely a disorder of joints and muscles, but is generally accompanied by disturbances in internal function (metabolism). It is, therefore, essential that treatment be directed not only toward relief of pain, but also to the disturbances in metabolism which constitute a very important part of the background of the Rheumatic State.

DOLCIN therapy not only provides PROMPT RELIEF from pain due to symptoms of rheumatism and arthritis, but DOLCIN contains catalysts which, extensive scientific research has recently proved, play a vital role in the metabolic processes which are disturbed in the Rheumatic and Arthritic State.

4. *I never heard of DOLCIN. How do I know it's good?* Up to a short time ago, DOLCIN was supplied only to hospitals, clinics and to doctors engaged in research and in private practice. Now, however, it is being sold direct to sufferers from rheumatism in all its forms. DOLCIN is becoming more widely-known every day as former victims of arthritic and rheumatic pains pass the good news along.

DOLCIN has been tested and proved to be efficacious and reliable; it is being used with success in great hospitals, clinics and prescribed by an increasing number of doctors.

*Reg. U. S. Pat. Off.

#Pat. App. for.

5. *All right, but must I get a doctor to prescribe DOLCIN before I use it?*
No. You do not need a doctor's prescription for you to take the DOLCIN treatment.

DOLCIN is NON-TOXIC * * * it will *not* hurt the heart or any other organ. A study made in a university famous all over the world confirms extensive earlier clinical proof that DOLCIN is NON-TOXIC.

DOLCIN is designed for PROMPT ACTION. The LACK OF HARMFUL EFFECTS makes DOLCIN ideal for prolonged administration such as is frequently necessary in chronic and severe cases of rheumatism and arthritis. This freedom from hazard and its effectiveness are IMPORTANT ADVANTAGES of DOLCIN over some medications which are considerably more expensive and which may have harmful effects on the body on prolonged administration.

6. *Is DOLCIN suitable for use by people who are adversely affected by acetylsalicylic acid (aspirin)?* DOLCIN'S ingredients, combined in proper proportions, enhance the good effects of each while, at the same time, they minimize aspirin's sometimes-harmful effects.

Remember, DOLCIN is NON-TOXIC * * * it will *not* harm the heart or any other organ.

7. *Is DOLCIN just another palliative * * * a product for relieving pain for a few hours?* The answer is very definitely that DOLCIN is *not* just a palliative masking pain and discomfort for a few hours. DOLCIN is designed to RELIEVE PAIN PROMPTLY but, also, the DOLCIN treatment is directed to the disturbances in metabolism which are a very important part of the background of the Rheumatic State, and is designed to give prolonged relief from symptoms.

8. *How long will it take to relieve pain and for symptoms of arthritis and rheumatism to disappear?* No two cases respond exactly alike. Generally speaking, the longer the person has suffered from the disease the longer it will take to get results. We know of many cases, where the pain was severe but where the symptoms had only been of few months' standing, in which all pain disappeared in a few hours, other cases take longer.

9. *For how long should I take DOLCIN?* As carefully explained in the directions packed with each bottle, it is most important to continue taking a few DOLCIN tablets every day for a few months after the pain and other symptoms have disappeared; this is to help prevent any recurrence, by giving the body time to get rid of disturbances in internal function which accompany the disease.

10. *How much DOLCIN shall I take?* With every bottle there is a sheet of information and Directions. Study this thoroughly. Remember, because DOLCIN is non-toxic, it is better to take more tablets than necessary rather than fewer * * * and much better to continue the treatment for some time after *all* symptoms have disappeared. You don't want your pains and stiffness back again, do you?

11. *Is DOLCIN of help for children's so-called "growing-pains"?* Yes. Growing-pains in children are often of rheumatic origin and may precede childhood's scourge, RHEUMATIC FEVER! Any child suffering from growing-pains should be given the DOLCIN treatment at once, under a doctor's supervision.

12. *Should other treatments be used while I am taking the DOLCIN treatment?* Unless prescribed by a physician, no other medication should be, or need be, taken. Leave it to DOLCIN and Nature. Take DOLCIN regularly and give it time to work. Of course, it is natural that a case of arthritis or rheumatism which has taken years to develop cannot be relieved overnight!

Findings

49 F. T. C.

13. *My doctor does not know about DOLCIN. How can he learn about it?* If you will send us his name and address, we will gladly send him full scientific data on DOLCIN.

14. *Where can I get DOLCIN?* Ask your druggist. If he has not got it in stock, order DOLCIN direct from us * * * sending your druggist's name and address, please.

15. *What does DOLCIN cost?* The most economical size is the DOLCIN-500 * * * 500 tablets last the average case more than *THREE MONTHS!* * * * Price \$9.00.

DOLCIN-100 * * * 100 tablets for only \$2.00.

When you send remittance with your order, we prepay postage and insurance on the shipment.

16. DOLCIN is a tested, honest product * * * non-toxic * * * inexpensive * * * used in hospitals * * * prescribed by doctors. Many, many people are no longer suffering the pain and stiffness of arthritis or rheumatism * * * through taking DOLCIN * * * efficacious, reliable DOLCIN which is the *best friend of arthritics and rheumatics*.

Sometimes just a word—spoken at the right time—can alter the whole course of another person's life. Right now, here is such a word for *you*—if you suffer from arthritis or rheumatism—and that word is DOLCIN! DOLCIN is a tested new bio-chemical discovery—which many, many people throughout the country report brings swift, effective relief from the agony of arthritic and rheumatic symptoms. People who have suffered from these afflictions *for years*, report they have resumed normal occupations after taking DOLCIN. There's a scientific explanation for this. DOLCIN is more than just a pain killer—in many cases, DOLCIN actually results in prolonged remission of stiffness and discomfort. * * *.

* * * many victims of these diseases have been able to resume normal living by taking DOLCIN. It's used in many hospitals * * * prescribed by many doctors * * * and is designed to bring you sufferers of arthritis, rheumatism, neuritis and sciatica NOT temporary relief * * * but prolonged relief. * * *.

As acetylsalicylic acid in DOLCIN is non-toxic, DOLCIN should be used instead of aspirin.

DOLCIN is an efficacious, non-toxic and economical preparation for oral administration in relieving symptoms of arthritic and rheumatic disorders. DOLCIN * * * resulting from a new physiological approach in the therapy of arthritic and rheumatic disorders * * * combines the catalytic effect of calcium succinate and acetylsalicylic acid in non-toxic form which may be prescribed for osteoarthritis, infectious arthritis and rheumatoid arthritis as well as for rheumatic fever and various forms of neuritis and sciatica. DOLCIN may be employed as an adjuvant to other therapeutic measures.

* * * Remember the name DOLCIN—D-O-L-C-I-N—for relief of symptoms of arthritis, rheumatism, lumbago and neuritis.

PAR. 4. Through the above-quoted advertisements, and others similar thereto, respondents have represented, directly or by implication, as follows:

1. That the drug preparation "Dolcin" constitutes an adequate, effective and reliable treatment for, will arrest the progress, correct the underlying causes, cure and prevent the recurrence of rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis and all

other forms of rheumatism and arthritis and the symptoms and manifestations thereof;

2. That the drug preparation "Dolcin" is inexpensive, in that it is "economical" to purchase and of "low cost";

3. That the drug preparation "Dolcin" constitutes an adequate, effective and reliable treatment for so-called "growing-pains" in children, and that its use will prevent rheumatic fever, which may be preceded by such pains;

4. That the drug preparation "Dolcin" is non-toxic; that it can be used over prolonged periods of time without harmful effects on the body; that aspirin does sometimes produce harmful effects; and that persons adversely affected by aspirin can take "Dolcin" with safety.

PAR. 5. The terms "arthritis" and "rheumatism" are general terms, sometimes used interchangeably, which may refer to any of many diseases or pathological conditions including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, all of which are characterized by one or more of such symptoms or manifestations as pain, stiffness, and inflammatory and destructive changes in the joints and tissues of the body. These pathological conditions are of known as well as unknown origin. Examples of those of unknown origin are rheumatoid arthritis, osteomyelitis and rheumatic fever. Examples of such conditions of known causes are infectious arthritis, such as arthritis of syphilis, arthritis of gonorrhea, and arthritis associated with pneumonia and tubercular infections. In addition there are forms of arthritis, such as gout, which are connected with disturbances of metabolism.

Rheumatic fever is an inflammatory disease of unknown cause, of which the most common manifestations are fever, pain, and swelling and inflammation in the joints, often accompanied by rapid heart-beat, profuse sweating, increase in white corpuscles and other changes in the blood. Rheumatic fever tends to be complicated, and is the chief cause of death from heart disease in children between the ages of 5 and 19. Although "growing-pains" in children may be symptomatic of the early stages of rheumatic fever, they also may be due to many other and less serious causes, such as playing too hard and running too much, and do not constitute a disease.

Fibrositis is an irritation or discomfort, a syndrome of pain and stiffness which arises in the fibrous tissues of the body.

The term "myositis" is used generally by doctors and laymen to refer to the condition of muscular rheumatism or fibrositis. It is of varying severity, sometimes mild and localized, sometimes severe and widespread.

The term "neuritis" is a general term referring to an inflammation of the nerves, and denotes many different diseases resulting from various causes, such as infections, pressure on nerves from displaced organs or structures of the body, invasion of the nerve by neoplasm or tumor, intoxication with metals or toxins, and metabolic disturbances such as the form of neuritis occurring in diabetes.

Sciatica is a common form of neuritis felt along the course of the sciatic nerve. It is not a disease, but may occur as a symptom of many different diseases resulting from various causes, such as pressure on the sciatic nerve, a tumor in the spine, infection or inflammation of the sheath of the sciatic nerve, metabolic disturbances caused by toxins resulting from infection, fibrositis or arthritis involving the joints.

Lumbago is a form of fibrositis manifesting itself as a painful condition in the lower part of the back, of varying severity, sometimes so mild as hardly to interfere with a man's business, in other instances so violent as to render him unable to move in bed. Lumbago is associated with stiffness and muscle spasm provoked by attempts to move.

Bursitis is a form of fibrositis having specific reference to inflammation of a bursa, the fibrous sac or membrane surrounding a joint, and may result from invasion of the bursa by various germs, such as streptococcus, mycobacterium, gonococcus, and the tubercular bacillus, and from rheumatic or fibrositic inflammation.

Infectious arthritis is a form of arthritis resulting from invasion of a joint by any one of various germs, such as staphylococcus and streptococcus, which are carried to the joint through the bloodstream from a focus of infection in the body, caused by an external wound or by various infectious diseases.

Osteoarthritis refers to a disease characterized by degenerative changes in the joints and other tissues and organs of the body. The clinical phenomena associated with osteoarthritis are pain, painful stiffness associated with movement of the joint, enlargement of some joints, narrowing of joint spaces, increase in size of joint surfaces, growth of spurs and increase in the extent of margins of the joint.

Rheumatoid arthritis is a chronic, progressive, destructive disease affecting joints and organs of the body, characterized by pain, swelling, stiffness and limitation of motion in joints and deterioration of the patient's general health. This disease is accompanied by pathological changes in the joints, such as thickening of the lining membrane; production of excessive fluid in the bursa in some instances, and absorption of fluid in others; atrophy of muscles, and sometimes destruction of portions of the bone ends, resulting in deformation of the joint. The cause of rheumatoid arthritis is unknown.

PAR. 6. The various pathological conditions generally referred to as "arthritis" and "rheumatism" progress and develop differently. Likewise, they require different treatment, which will vary not only between different types of such ailments, but between different individuals suffering from the same ailment, and between different stages in the progress thereof. An adequate, effective, or reliable treatment for any kind of "arthritis" or "rheumatism" must, therefore, be predicated upon individual diagnosis, in order to determine whether the patient has arthritis or rheumatism, the particular kind of such ailment present, and whether it arose from a known or an unknown cause. Such a diagnosis may require any or all of the following determinations:

1. History of the patient, including information as to age, sex, marital status, occupation, chronology of the present ailment; family history, such as age and cause of death of parents and relatives; any illnesses from which the patient may have suffered previously, particularly rheumatic fever, scarlet fever and streptococcus infections;

2. Detailed physical examination of every part of the patient's anatomy; and

3. Laboratory examination, such as blood count, serological test for syphilis, urinalysis, and certain other tests as they may seem useful in the individual case, such as X-ray and analysis of fluids in individual joints.

PAR. 7. An adequate, effective, or reliable treatment for any of the various types of ailments included in the general terms "arthritis" and "rheumatism" may involve application of various therapeutic measures, including diet; rest or change of occupation; various types of physiotherapy, such as orthopedic or thermal procedures; and medication. Delay of proper diagnosis, with consequent failure to administer appropriate treatment, may result in the evolution of irreversible pathological changes, causing a crippled, useless joint or extremity, especially in those forms of arthritis and rheumatism known to be caused by specific infections. There is no drug, or combination of drugs, regardless of how administered, which will constitute an adequate, effective, or reliable treatment for the various forms of arthritis or rheumatism, nor is there any drug or combination of drugs which can restore to normal the pathological changes which result from arthritic or rheumatic ailments.

PAR. 8. The drug preparation "Dolcin" contains 2.8 grains of calcium succinate and 3.7 grains of acetylsalicylic acid, plus excipients of no therapeutic significance.

Calcium succinate, when taken orally, is converted by the liver into sugar, and no significant amount of succinate reaches the bloodstream.

Findings

49 F. T. C.

In order to be therapeutically operative in the body, succinates must be administered intravenously. When present in sufficient concentration to be operative, the effect of succinates on tissue metabolism is harmful. The quantity of calcium succinate contained in the drug preparation "Dolcin" is entirely too small to achieve or maintain a sufficient concentration in the body to have any effect whatever on the metabolism of the tissues.

Since calcium succinate, administered orally, is therapeutically inoperative, the only active ingredient contained in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, the use and effect of which, as an analgesic and antipyretic, have been known for many years.

The drug preparation "Dolcin" contains acetylsalicylic acid in an amount insufficient to relieve the severe aches, pains and discomforts attendant upon arthritic and rheumatic conditions. The quantity of acetylsalicylic acid therein contained may, however, function as an analgesic and antipyretic to a sufficient extent to afford temporary relief to the minor aches and pains accompanying arthritis and rheumatism.

PAR. 9. The drug preparation "Dolcin," however taken, will not constitute an adequate, effective, or reliable treatment for any arthritic or rheumatic condition, including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, and bursitis, nor will said preparation arrest the progress, correct the underlying causes, or effect a cure of any of such conditions. The drug preparation "Dolcin," however taken, will not ameliorate the aches, pains and discomforts of any arthritic or rheumatic condition to any extent beyond the temporary relief thereof afforded by its salicylate content as an analgesic and antipyretic. The drug preparation "Dolcin," however taken, will have no significant effect upon severe aches, pains and discomforts accompanying any arthritic or rheumatic condition, and will afford temporary relief of only minor aches, pains and discomforts. With the exception of such temporary relief, the drug preparation "Dolcin" cannot be depended upon to have any effect whatever upon the symptoms accompanying any arthritic or rheumatic condition, including, among others, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago and bursitis.

The drug preparation "Dolcin," however taken, will not correct disturbances in metabolism nor insure adequate functioning of the metabolic processes of the body.

PAR. 10. The drug preparation "Dolcin," however taken, does not constitute an adequate, effective, or reliable treatment for so-called "growing-pains" in children, nor will its use prevent rheumatic fever.

566

Order

PAR. 11. Since the only therapeutically operative ingredient in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, and since, under certain circumstances, or when taken over prolonged periods of time, aspirin may produce harmful effects upon the body, the drug preparation "Dolcin" may be toxic to the same extent, and cannot be taken over prolonged periods of time without the danger of such harmful effects, nor can such preparation be taken safely by persons adversely affected by aspirin.

PAR. 12. Since the only therapeutically operative ingredient in the drug preparation "Dolcin" is acetylsalicylic acid, commonly known as aspirin, and since the retail selling price, without prescription, of 100 tablets of the drug preparation "Dolcin" is \$2.00, whereas that of 100 tablets of a well-known brand of aspirin is 59¢, while many other brands of aspirin sell for less, the drug preparation "Dolcin" is not economical, inexpensive, or of low cost.

PAR. 13. The record contains no substantial evidence to support the allegation that the administration of the drug preparation "Dolcin" over prolonged periods of time to persons suffering from rheumatic fever may result in serious hemorrhage and in death.

PAR. 14. Respondents' representations concerning the drug preparation "Dolcin," as hereinafter found, are false and misleading in material respects; have had the capacity and tendency to mislead and deceive, and have misled and deceived a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations were true, and into the purchase of substantial quantities of said drug preparation as a result thereof; and constitute false advertisements within the intent and meaning of the Federal Trade Commission Act.

CONCLUSION

The 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 meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondents Dolcin Corporation, a corporation, and Victor van der Linde, George Shimmerlik, and Albert T. Wantz, individually and as officers of said corporation, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of the drug preparation "Dolcin," or any product of substantially similar composition or possessing sub-

Order

49 F. T. C.

stantially similar properties, whether sold under the same name or under 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 by implication:

(a) that the taking of said preparation will constitute an adequate, effective or reliable treatment for rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(b) that said preparation will arrest the progress or correct the underlying causes of, or will cure, rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition;

(c) that said preparation will afford any relief of severe aches, pains, and discomforts of rheumatic fever, fibrositis, myositis, neuritis, sciatica, lumbago, bursitis, or any other kind of arthritic or rheumatic condition, or have any therapeutic effect upon any of the symptoms or manifestations of any such condition in excess of affording temporary relief of minor aches, pains, or fever;

(d) that the taking of said preparation is an adequate, effective, or reliable treatment for so-called "growing-pains" in children, or that its use will prevent rheumatic fever;

(e) that said preparation may safely be taken over prolonged periods of time;

(f) that said preparation may safely be taken by persons adversely affected by aspirin; and

(g) that said preparation is economical, inexpensive, or of low cost, unless and until the retail selling price, without prescription, of such preparation shall, in truth and in fact, be less than the retail selling price, without prescription, of the only active ingredient contained in said preparation, which is acetylsalicylic acid, commonly known as aspirin;

2. Disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

ORDER TO FILE REPORT OF COMPLIANCE

It is further ordered, That the respondents 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 contained in said initial decision * * * [as required by aforesaid order and decision of the Commission].

IN THE MATTER OF
SIDNEY J. MUELLER TRADING AS MUELLER HAIR
EXPERTS

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

Docket 5977. Complaint, Apr. 11, 1952—Decision, Dec. 2, 1952

Where an individual engaged in the interstate sale and distribution of preparations for the hair and scalp, and in operating in various cities including Dallas, San Antonio, Oklahoma City, Tulsa, Cincinnati, Atlanta, Jacksonville, and San Francisco, branch offices known as hair and scalp clinics which dealt in his preparations and used them in office treatments; and also in establishing temporary clinics from time to time in other cities;

In carrying on the sale of his preparations through (1) extensive advertising in which he invited persons to come to his places of business for diagnosis, at which time a series of treatments was recommended, and certain of his preparations, if treatments were agreed to, were sold to the persons concerned, and used therein; (2) selling home treatment kits with instructions, to persons thus induced to visit his offices; and (3) sending traveling representatives to various cities, following extensive advertisement of their visits, in which the public was invited to call upon them for diagnosis, whereupon either treatment at one of his branches or the purchase of the home treatment kit was recommended; in his advertising, principally in newspapers and periodicals—

- (a) Represented falsely, directly and by implication, that through the use of his said preparations, and treatments by his operators in his places of business, and by purchasers thereof in their homes, that all types of baldness would be prevented and overcome, that hair would be made to grow thicker where thin, and that "fuzz" would be replaced with normal hair;
 - (b) Represented falsely that the hair growing functions of the scalp would be rejuvenated, that his preparations would kill bacteria beneath the scalp, and that subscalp blood circulation would be stimulated, and the scalp energized to grow hair;
 - (c) Represented falsely that dandruff, itching, dryness and oiliness of the hair would be permanently eliminated, that all different kinds of hair and scalp disorders would be cured and the hair kept healthy, and that an individual would be able to maintain a thick growth of hair; and
 - (d) Represented falsely that his preparations employed none of the "common property" medications used by others but were based upon warborn medical discoveries and research conducted by his own nationally known chemists:
- The facts being that the ingredients in his said preparations had been used without success for many years, the preparations were purchased by him from another concern, and he employed no chemists;