

## Syllabus

IN THE MATTER OF  
SCIENTIFIC LIVING, INC., ET AL.

DECISION IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 6099. Complaint, May 21, 1953—Decision, Oct. 1, 1953*

Where a corporation and its three officers, engaged in the interstate sale and distribution of certain food and drug preparations and a stainless steel cooking utensil designed for cooking food in steam or vapor below the boiling point; in advertising their said food and drug preparations through their own magazine and otherwise; directly and by implication—

- (a) Falsely represented that their "Adolphus Imported Peppermint Tea" sweetened the entire intestinal tract; that their "El Rancho Adolphus Clover Honey" was a cure for coughs and colds, and that their "El Rancho Adolphus Pure Apple Juice Concentrate" eliminated mucus and toxins present in the body;
- (b) Falsely and misleadingly represented not only that certain symptoms and conditions (such as nervousness, neuritis, fatigue, insomnia, constipation, dizziness, and vague aches and pains) for which they offered their "Adolphus B-Complex Tablets" as beneficial, might be due to certain vitamin deficiencies, but that there was a reasonable probability that they were due thereto and that the preparation would cure or relieve them, through such statements as that the tablets could benefit the person if such symptoms resulted from a deficiency of one or more of the B-complex vitamins they contained, coupled with the statement that such symptoms could occur in the event of a prolonged deficiency of Vitamin B<sub>1</sub>, Vitamin B<sub>2</sub>, and Niacin in amounts under the minimum daily requirements; and

Where said corporation's officers, for the purpose for inducing the sale of their said "Adolphus Tenderizer" cooking utensil, in statements in lectures on health and nutrition given in various localities by one of them, and in pamphlets, booklets, and other written material, including certain books, distributed or sold to members of the audience—

- (a) Represented falsely that the cooking of foods in utensils other than said "Tenderizer" resulted in damage, destruction, or loss of minerals and vitamins to the extent that the consumer of the food would not receive the minimum daily requirements thereof;
- (b) Falsely represented that their "Tenderizer" would retain minerals and vitamins of food cooked therein to a greater extent than utensils sold by any competitor;
- (c) Falsely represented that food cooked in their "Tenderizer" was more beneficial than that cooked in other utensils in that it provided more and better blood, more energy, better health, greater immunity to fatigue and disease, increased vitality, longevity, and virility; and was more beneficial to sufferers from constipation;
- (d) Falsely represented that the use of their "Tenderizer" in the preparation of food was of value in the treatment of cancer and tuberculosis; would prevent and cure neuralgia, neuritis, melancholia, gastric cancer, rheuma-

tism, arthritis, and other ailments and would have more influence on the acidity or alkalinity of the body than other methods of cooking;

- (e) Falsely represented that yams and sweet potatoes contain Vitamin A, which is destroyed if they are fried, baked, or boiled; the facts being that said vegetables do not contain Vitamin A, but contain carotene, or pro-vitamin A, which has Vitamin A activity in the body and is not destroyed by baking, boiling, or frying;
- (f) Falsely represented that food cooked in aluminum cooking utensils causes diabetes and liver damage, and that cooked in copper utensils is harmful to the body, that bread baked in said "Tenderizer" is more nutritious than ovenbaked bread, and that the nutritional value of food is destroyed by cooking in pressure cookers; and
- (g) Represented through such statements on certain pamphlets and in afore-said lectures, in connection with their "Tenderizer," as "Manufactured by Scientific Living, Inc.," that they owned, operated, and controlled the factory wherein said "Tenderizers" were manufactured and that they were the manufacturers thereof, when, in fact, they purchased said devices from a separate source of supply:

*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.

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

*Mr. William L. Pencke* and *Mr. George M. Martin* for the Commission.

*Mr. Everett A. Rosser*, *Mr. David B. Miller* and *Mr. William B. Landis*, of Scranton, Pa., for respondents.

#### 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 October 1, 1953, the initial decision in the instant matter of hearing examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

#### INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 21, 1953, issued and subsequently served its complaint in this proceeding upon the respondents, Scientific Living, Inc., a corporation, and Adolphus Hohensee, Mildred J. Walsh and Viola Heinzerling, 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. Pursuant to notice duly served upon all parties, the respondents, through counsel, appeared at the designated time and place for

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said hearing in the city of Scranton, State of Pennsylvania, on the 28th day of July, 1953, during the course of which proceeding (respondents having failed to file answer to the complaint herein, pursuant to the provisions of Rule VIII of the Commission's Rules of Practice), respondents, through their counsel, announced their intention not to contest the proceeding "in any degree whatsoever," whereupon the provisions of Rule V (b) of the Commission's Rules, prescribing procedure in event of "default", became operative.

Thereafter, the proceeding regularly came on for final consideration by the above-named Hearing Examiner theretofore duly designated by the Commission upon said complaint and default and the 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, conclusion drawn therefrom, and order:

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Scientific Living, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at Scranton, Pennsylvania, and its Post Office address, Box 910, Scranton, Pennsylvania. Respondents Adolphus Hohensee, Mildred J. Walsh and Viola Heinzerling are officers of the aforesaid corporate respondent. These individuals formulate, direct and control the policies, acts and practices of said corporation.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the business of selling and distributing foods and drugs, as the terms "food" and "drug" are defined in the Federal Trade Commission Act. Respondents also sell a cooking utensil designated the Adolphus Tenderizer. The designation used by respondents for certain of their said food and drug products and the formulae and directions for use thereof are as follows:

## (1) Designation: Adolphus B-Complex Tablets

Formula: One tablet contains:

|            |               |
|------------|---------------|
| Vitamin B1 | 6 milligrams  |
| Vitamin B2 | 6 milligrams  |
| Niacin     | 10 milligrams |

Directions: One tablet three times daily.

## (2) Designation: El Rancho Adolphus Apple Juice Concentrate

Formula: Apple Juice

Directions: Four parts of water to one part concentrate, for this Special Apple Juice Diet.

8 a. m. Drink one 8 oz. glassful of El Rancho Adolphus Apple Juice very slowly.

10 a. m. Two 8 oz. Glasses of El Rancho Adolphus Apple Juice.

12 noon. Two 8 oz. Glasses of El Rancho Adolphus Apple Juice.

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|         |                                                      |
|---------|------------------------------------------------------|
| 2 p. m. | Two 8 oz. Glasses of El Rancho Adolphus Apple Juice. |
| 4 p. m. | Two 8 oz. Glasses of El Rancho Adolphus Apple Juice. |
| 6 p. m. | Two 8 oz. Glasses of El Rancho Adolphus Apple Juice. |
| 8 p. m. | Two 8 oz. Glasses of El Rancho Adolphus Apple Juice. |

Adhere to this fast for a period of three days in a mild cleanse. During this period, if bowels do not move, a  $\frac{1}{2}$  teaspoonful of ADOLPHUS HERBAL LAXATIVE may be taken at the end of each day of fasting. (In emergency, a plain, warm water enema may be resorted to.)

Lastly, a plain hot water (no soap) soak in the bathtub to induce excessive perspiration is most desirable and extremely beneficial for eliminating waste products through the largest channel of elimination—the Skin.

In addition to the aforesaid products, respondents sell and distribute the following foods, to wit: Adolphus Imported Peppermint Tea and El Rancho Adolphus Clover Honey.

Respondents cause and have caused said products hereinabove mentioned, when sold, to be shipped from the place of manufacture or storage thereof to purchasers located in various States of the United States other than the States in which said products are manufactured or stored. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in the aforesaid products in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and now cause the dissemination of advertisements concerning their said food and drug products hereinabove named in Paragraph Two, 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, the magazine entitled “The Life Span,” published by respondent, Scientific Living, Inc., and respondents have disseminated and cause the dissemination of advertisements concerning the aforesaid products by various means, including, but not limited to, the magazine referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of the said food and drug products in commerce, as “commerce” is defined in the Federal Trade Commission Act.

PAR. 4. Among and typical of the statements contained in said magazine disseminated as aforesaid and the products to which they relate are the following:

(1) Adolphus Imported Peppermint Tea

\* \* \* Sweetens the entire intestinal tract \* \* \*

(2) El Rancho Adolphus Clover Honey

Only a few short years ago my son was besieged by wracking coughs and incessant colds—then a friend told me of the miraculous medical value of El Rancho Adolphus Honey! I began giving Dicky a generous amount of this

golden sunshine daily . . . and the results were gratifying—just take a look at my boy and see for yourself! Colds and coughs vanished instantly!

JOIE HARRISON

### (3) El Rancho Adolphus Pure Apple Juice Concentrate

Here's a *Sensational* New Health Product! It's Sweeping The Nation! It's Revolutionary! El Rancho Adolphus Pure Apple Juice Concentrate

JUST 3 DAYS and maybe you too, will feel YEARS YOUNGER

After several years of research work with apples we have come to some wonderful conclusions! Many of our guests at the ranch have succeeded in eliminating mucus and toxins from their bodies by simply following our Health-Producing Apple Juice Fast. Pure Apple Juice is proving to be a boon to mankind \* \* \* We use only tree ripened apples \* \* \* maybe that is why we obtain such splendid results! I would like to see all my students who are anxious to dissolve the mucus and toxins from their bodies to try my APPLE JUICE FAST FOR 3 DAYS! Since the cost of shipping the actual juice would be prohibitive, we have proceeded to concentrate our pure apple juice \* \* \* to every quart of concentrate add 4 parts water. It is a known fact, that before you can overcome any of the following diseases, it is necessary first to cleanse our body of accumulated waste substances.

PAR. 5. Through the use of the advertisements containing the statements hereinabove set forth, and others similar thereto, but not specifically set out herein, respondents have represented directly and by implication:

(1) That Adolphus Imported Peppermint Tea sweetens the entire intestinal tract;

(2) That El Rancho Adolphus Clover Honey is a cure for coughs and colds;

(3) That El Rancho Adolphus Pure Apple Juice Concentrate eliminates mucus and toxins present in the body.

The said advertisements relating to El Rancho Adolphus Peppermint Tea, El Rancho Adolphus Clover Honey and El Rancho Adolphus Apple Juice Concentrate are misleading in material respects and constitute "false advertisements," as that term is defined in the Federal Trade Commission Act. In truth and in fact:

(1) El Rancho Adolphus Peppermint Tea will not sweeten the intestinal tract;

(2) El Rancho Adolphus Clover Honey will not cure coughs and colds;

(3) El Rancho Adolphus Apple Juice Concentrate will not eliminate mucus and toxins present in the body.

Respondents' advertising relating to the preparation, Adolphus B-Complex Tablets, after first designating a number of symptoms and conditions, i. e., nervousness, neuritis, fatigue, insomnia, constipation, dizziness, and vague aches and pains, contains such language as the following:

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Are you Bothered with any of these Symptoms?

\* \* \* \* \*

Adolphus B-Complex Tablets can benefit you if the above-named symptoms resulted from a deficiency of one or more of the B-Complex vitamins contained in Adolphus B-Complex tablets. These above symptoms can occur where a prolonged deficiency of Vitamin B<sub>1</sub>, Vitamin B<sub>2</sub> and Niacin in amounts under the minimum daily requirement. If the above symptoms persist, however, it may be a danger signal for serious diseases.

The advertising relating to the Adolphus B-Complex Tablets is misleading in a material respect, and therefore false and deceptive, by reason of the suggestions contained therein. In advertising their preparation as a cure or remedy for the designated symptoms when due to Vitamin B<sub>1</sub>, B<sub>2</sub> or Niacin deficiencies, respondents represent not only that the symptoms specifically mentioned may be due to Vitamin B<sub>1</sub>, B<sub>2</sub> or Niacin deficiencies for which the preparation may be beneficial, but also that there is a reasonable probability that such symptoms are in fact due to such causes and that the preparation will cure or relieve them. In truth and in fact, the instances in which any of such symptoms are caused by Vitamin B<sub>1</sub>, B<sub>2</sub> and Niacin deficiencies are rare. Each of said symptoms results much more frequently from a number of causes having no relation to Vitamin B<sub>1</sub>, B<sub>2</sub> and Niacin deficiencies, including tuberculosis, syphilis, arthritis, rheumatism, heart disease, kidney disease, arteriosclerosis, diseases of the female organs, liver disease, gall bladder disease, peptic ulcer, prostate disease, and numerous other serious ailments, and when said symptoms are so caused, respondents' preparation will have no therapeutic value whatever in the treatment thereof. Thus, there is no reasonable probability that the symptoms mentioned in respondents' advertising are caused by Vitamin B<sub>1</sub>, B<sub>2</sub> and Niacin deficiencies for which said preparation may be beneficial, and respondents' representations to the contrary, although made by suggestion instead of categorically, are false.

PAR. 6. In the course and conduct of their aforesaid business and for the purpose of inducing the sale of their Adolphus Tenderizers in commerce, respondents have employed and are now employing the following plan or procedure. Respondent Adolphus Hohensee visits a particular locality, town or city and lectures on health and nutrition. The first one or two lectures are free. These preliminary lectures are for the purpose of inducing members of the audience to enroll in the course on nutrition covered by the later lectures, for which a charge is made. During the course of the lectures, respondent Adolphus Hohensee makes numerous oral statements concerning nutrition and health and the therapeutic effects claimed to be secured from food prepared in respondents' tenderizers which are made of stainless

steel and are designed for cooking food in steam or vapor below the boiling point and also demonstrates the use of the Adolphus Tenderizer by cooking food therein. Also, during the lectures, a number of pamphlets, booklets and other written material are distributed to the audience. In some instances, certain books, among them the Adolphus Cook Book of Balanced Meals, are sold to members of the audience. Said books contain statements concerning the need for and value of the tenderizer in maintaining and insuring good health. The aforesaid oral statements and statements appearing in the written material are made for the purpose of inducing the purchase of said tenderizers.

PAR. 7. Through the use of statements made during the course of the lectures and in the booklets, pamphlets and other written material, distributed as hereinabove set forth, respondents have represented, directly or by implication, that:

(1) The cooking of food in utensils other than the Adolphus Tenderizer results in the damage, destruction, or loss of minerals and vitamins to the extent that the consumer of the food will not receive his minimum daily requirements thereof.

(2) The Adolphus Tenderizer will retain the minerals and vitamins of food cooked therein to a greater extent than will the utensils sold by any competitor.

(3) Food cooked in the Adolphus Tenderizer is more beneficial than food cooked in other utensils in that it—(a) Provides more and better blood; (b) Provides more energy; (c) Provides better health; (d) Provides greater immunity to fatigue and disease; (e) Increases vitality; (f) Increases longevity; and (g) Increases virility.

(4) The use of the Adolphus Tenderizer in the preparation of food is of value in the treatment of cancer.

(5) The use of the Adolphus Tenderizer in the preparation of food is of value in the treatment of tuberculosis.

(6) That food cooked in the Adolphus Tenderizer is more beneficial to sufferers from constipation than the same food cooked in other utensils.

(7) The use of the Adolphus Tenderizer in the preparation of food will result in and maintain good health, strength, vigor, youthfulness, efficiency, and increased resistance to disease, will prevent or cure disease including neuralgia, neuritis, melancholia, insanity, gastric cancer, aching joints, rheumatism, arthritis, decomposition of the kidneys, piles, gall stones, liver tumors, and will have more influence on the acidity or alkalinity of the body than will the ingestion of foods cooked by other methods.

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(8) That yams and sweet potatoes contain Vitamin A which is destroyed if said food products are fried, baked, or boiled.

(9) Food cooked in aluminum cooking utensils causes diabetes and liver damage.

(10) Food cooked in copper utensils is harmful to the body.

11) Bread baked in the Adolpus Tenderizer is more nutritious than oven-baked bread.

(12) The nutritional value of food is destroyed by cooking in pressure cookers.

PAR. 8. The foregoing representations are false, misleading and deceptive. In truth and in fact:

(1) Minerals are not appreciably damaged or destroyed by the heat used in any method of cooking. Vitamin C and some elements of the Vitamin B-Complex are destroyed by prolonged high cooking temperatures; other vitamins are not. Depending upon the solubility of the compounds in which they occur in foods, minerals and some vitamins are leached out in boiling water. If the water is not consumed, there is loss of these food elements, consequently if the cooking water is discarded, the least loss of soluble minerals and vitamins takes place with these methods of cooking using the least water. The possible loss of vitamins and minerals through discarding the cooking water depends on the amount in the food before cooking, which in turn depends on the soil in which grown, the varieties of fruits and vegetables, the manner of harvesting and storage and the exposure to light and air between maturity and preparation. Except for persons already deficient in these food elements or on the borderline of these restricted diets, the maximum loss from any method of cooking in general use would be insignificant from a nutritional standpoint and ordinary cooking methods and utensils other than the Adolphus Tenderizer will not result in destruction or loss of minerals and vitamins so as to prevent the consumer from receiving his minimum daily requirements thereof.

(2) There are similar methods of cooking and other cooking utensils which will retain the minerals and vitamins cooked therein to the same extent as retained by cooking in the Adolphus Tenderizer.

(3) Food cooked in the Adolphus Tenderizer is not more beneficial than food cooked in other utensils in—(a) Providing more and better blood; (b) Providing more energy; (c) Providing better health; (d) Providing greater immunity to fatigue and disease; (e) Increasing vitality; (f) Increasing longevity; and (g) Increasing virility.

(4) It is not known that the manner of cooking food has any value in treating cancer.

(5) Tuberculosis, in certain stages, can be arrested and even cured through such physical methods as rest and diet. However, food cooked in the Adolphus Tenderizer does not have any greater value in the treatment of tuberculosis than the same food cooked in other utensils.

(6) The method of cooking food has no connection with its value to sufferers from constipation.

(7) The use of the Adolphus Tenderizer in the preparation of food will not result in and maintain good health, strength, vigor, youthfulness, efficiency and increased resistance to disease, and will not prevent, or cure, and has no value in the treatment of neuralgia, neuritis, melancholia, insanity, gastric cancer or other forms of cancer, aching joints, rheumatism, arthritis, decomposition of the kidneys, piles, gallstones and liver or other tumors. The ingestion of foods cooked in the Adolphus Tenderizer does not have more influence on the acidity or alkalinity of the body than does the ingestion of the same foods cooked by other methods.

(8) Sweet potatoes and yams do not contain Vitamin A, but do contain carotene, or pro-vitamin A, which has Vitamin A activity in the body. This ingredient is not destroyed by baking, boiling, or frying.

(9) Food cooked in aluminum cooking utensils does not cause diabetes and liver damage.

(10) Food cooked in copper cooking utensils is not harmful to the body.

(11) Bread baked in the Adolphus Tenderizer is not more nutritious than oven-baked bread. The type of container used for baking does not influence the value of the bread baked therein.

(12) The nutritional value of food is not destroyed by pressure cookers.

PAR. 9. Respondents, also, by the use of such statements as "The Adolphus Tenderizer Manufactured by Scientific Living, Inc." appearing on certain pamphlets, distributed during the course of the lectures, hereinbefore referred to, and by oral statements of similar import made by respondent, Adolphus Hohensee, in the course of the lectures aforesaid, have represented and now represent that they own, operate and control a factory wherein said tenderizers are manufactured and that they are and have been for several years last past the manufacturers of said tenderizers. In truth and in fact, respondents neither own, operate or control a factory wherein their said tenderizers are manufactured, but purchase the tenderizers from a distinct and separate source of supply.

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PAR. 10. The use by the respondents of the foregoing representations designated 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 such representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' aforesaid products.

## CONCLUSION

The aforesaid 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 respondents, Scientific Living, Inc., a corporation, and its officers, and Adolphus Hohensee, Mildred J. Walsh and Viola Heinzerling, individually and as officers of the respondent corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their various drugs and food, or any other preparation or product of substantially similar composition, or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

(a) That the Adolphus B-Complex Tablets possess any value in the treatment of nervousness, neuritis, fatigue, insomnia, constipation, dizziness or vague aches and pains, or any other symptoms resulting from Vitamin B<sub>1</sub>, B<sub>2</sub> or Niacin deficiencies, unless such representation be expressly limited to symptoms due to Vitamin B<sub>1</sub>, B<sub>2</sub> or Niacin deficiencies.

(b) That Adolphus Imported Peppermint Tea sweetens the intestinal tract;

(c) That El Rancho Adolphus Clover Honey is a cure for coughs and colds;

(d) That El Rancho Adolphus Pure Apple Juice Concentrate eliminates mucus and toxins.

2. Disseminating or causing to be disseminated by any means for the purpose of inducing or which is likely to induce, directly or in-

directly, the purchase of respondents' foods, drugs or devices in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph 1 hereof.

*It is further ordered*, That the respondents, Scientific Living, Inc., a corporation, and its officers, and Adolphus Hohensee, Mildred J. Walsh and Viola Heinzerling, individually and as officers of respondent corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act of their tenderizers, or any other product of substantially similar composition, design, construction or purpose, do forthwith cease and desist from representing, directly or by implication.

(a) That the cooking of food in utensils other than the Adolphus Tenderizer damages, destroys, or results in the loss of minerals and vitamins to the extent that the consumer of the food will not receive his minimum requirements thereof;

(b) That the use of the Adolphus Tenderizer will retain the minerals and vitamins cooked therein to a greater extent than will competitive cooking utensils utilizing similar methods of cooking;

(c) That food cooked in the Adolphus Tenderizer is more beneficial than food cooked in other utensils in that it provides more or better blood, more energy, better health, greater immunity to fatigue or disease, or increases vitality, longevity or virility;

(d) That the use of the Adolphus Tenderizer in the preparation of food is of any value in the treatment of cancer;

(e) That the use of the Adolphus Tenderizer in the preparation of food is of any value in the treatment of tuberculosis;

(f) That the food cooked in respondents' Tenderizer is more beneficial to sufferers from constipation than food cooked by other methods;

(g) That the use of the Adolphus Tenderizer in the preparation of food will result in or maintain good health, efficiency, youthfulness, strength, vigor, or increased resistance to disease; or will prevent or cure or be of value in the treatment of neuralgia, neutritis, melancholia, insanity, cancer, aching joints, rheumatism, arthritis, decomposition of the kidneys, piles, gall stones, or tumors;

(h) That the ingestion of food cooked in the Adolphus Tenderizer will have more influence on the acidity or alkalinity of the body than the ingestion of food cooked by any other method;

(i) That yams or sweet potatoes contain Vitamin A or that frying, baking, or boiling said food products destroys the pro-vitamin A or carotene therein;

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(j) That food cooked in aluminum cooking utensils causes diabetes and liver damage;

(k) That food cooked in copper utensils is harmful to the body;

(l) That bread baked in the Adolphus Tenderizer is more nutritious than oven-baked bread;

(m) That the nutritional value of food is destroyed by cooking in pressure cookers.

*It is further ordered*, That the respondent, Scientific Living, Inc., a corporation, and its officers, and Adolphus Hohensee, Mildred J. Walsh and Viola Heinzerling, individually and as officers of respondent corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of their tenderizers, or any other product, do forthwith cease and desist from:

(1) Using the expression "Manufactured by Scientific Living, Inc.," or any other expression of similar import or meaning, to designate, describe or refer to the respondents' tenderizer or any other product not manufactured by them or representing in any other manner that respondents manufacture any product distributed by them, unless and until they own and operate or directly and absolutely control the plant wherein said product is produced.

## 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 October 1, 1953].

## Decision

## IN THE MATTER OF

## S. S. SAWYER, INC.

DECISION IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (C) OF THE  
CLAYTON ACT, AS AMENDED

*Docket 6103. Complaint, June 17, 1953—Decision, Oct. 1, 1953*

Where a corporation engaged in the sale of potatoes, among other vegetables, to three principal kinds of buyers, namely, (1) agents to whom, as compensation for services rendered it paid a brokerage fee ranging from about 5¢ to about 10¢ per cwt. or equivalent amounts; (2) "buying agents", who also purchased for their own account for resale; and (3) other buyers, including some chain store organizations and food processors—

- (a) Paid to buying agents in connection with the sale of potatoes to them for their own account, a fee as brokerage, in the same manner as it paid a brokerage fee to them and to other agents for sales to buyers effected through them and in the same or substantially the same amounts;
- (b) Charged direct buyers, including some chain store organizations and food processors, prices which were lower than those charged other buyers purchasing at or about the same time, by amounts which were the same or substantially the same as the brokerage fees that it paid to its agents for effecting sales to buyers purchasing through them:

*Held*, That in paying such brokerage fees and in charging lower prices as above set forth to such buying agents and direct buyers, it violated subsec. (c) of Sec. 2 of the Clayton Act as amended.

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

*Mr. Peter J. Dias* and *Mr. Richard E. Ely* for the Commission.

*Coxe & Stephens*, of St. Augustine, Fla., for respondent.

## 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 October 1, 1953, the initial decision in the instant matter of hearing examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

## INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (15 U. S. C., Sec. 13), the Federal Trade Commission on June