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McMicken, Rupp & Schweppe, of Seattle, Wash., for Douglas Fir Plywood Association, Harrison Clark, Douglas Fir Plywood Information Bureau, Associated Plywood Mills, Inc., Elliott Bay Mill Co., Harbor Plywood Co., Vancouver Plywood & Veneer Co., Anacortes Veneer, Inc., Robinson Plywood and Timber Co. and Wallace E. Difford, and along with—

Krause, Hirsch, Levin & Heilpern, of New York City, for United States Plywood Corp.;

Skeel, McKelvy, Henke, Evenson & Uhlmann, of Seattle, Wash., for Washington Veneer Co.; and

Briggs, Gilbert, Morton, Kyle & Macartney, of St. Paul, Minn., for Weyerhaeuser Sales Co.

Neal, Bonneville & Hughes, of Tacoma, Wash., for Buffelen Manufacturing Co. and Pacific Mutual Door Co.

Sabin & Malarkey, of Portland, Oreg., for M & M Wood Working Co.

Eisenhower, Hunter & Ramsdell, of Tacoma, Wash., for Northwest Door Co.

Mr. George J. Perkins, of Portland, Oreg., for Oregon-Washington Plywood Co.

Mr. Theodore B. Bruener, of Aberdeen, Wash., for West Coast Plywood Co.

Scott, Langhorne & McGavick, of Tacoma, Wash., for The Wheeler, Osgood Co.

# AMENDED COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act the Federal Trade Commission having reason to believe that the Douglas Fir Plywood Association, Harrison Clark, individually and as Assistant Secretary of Douglas Fir Plywood Association, and the members of and subscribers to the Douglas Fir Plywood Association; the Douglas Fir Plywood Information Bureau, a voluntary organization; Robinson Plywood and Timber Co., a corporation; Pacific Mutual Door Co., a corporation, Weyerhaeuser Sales Co., a corporation; and Wallace E. Difford, an individual, hereinafter referred to as respondents, have violated the provisions of section 5 of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. (1) The respondent, Douglas Fir Plywood Association, is a corporation organized and existing under the laws of the

State of Washington with its principal office and place of business located in the Tacoma Building, Tacoma 2, Wash. The association is composed of a number of individuals, partnerships, and corporations who are located principally in the States of Washington and Oregon, and who are engaged in the operation of mills for the manufacture of various plywood products, and the sale and distribution of said products when so manufactured, or in the sale and distribution of plywood products.

(2) The said respondent, the Douglas Fir Plywood Association, hereinafter referred to as respondent association, was formed as a voluntary organization in about 1933, and served as the Code Authority for the industry during the period of the NRA. After the NRA was held unconstitutional, the voluntary association continued as a trade organization, and in the latter part of 1936 it was organized as a nonprofit corporation under the laws of the State of Washington for the declared purposes, among others, of dealing with common industry problems of management such as those involved in the production, distribution, employment, and financial functions of the plywood industry, and to secure cooperative action in advancing the common purposes of its members, to foster equity in business usages, and to promote activities aimed to enable the industry to conduct itself with the greatest economy and efficiency.

(3) The names and addresses of the present officers of said respondent association are: Arnold Koutonen, president, care St. Paul & Tacoma Lumber Co., 1220 St. Paul Avenue, Tacoma 2, Wash.; J. W. Forrester, vice president, care Coos Bay Lumber Co., Coos Bay, Oreg.; Leonard Nystrom, secretary, care Associated Plywood Mills, Inc., 2d and Garfield Streets, Eugene, Oreg.; J. H. Smith, treasurer, care Puget Sound Plywood, Inc., Tacoma, Wash.; and Harrison Clark, assistant secretary and assistant manager, care Douglas Fir Plywood Association, Tacoma Building, Tacoma 2, Wash. The said Harrison Clark is named as a respondent herein in his individual capacity and as assistant secretary of said Douglas Fir Plywood Association.

(4) The names and addresses of the present members of the management committee of said respondent associations are: E. W. Daniels, chairman, care Harbor Plywood Corp., Hoquiam, Wash.; Frost Snyder, care Vancouver Plywood & Veneer Co., Vancouver, Wash.; R. E. Seeley, care Simpson Logging Co., Shelton, Wash.; N. O. Cruver, care The Wheeler, Osgood Co., 1216 St. Paul Street, Tacoma 1, Wash.; Herman Tenzler, care Northwest Door Co., 1203 East D Street, Tacoma 1, Wash.; Arnold Koutonen, care St. Paul & Tacoma

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Lumber Co., 1220 St. Paul Avenue, Tacoma 2, Wash.; B. V. Hancock, care Cascades Plywood Corp., 1008 Public Service Building, Portland 4, Oreg.; T. B. Malarkey, care M & M Woodworking Co., 2301 North Columbia Road, Portland 3, Oreg.; Victor Olson, care Washington Veneer Co., Bellingham, Wash.; J. W. Forrester, care Coos Bay Lumber Co., Coos Bay, Oreg.; Charles E. Devlin, care Douglas Fir Plywood Association, Tacoma Building, Tacoma, Wash.

(5) Respondent, Douglas Fir Plywood Information Bureau, hereinafter referred to as respondent bureau, is a voluntary organization whose address is Post Office Box 1224, Tacoma, Wash. Respondent bureau maintains an office in the Rust Building, Tacoma 2, Wash., and was established, as declared by said respondent bureau, for purposes of the Robinson-Patman Act. It functions to handle the transmittal of forms to applicants for classification, to assemble the data submitted by applicants, and to make recommendations to the member mills as to the classification of individual accounts. Respondent bureau is operated as an activity of member and subscriber respondents and is advised by counsel for the respondent association, and respondent bureau is financed by the diversion of money paid by subscribers to the respondent association pursuant to their said contracts with the said respondent association.

PAR. 2. (1) Respondent, Associated Plywood Mills, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business at Second and Garfield Streets, Eugene, Oreg. It maintains plants at Eugene and Willamina, Oreg. Said respondent is now, and has been since January 6, 1938, a subscriber to said respondent association, and is now, and has been since approximately 1940, a member of said respondent association.

(2) Respondent, Buffelen Manufacturing Co., is a corporation which was organized under the laws of the State of California on the 20th day of February, 1948, and has its principal place of business at Tacoma, Wash. Said respondent, Buffelen Manufacturing Co., is the successor in title to Buffelen Lumber & Manufacturing Co., a Washington corporation. The said Buffelen Lumber & Manufacturing Co., a Washington corporation, was named as a respondent in the original complaint herein issued under date of March 1, 1948. Said Buffelen Lumber & Manufacturing Co. became a member of said respondent association prior to 1938, and became a subscriber to said respondent association on June 11, 1938, and continued to be a member of and subscriber to said respondent association throughout the remainder of the time said corporation was in existence. During the

period of its existence said Buffelen Lumber & Manufacturing Co. was engaged in the manufacture, sale, and distribution in commerce of plywood products. Just prior to June 1948, and subsequent to the date of the original complaint herein, all of the stockholders of said Buffelen Lumber & Manufacturing Co. sold all of their stock in said Buffelen Lumber & Manufacturing Co. to, and transferred same to. respondent Buffelen Manufacturing Co., which said corporation is a California corporation, the majority of whose stockholders were and are citizens or residents of California. On June 30, 1948, the Tacoma branch of the Bank of California was appointed liquidating trustees of Buffelen Lumber & Manufacturing Co., the Washington corporation, and immediately distributed all of its assets to respondent Buffelen Manufacturing Co., and Buffelen Lumber & Manufacturing Co., the Washington corporation, was dissolved. Since said date respondent, Buffelen Manufacturing Co., has been the owner of and has been and now is operating the same plant and business formerly operated by Buffelen Lumber & Manufacturing Co., and at the same location, and since said date has at all time been, and still is, a member of and subscriber to said respondent association. The stockholders owning a majority of the stock in Buffelen Manufacturing Co., the California corporation, owned no stock in Buffelen Lumber & Manufacturing Co., the Washington corporation, and had no connection whatever with the old company.

(3) Respondent, Elliott Bay Mill Company, is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located at 600 West Spokane Street, Seattle, Wash. Said respondent is now, and since December 31, 1937, has been, a subscriber to said respondent association, and is now, and since prior to 1938 has been, a member of said respondent association.

(4) Respondent, Harbor Plywood Corporation, is a corporation organized and existing under the laws of the State of Delaware with its principal office and place of business located at Hoquiam, Wash. Said respondent is now, and since January 10, 1938, has been, a subscriber to said respondent association, and is now, and has been since prior to 1938, a member of said respondent association.

(5) Respondent, M & M Woodworking Co., is a corporation organized and existing under the laws of the State of Oregon with its principal office and place of business located at 2301 North Columbia Road, Portland 3, Oreg. Said respondent maintains plants located at Longview, Wash., and Albany, and Portland, Oreg. Said respondent is

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now, and has been since December 30, 1937, a subscriber to said respondent association, and is now, and has been since prior to 1938, a member of said respondent association.

(6) Respondent, Northwest Door Co., is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located at 1203 East D Street, Tacoma 1, Wash. Said respondent is now, and since May 28, 1938, has been, a subscriber to said respondent association, and is now, and has been since prior to 1938, a member of said respondent association.

(7) Respondent, Oregon-Washington Plywood Co., is a corporation organized and existing under the laws of the State of Oregon with its principal office and place of business located at 1549 Dock Street, Tacoma 2, Wash. Said respondent is now, and since December 30, 1937, has been, a subscriber to said respondent association, and is now, and since prior to 1938 has been, a member of said respondent association.

(8) Respondent, United States Plywood Corporation, is a corporation organized and existing under the laws of the State of New York with its principal office and place of business located at 55 West Forty-fourth Street, New York 18, N. Y. Said respondent maintains a plant located at Seattle, Wash. Said respondent is now, and since January 13, 1938, has been, a subscriber to said respondent association, and is now, and since prior to 1938 has been, a member of said respondent association.

(9) Respondent, Vancouver Plywood & Veneer Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Vancouver, Wash. Said respondent is now, and since December 30, 1937, has been, a subscriber to said respondent association, and is now, and since prior to 1938 has been, a member of said respondent association.

(10) Respondent, Washington Veneer Co., is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located at Olympia, Wash. Said respondent is now, and since December 30, 1937, has been, a subscriber to said respondent association, and is now, and since prior to 1938 has been, a member of said respondent association.

(11) Respondent, West Coast Plywood Co., is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located at Aberdeen, Wash. Said respondent is now, and since January 2, 1938, has been, a subscriber to said respondent association, and is now, and has been since prior to 1938, a member of said respondent association.

(12) Respondent, The Wheeler, Osgood Co., is a corporation incorporated on March 1, 1903, and existing under the laws of the State of Washington, with its principal office and place of business located at 1216 St. Paul Street, Tacoma 1, Wash.

On September 1, 1932, said respondent had a large outstanding indebtedness consisting of both bank loans and bonded indebtedness. Due to large operating losses beginning in the year 1930, The Wheeler, Osgood Co. defaulted in the payment of interest due on September 1, 1932, on its bonded indebtedness. As of December 1932 all sales offices of The Wheeler, Osgood Co. had been closed, the company had withdrawn from active solicitation of business, all major plant activities had ceased, and its affairs were being directed by a committee representing the bondholders and creditors of said company.

On September 8, 1933, respondent, The Wheeler, Osgood Co., caused to be incorporated under the laws of the State of Washington a new corporation under the name of Wheeler Osgood Sales Corp., which said corporation was, throughout its existence, a wholly-owned subsidiary of respondent, The Wheeler, Osgood Co. The Wheeler, Osgood Co. subscribed to all of the capital stock of Wheeler Osgood Sales Corp. and paid for same by transferring and conveying to Wheeler Osgood Sales Corp. all of its inventory and other assets which were not covered by a deed of trust dated March 1, 1926. Wheeler Osgood Sales Corp. leased, on a month-to-month basis, from The Wheeler, Osgood Co., all of the plant and other property of The Wheeler, Osgood Co. covered by the deed of trust, the lease being dated September 15, 1933, and all net profits of Wheeler Osgood Sales Corp. were paid to The Wheeler, Osgood Co. as rent for the property so leased. On the same day Wheeler Osgood Sales Corp. employed N. O. Cruver, who had been with The Wheeler, Osgood Co. for many years, and E. J. Calloway and Ralph Brindley, both also employees of The Wheeler, Osgood Co., as its principal executive officers. Wheeler Osgood Sales Corp. operated the plant of The Wheeler, Osgood Co. and all of the business formerly operated by The Wheeler, Osgood Co. from September 15, 1933, until June 30, 1944.

Wheeler Osgood Sales Corp. became a member of respondent association prior to 1938, and it became a subscriber to said respondent association December 31, 1937, and during all of the time the business and plant of The Wheeler, Osgood Co., was operated and conducted by Wheeler Osgood Sales Corp. Wheeler Osgood Sales Corp. remained a member of and subscriber to said respondent association. During the period of time from September 15, 1933, to June 30, 1944, respondent, The Wheeler, Osgood Co., remained dormant and inactive and was

engaged in the conduct under its own name of no business operations.

In December 1937 a plan for the reorganization of respondent, The Wheeler, Osgood Co., under section 77–B of the bankruptcy Act, was submitted, and said plan of reorganization was approved by the court in 1938. The business which had been conducted by its wholly-owned subsidiary, Wheeler Osgood Sales Corp., from September 15, 1933, to June 30, 1944, was turned back to respondent, The Wheeler, Osgood Co., and the wholly-owned subsidiary, Wheeler Osgood Sales Corp., was dissolved by resolution filed on July 8, 1944, in the office of the Secretary of State of the State of Washington.

Since July 1, 1944, the said business which had been operated by Wheeler Osgood Sales Corp. since September 15, 1933, and which prior to that time had been conducted and operated by respondent, The Wheeler, Osgood Co., has been and now is operated by respondent, The Wheeler, Osgood Co., and said respondent during all of the time since July 1, 1944, has been and now is a member of and a subscriber to said respondent association.

(13) Respondent, Anacortes Veneer, Inc., is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located at Anacortes, Wash. Said respondent began operations November 23, 1939. On December 4, 1939, said respondent became a subscriber to said respondent association, and on December 5, 1939, said respondent issued Dealer Price List No. 39-B, containing identical prices, terms, and conditions as shown in Dealer Price List No. 39-B issued by other members of and subscribers to respondent association. Said respondent also issued on December 5, 1939, and effective on that date, in connection with its Dealer Price List No. 39-B, a Wholesale Functional Service Compensation Schedule identical in form, language, terms, conditions, and provisions with Wholesale Functional Service Compensation Schedules issued and used by all other members of and subscribers to said respondent association, and in connection with the use thereof said respondent made use of the services of respondent Douglas Fir Plywood Information Bureau. Said respondent has been since December 4, 1939, and now is, a subscriber to said respondent association. and has been since June 1947, and now is, a member of said respondent association.

(14) All of said respondents hereinbefore named in paragraph 2 are hereinafter, for the sake of brevity, referred to as member and subscriber respondents.

(15) Those respondents herein designated as subscribers to the respondent association were signers of a contract with said association

entitled "Subscription Contract—Cooperative Trade Promotion Campaign." All members of said association were signers of said contract but not all signers of said contract members of said association. Under the terms of said contract the signer agreed to pay 35 cents per M square feet of plywood production to be expended for trade promotion purposes by the association under the direction of the management committee set up in the contract. Subscribers voted for members of the management committee and were entitled to serve thereon. They did not vote for officers of the association if they were not also members of said association. All subscribers were licensed by the association to use trade-marks or trade names owned by the association in accordance with the provisions of the license agreements.

PAR. 3. Respondent, Robinson Plywood and Timber Co., before change of its corporate name, was known as Robinson Manufacturing Co., and was so designated in the original complaint issued herein on March 1, 1948. It is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Everett, Wash. Said respondent, under its former corporate name, was a subscriber to respondent association until December 31, 1946.

PAR. 4. (1) Respondent, Pacific Mutual Door Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located in the Tacoma Building, Tacoma, Wash.

(2) Respondent, Weyerhaeuser Sales Co., is a corporation organized and existing under the laws of the State of Washington with its principal office and place of business located in the Tacoma Building, Tacoma, Wash. Said respondent maintains its general executive offices in St. Paul, Minn.

(3) The said respondents, hereinbefore mentioned in paragraph 4, are engaged in the distribution of plywood products. Said respondents, while neither members of nor subscribers to respondent association, have cooperated with said respondent association, said respondent bureau, and said member and subscriber respondents named in paragraph 2 hereof, and with respondent, Robinson Plywood and Timber Co., named in paragraph 3 hereof, in many of the activities hereinafter set forth. Said respondents, for convenience, are hereinafter referred to as nonaffiliate respondents.

PAR. 5. Respondent, Wallace E. Difford, is an individual who maintains his office in the Henry Building, Seattle, Wash. Said respondent was from March 8, 1938, to June 30, 1946, employed as managing

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director of respondent association, and as such managing director initiated, supervised and carried out many of its policies, and has cooperated with said respondent association, said respondent bureau, said member and subscriber respondents, said respondent, Robinson Plywood and Timber Co., and with said nonaffiliate respondents in the hereinafter complained of activities. Said respondent Difford severed his employment with respondent association as of June 30, 1946, and is presently engaged in the distribution of lumber products under the name of W. E. Difford & Sons.

PAR. 6. The aforesaid member and subscriber respondents named in paragraph 2, the respondent, Robinson Plywood and Timber Co., named in paragraph 3, and the nonaffiliate respondents named in paragraph 4, are engaged in the manufacture, sale, and distribution of, or the sale and distribution of, plywood products to dealers therein located in States other than the State in which said respondents are located, causing said products, when so sold, to be transported from their respective places of business to the purchasers thereof located at various points in the several States of the United States other than the State of origin of such shipment and in the District of Columbia. There has been and now is a course of interstate trade and commerce in said products between the aforesaid respondents and dealers in said products located throughout the several States of the United States. Said members and subscriber respondents, hereinbefore named in paragraph 2, said respondent Robinson Plywood and Timber Co., hereinbefore named in paragraph 3, and said nonaffiliate respondents, hereinbefore named in paragraph 4, are now, and have been during all of the times mentioned herein, engaged in competition with others in making and seeking to make sales of their said merchandise in said commerce, and, but for the facts hereinafter alleged, would now be in free, active, and substantial competition with each other.

PAR. 7. Said member and subscriber respondents, said Robinson Plywood and Timber Co., and said nonaffiliate respondents, acting in cooperation with each other, and through and in cooperation with said respondent association and its officers and management committee, and through and in cooperation with said respondent bureau, and through and in cooperation with the respondents Wallace E. Difford and Harrison Clark, and each of them, during the period of time, to wit, for a substantial portion of the period of time since prior to January 1936, have engaged in an understanding, agreement, combination, conspiracy, and planned common course of action among themselves and with and through said respondent association and said

respondent bureau, and said respondents Wallace E. Difford and Harrison Clark, to restrict, restrain, and suppress competition in the sale and distribution of plywood products to customers located throughout the several States of the United States and in the District of Columbia, as aforesaid, by agreeing to fix and maintain prices, terms, and discounts at which said plywood products are to be sold, and to cooperate with each other in the enforcement and maintenance of said fixed prices, terms, and discounts by exchanging information through said respondent association and said respondent bureau as to the prices, terms, and discounts at which said member and subscriber, respondents, said respondent Robinson Plywood and Timber Co., and said nonaffiliate respondents have sold and are offering to sell, said plywood products to customers and prospective customers.

PAR. 8. Pursuant to said understanding, agreement, combination, conspiracy, and planned common course of action, and in furtherance thereof, the said respondents have done and performed, and still do and perform, among others, the following acts and things:

(1) Agreed to and did curtail the production of plywood.

(2) Compiled statistical information in respect to production, sales, shipments, and orders on hand, which information was made available to respondents but which was denied to the purchasing trade.

(3) Adopted and used a uniform basic price list containing uniform net extras to be charged thereon and uniform discounts to be extended therefrom.

(4) Compiled and used lists of buyers entitled to receive a so-called jobbers' discount of 5 percent.

(5) Adopted and used a so-called functional compensation plan of distribution that included: (a) Issuance of uniform net dealers' prices carrying uniform prices on different quantities and a uniform cash discount; (b) issuance of identically worded compensation schedules embodying definitions of trade factors, and providing for the functional discount under prescribed conditions as to who may receive and under what conditions same may be granted; and adopted an unpublished agreement interpreting the plan, which agreement provided that a buyer doing less than 40 percent of its business at wholesale would be considered a dealer under the plan; (c) establishment of an information bureau to develop information as to the trade status of buyers, which, applied the secret requirement of 40 percent wholesale in determining the status of buyers under the plan and which transmitted to member respondents and subscriber respondents conclusions and findings as to the status of buyers.

(6) Adopted arbitrarily rules providing that the Government and certain industrial buyers would be required to pay dealers' prices, and that certain specified classes of industrial buyers would receive a 5 percent discount from the dealers' price.

(7) Acted to insure the success of the plan, and to compel compliance therewith, by holding meetings with distributors for the purpose of forcing or inducing adherence to the price and discount provisions; inviting distributors to submit information in reference to suspected deviations from the plan by manufacturers or others; acting through the respondent association to conduct general investigations of the members' files or to investigate specific instances of reported violations; establishing the respondent association as an intermediary, to place business among the member respondents; using mill numbers to identify the source of manufacture in cases of reported deviation from the plan; providing in the agreement licensing manufacturers to use the trade-marks obtained by the respondent association that same could be used only on grades approved by the respondent association.

(8) Threatened, sought to, and did, cut off the supply of distributors who failed or refused to adhere to prices or classification provisions.

(9) Quoted only on a delivered price basis and in conjunction therewith computed the rail freight from Tacoma, Wash., irrespective of the origin of shipment or the rate applicable thereto; and used a uniform schedule of estimated weights which were higher than actual weights and which, when used in connection with a fixed base price and a single basing point, assured the industry of uniform delivered price quotations to buyers.

(10) Shipped by water to East Coast and Gulf points only on a C. I. F. basis.

(11) Applied a uniform net addition to the ocean freight rate on water shipments, and a uniform net addition on sales made in the primary market.

PAR. 9. The capacity, tendency, and results of said understanding, agreement, combination, conspiracy, and planned common course of action and the acts and things done thereunder and pursuant thereto by said respondents, as hereinbefore set forth, have been and now are:

(a) To interfere with and curtail the production of plywood products and the sale of same in interstate commerce to dealers therein who, but for the existence of said understanding, agreement, combination, conspiracy, and planned common course of action, would be able to purchase their requirements of said products from the manufacturers thereof.

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(b) To force many dealers in plywood products to discontinue the sale of said products because of their inability to obtain them from manufacturers or to maintain a supply thereof at reasonable prices.

(c) To substantially increase the price of said plywood products to wholesalers, retailers, and to the consuming public.

(d) To substantially increase the price of said products when sold to the Government and to certain industrial buyers who, but for the understanding, agreement, combination, conspiracy, and planned common course of action, would be able to secure their requirements of said plywood products at substantially lower prices; and

(e) To concentrate in the hands of the respondents the power to dominate and control the business policies and practices of the manufacturers and distributors of plywood products, and the power to exclude from the industry those manufacturers and distributors who do not conform to the rules, regulations, and requirements established by said respondents, and thus to create a monopoly in said member and subscriber, former subscriber, and nonaffiliate respondents named in paragraphs 2, 3 and 4 hereof in the sale of said plywood products.

Par. 10. The acts and practices of said respondents, as herein alleged, are all to the prejudice of competitors of said respondents and of the public; have a dangerous tendency to and have actually hindered and prevented competition in the sale of plywood products in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act; have unreasonably restrained such commerce in plywood products and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act; have unreasonably restrained such commerce in plywood products and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

# REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 19, 1949, issued and subsequently served upon the respondents named in the caption hereof its amended complaint in this proceeding, charging said respondents with the use of unfair methods of competition in commerce in violation of the provisions of that act. On June 8, 1949, each of the respondents filed its separate answer to said amended complaint, in which answers of all the respondents, except Northwest Door Co., Anacortes Veneer, Inc., and Weyerhaeuser Sales Co., for the purposes of this proceeding, admitted all of the material allegations of fact set forth in the amended complaint and waived all intervening procedure

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and further hearings as to said facts, the admissions in the answers of Northwest Door Co., Anacortes Veneer, Inc., and Weyerhaeuser Sales Co. being limited to certain portions of said allegations, but each of the answers providing that the admissions contained therein should be taken to mean that the understanding, agreement, combination, conspiracy, and planned common course of action alleged in paragraph 7 of the amended complaint existed and continued only for a substantial portion of the period of time between May 1935 and August 1, 1941. In said answers each of the respondents reserved the right to file a brief and present oral argument before the Commission as to what order, if any, should be issued upon the facts Thereafter, this proceeding regularly came on for final admitted. hearing before the Commission upon the amended complaint, the aforesaid answers of the respondents, a memorandum proposing disposition of the case filed by counsel in support of the amended complaint as, for, and in lieu of a brief, attached to which memorandum was a proposed form of order to cease and desist which was recommended to the Commission by counsel in support of the amended complaint (and, if the Commission should be of the opinion that an order to cease and desist in any form should be issued, by counsel for the respondents, also), briefs and memoranda filed on behalf of certain of the respondents, and oral argument of counsel; and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

## FINDINGS AS TO THE FACTS

PARAGRAPH 1. (a) The respondent, Douglas Fir Plywood Association, is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located in the Tacoma Building, Tacoma 2, Wash. Said association is composed of a number of individuals, partnerships, and corporations who are located principally in the States of Washington and Oregon, and who are engaged in the operation of mills for the manufacture of various plywood products and in the sale and distribution of such products when so manufactured, or in the sale and distribution of plywood products.

The aforesaid respondent, Douglas Fir Plywood Association, hereinafter sometimes referred to as "respondent association," was formed as a voluntary organization in about 1933, and served as the Code Authority for the industry during the period of the NRA.

After the NRA was held unconstitutional, the voluntary association continued as a trade organization, and in the latter part of 1936 it was organized as a nonprofit corporation under the laws of the State of Washington for the declared purpose, among other things, of dealing with common industrial problems of management such as those involved in the production, distribution, employment, and financial functions of the plywood industry, and to secure cooperative action in advancing the common purposes of its members, to foster equity in business usages, and to promote activities aimed to enable the industry to conduct itself with the greatest economy and efficiency.

The names and addresses of the present officers of the respondent association are: Arnold Koutonen, president, care St. Paul & Tacoma Lumber Co., 1220 St. Paul Avenue, Tacoma 2, Wash.; J. W. Forrester, vice president, care Coos Bay Lumber Co., Coos Bay, Oreg.; Leonard Nystrom, secretary, care Associated Plywood Mills, Inc., Second and Garfield Streets, Eugene, Oreg.; J. H. Smith, treasurer, care Puget Sound Plywood, Inc., Tacoma, Wash.; and Harrison Clark, assistant secretary and assistant manager, care Douglas Fir Plywood Association, Tacoma Building, Tacoma 2, Wash. The said Harrison Clark was named in the complaint herein as a respondent both in his individual capacity and as assistant secretary of said Douglas Fir Plywood Association.

The names and addresses of the present members of the management committee of said respondent association are: E. W. Daniels, chairman, care Harbor Plywood Corp., Hoquiam, Wash.; Frost Snyder, care Vancouver Plywood & Veneer Co., Vancouver, Wash.; R. E. Seeley, care Simpson Logging Co., Shelton, Wash.; N. O. Cruver, care The Wheeler, Osgood Co., 1216 St. Paul Street, Tacoma 1, Wash.; Herman Tenzler, care Northwest Door Co., 1203 East D Street, Tacoma 1, Wash.; Arnold Koutonen, care St. Paul & Tacoma Lumber Co., 1220 St. Paul Avenue, Tacoma 2, Wash.; B. V. Hancock, care Cascades Plywood Corp., 1008 Public Service Building, Portland 4, Oreg.; T. B. Malarkey, care M & M Wood Working Co., 2301 North Columbia Road, Portland 3, Oreg.; Victor Olson, care Washington Veneer Co., Bellingham, Wash.; J. W. Forrester, care Coos Bay Lumber Co., Coos Bay, Oreg.; and Charles E. Devlin, care Douglas Fir Plywood Association, Tacoma Building, Tacoma, Wash.

(b) The respondent, Douglas Fir Plywood Information Bureau, hereinafter sometimes referred to as "respondent bureau," is a voluntary organization whose address is P. O. Box 1224, Tacoma, Wash. Said respondent maintains an office in the Rust Building, Tacoma 2, Wash., and was established, as declared by said respondent bureau.

for the purposes of the Robinson-Patman Act. It functions to handle the transmittal of forms to applicants for classification, to assemble the data submitted by applicants, and to make recommendations to the member mills as to the classification of individual accounts. Respondent bureau is operated as an activity of the member and subscriber respondents and is advised by counsel for the respondent association, and said bureau is financed by the diversion of money paid by subscribers to the respondent association pursuant to their contracts with said association.

PAR. 2. (a) The respondent, Associated Plywood Mills, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Second and Garfield Streets, Eugene, Oreg. It maintains plants at Eugene and Willamina, Oreg. Said respondent is now, and since January 6, 1938, it has been, a subscriber to the respondent association, and it is now, and since approximately 1940 it has been, a member of said respondent association.

(b) The respondent, Elliott Bay Mill Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at 600 West Spokane Street, Seattle, Wash. This respondent is now, and since December 31, 1937, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(c) The respondent, Harbor Plywood Corp., is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at Hoquiam, Wash. This respondent is now, and since January 10, 1938, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(d) The respondent, M & M Wood Working Co. (erroneously described in the complaint as M & M Woodworking Co.), is a corporation organized and existing under the laws of the State of Oregon, with its principal office and place of business located at 2301 North Columbia Road, Portland 3, Oreg. This respondent maintains plants located at Longview, Wash., and at Albany and Portland, Oreg. Said respondent is now, and since December 30, 1937, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(e) The respondent, Northwest Door Co., is a corporation organized and existing under the laws of the State of Washington, with its

principal office and place of business located at 1203 East D Street, Tacoma 1, Wash. This respondent is now, and since May 28, 1938, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(f) The respondent, Oregon-Washington Plywood Co., is a corporation organized and existing under the laws of the State of Oregon, with its principal office and place of business located at 1549 Dock Street, Tacoma 2, Wash. This respondent is now, and since December 30, 1937, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(g) The respondent, United States Plywood Corp., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 55 West Forty-fourth Street, New York 18, N. Y. This respondent maintains a plant located at Seattle, Wash. Said respondent is now, and since January 13, 1938, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(h) The respondent, Vancouver Plywood & Veneer Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Vancouver, Wash. This respondent is now, and since December 30, 1937, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(i) The respondent, Washington Veneer Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Olympia, Wash. This respondent is now, and since December 30, 1937, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(j) The respondent, West Coast Plywood Co., is a corporation organized and existing under the laws of the State of Washington, with its office and principal place of business located at Aberdeen, Wash. This respondent is now, and since January 2, 1938, it has been, a subscriber to the respondent association, and it is now, and since prior to 1938 it has been, a member of said respondent association.

(k) The respondent, The Wheeler, Osgood Co., is a corporation incorporated on March 1, 1903, and existing under the laws of the

State of Washington, with its principal office and place of business located at 1216 St. Paul Street, Tacoma 1, Wash.

On September 8, 1933, the respondent, The Wheeler, Osgood Co., caused to be incorporated under the laws of the State of Washington a new corporation under the name of Wheeler Osgood Sales Corp., which said corporation was, throughout its existence, a wholly owned subsidiary of respondent, The Wheeler, Osgood Co. The Wheeler, Osgood Co. subscribed to all of the capital stock of Wheeler Osgood Sales Corp. and paid for same by transferring and conveying to Wheeler Osgood Sales Corp. all of its inventory and other assets which were not covered by a deed of trust dated March 1, 1926. Wheeler Osgood Sales Corp. leased, on a month-to-month basis, from The Wheeler, Osgood Co., all of the plant and other property of The Wheeler, Osgood Co. covered by the deed of trust, the lease being dated September 15, 1933, and all net profits of Wheeler Osgood Sales Corp. were paid to The Wheeler, Osgood Co. as rent for the property so leased. On the same day Wheeler Osgood Sales Corp. employed N. O. Cruver who had been with The Wheeler, Osgood Co. for many years, and E. J. Calloway and Ralph Brindley, both also employees of The Wheeler, Osgood Co., as its principal executive officers. Wheeler Osgood Sales Corp. operated the plant of The Wheeler. Osgood Co. and all of the business formerly operated by The Wheeler, Osgood Co. from September 15, 1933, until June 30, 1944.

Wheeler Osgood Sales Corp. became a member of respondent association prior to 1938, and it became a subscriber to said respondent association December 31, 1937, and during all of the time the business and plant of The Wheeler, Osgood Co. was operated and conducted by Wheeler Osgood Sales Corp., Wheeler Osgood Sales Corp. remained a member of and subscriber to said respondent association. During the period of time from September 15, 1933, to June 30, 1944, respondent, The Wheeler, Osgood Co., remained dormant and inactive and was engaged in the conduct under its own name of no business operations.

Since July 1, 1944, the business which had been operated by Wheeler Osgood Sales Corp. since September 15, 1933, and which prior to that time had been conducted and operated by the respondent, The Wheeler, Osgood Co., has been, and is now, operated by the respondent The Wheeler, Osgood Co. During the period from July 30, 1946, until the latter part of 1947, said respondent has undergone certain financial reorganizations and has increased its outstanding capital stock, but at all times mentioned herein it has been, and is now, a subscriber to and a member of the respondent association.

(1) The respondent, Anacortes Veneer, Inc., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Anacortes, Wash. This respondent is now, and since December 4, 1939, it has been, a subscriber to the respondent association, and it is now, and since June 1947 it has been, a member of said respondent association.

(m) All of the respondents hereinbefore named in paragraph 2 are hereinafter, for the sake of brevity, sometimes referred to as "member" and "subscriber" respondents.

(n) Those respondents herein designated as subscribers to the respondent association were signers of a contract with said association entitled "Subscription Contract—Cooperative Trade Promotion Campaign." All members of said association were signers of the contract, but not all signers of the contract were members of the association. Under the terms of the contract the signers agreed to pay 35 cents per 1,000 square feet of plywood production to be expended for trade promotion purposes by the association under the direction of the management committee set up in the contract. The subscribers voted for members of the management committee and were entitled to serve thereon, but they did not vote for officers of the association if they were not also members of said association. All subscribers were licensed by the association to use trade marks or trade names owned by the association in accordance with the provisions of the license agreements.

PAR. 3. The respondent, Robinson Plywood and Timber Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located at Everett, Wash. This respondent was formerly known as Robinson Manufacturing Co., and said respondent under such former corporate name, was a subscriber to the respondent association until December 31, 1946.

PAR. 4. (a) The respondent, Pacific Mutual Door Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business located in the Tacoma Building, Tacoma, Wash.

(b) The respondent, Weyerhaeuser Sales Co., is a corporation organized and existing under the laws of the State of Washington, with its principal office and place of business in the Tacoma Building, Tacoma, Wash. This respondent maintains its general executive offices in St. Paul, Minn.

(c) The respondents hereinbefore named in paragraph 4 are engaged in the distribution of plywood products. Said respondents,

while neither members of nor subscribers to the respondent association, have cooperated with said respondent association, the respondent bureau, and the member and subscriber respondents and with the respondent, Robinson Plywood and Timber Co., in many of the activities hereinafter set forth. Said respondents, for convenience, are hereinafter sometimes referred to as "non-affiliate" respondents.

PAR. 5. The respondent, Wallace E. Difford, is an individual who maintains his office in the Henry Building, Seattle, Wash. Said respondent, from March 8, 1938, until June 30, 1946, was employed as managing director of the respondent association, and as such managing director he initiated, supervised, and carried out many of the policies of said association. During the period of time mentioned in paragraph 7, said respondent cooperated with the respondent association, the respondent bureau, the member and subscriber respondents, the respondent, Robinson Plywood and Timber Co., and with the nonaffiliate respondents in the activities hereinafter described. Said respondent Difford severed his employment with the respondent association as of June 30, 1946, and is presently engaged in the distribution of lumber products under the name of W. E. Difford & Sons.

PAR. 6. The aforesaid member and subscriber respondents, named in paragraph 2, the respondent, Robinson Plywood and Timber Co., named in paragraph 3, and the nonaffiliate respondents named in paragraph 4, are all engaged in the manufacture and in the sale and distribution of, or in the sale and distribution of, plywood products to dealers in such products located in States other than the States in which said respondents are located, causing said products, when so sold, to be transported from their respective places of business to the purchasers thereof located at various points in the several States of the United States other than the States of origin of such shipments and in the District of Columbia. There has been, and now is, a course of interstate trade and commerce in said products between the aforesaid respondents and dealers in such products located throughout the several States of the United States. Said member and subscriber respondents, said respondent, Robinson Plywood and Timber Co., and said nonaffiliate respondents are now, and during all of the times mentioned herein they have been, engaged in competition with others in making and seeking to make sales of their products in said commerce, and, but for the facts hereinafter found, they would now be in free, active, and substantial competition with each other.

PAR. 7. Said member and subscriber respondents, said respondent, Robinson Plywood and Timber Co., and said nonaffiliate respondents, acting in cooperation with each other, and through and in cooperation

with the respondent association and its officers and management committee, and through and in cooperation with the respondent bureau, and through and in cooperation with the respondents Wallace E. Difford and Harrison Clark, and each of them, during a substantial part of the period of time between May 1935 and August 1, 1941, did engage in an understanding, agreement, combination, conspiracy, and planned common course of action among themselves and with and through the respondent association, said respondent bureau, and said respondents, Wallace E. Difford and Harrison Clark, to restrict, restrain, and suppress competition in the sale and distribution of plywood products to customers located throughout the several States of the United States and in the District of Columbia, as aforesaid, by agreeing to fix and maintain prices, terms, and discounts at which said plywood products were to be sold, and to cooperate with each other in the enforcement and maintenance of the prices, terms, and discounts so fixed, by exchanging information through said respondent association and said respondent bureau as to the prices, terms, and discounts at which said member and subscriber respondents, said respondent Robinson Plywood and Timber Co., and said nonaffiliate respondents had sold and were offering to sell said plywood products to customers and prospective customers.

PAR. 8. (a) Pursuant to the aforesaid understanding, agreement, combination, conspiracy, and planned common course of action, and in furtherance thereof, all of said respondents except Northwest Door Co., Anacortes Veneer, Inc., and Weyerhaeuser Sales Co., during the period of time mentioned in paragraph 7, did and performed, among others, the following acts and things:

(1) Agreed to and did curtail the production of plywood.

(2) Compiled statistical information in respect to production, sales, shipments, and orders on hand, which information was made available to respondents but which was denied to the purchasing trade.

(3) Adopted and used a uniform basic price list containing uniform net extras to be charged thereon and uniform discounts to be extended therefrom.

(4) Compiled and used lists of buyers entitled to receive a so-called jobbers' discount of 5 percent.

(5) Adopted and used a so-called functional compensation plan of distribution that included: (a) Issuance of uniform net dealers' prices carrying uniform prices on different quantities and a uniform cash discount; (b) issuance of identically worded compensation schedules embodying definitions of trade factors, and providing for the func-

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tional discount under prescribed conditions as to who may receive and under what conditions same may be granted, and adopted an unpublished agreement interpreting the plan, which agreement provided that a buyer doing less than 40 percent of its business at wholesale would be considered a dealer under the plan; (c) establishment of an information bureau to develop information as to the trade status of buyers, which applied the secret requirement of 40 percent wholesale in determining the status of buyers under the plan and which transmitted to member respondents and subscriber respondents conclusions and findings as to the status of buyers.

(6) Adopted arbitrarily rules providing that the Government and certain industrial buyers would be required to pay dealers' prices, and that certain specified classes of industrial buyers would receive a 5 percent discount from the dealers' price.

(7) Acted to insure the success of the plan, and to compel compliance therewith, by holding meetings with distributors for the purpose of forcing or inducing adherence to the price and discount provisions, inviting distributors to submit information in reference to suspected deviations from the plan by manufacturers or others, acting through the respondent association to conduct general investigations of the members' files or to investigate specific instances of reported violations, establishing the respondent association as an intermediary to place business among the member respondents, using mill numbers to identify the source of manufacture in cases of reported deviation from the plan, providing in the agreement licensing manufacturers to use the trade marks obtained by the respondent association that same could be used only on grades approved by the respondent association.

(8) Threatened, sought to, and did, cut off the supply of distributors who failed or refused to adhere to prices or classification provisions.

(9) Quoted only on a delivered price basis and in conjunction therewith computed the rail freight from Tacoma, Wash., irrespective of the origin of shipment or the rate applicable thereto, and used a uniform schedule of estimated weights which were higher than actual weights and which, when used in connection with a fixed base price and a single basing point, assured the industry of uniform delivered price quotations to buyers.

(10) Shipped by water to East Coast and Gulf points only on a C. I. F. basis.

(11) Applied a uniform net addition to the ocean freight rate on water shipments, and a uniform net addition on sales made in the primary market.

(b) Pursuant to said understanding, agreement, combination, conspiracy, and planned common course of action, and in furtherance thereof, the respondent Northwest Door Co., during the same period of time, did and performed the following acts and things:

(1) Compiled statistical information in respect to production, sales, shipments, and orders on hand, which information was made available to respondents but which was denied to the purchasing trade.

(2) Adopted and used a uniform basic price list containing uniform net extras to be charged thereon and uniform discounts to be extended therefrom.

(3) Adopted and used a so-called functional compensation plan of distribution that included: (a) Issuance of uniform net dealers' prices carrying uniform prices on different quantities and a uniform cash discount; (b) issuance of identically worded compensation schedules embodying definitions of trade factors, and providing for the functional discount under prescribed conditions as to who may receive and under what conditions same may be granted, and adopted an unpublished agreement interpreting the plan, which agreement provided that a buyer doing less than 40 percent of its business at whole-sale would be considered a dealer under the plan.

(4) Acted to insure the success of the plan, and to compel compliance therewith, by holding meetings with distributors for the purpose of forcing or inducing adherence to the price and discount provisions, inviting distributors to submit information in reference to suspected deviations from the plan by manufacturers or others, acting through the respondent association to conduct general investigations of the members' files or to investigate specific instances of reported violations, establishing the respondent association as an intermediary to place business among the member respondents, using mill numbers to identify the source of manufacture in cases of reported deviation from the plan, providing in the agreement licensing manufacturers to use the trade marks obtained by the respondent association that same could be used only on grades approved by the respondent association.

(5) Quoted only on a delivered price basis and in conjunction therewith computed the rail freight from Tacoma, Wash., irrespective of the origin of shipment or the rate applicable thereto, and used a uniform schedule of estimated weights which were higher than actual weights and which, when used in connection with a fixed base price and a single basing point, assured the industry of uniform delivered price quotations to buyers.

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(6) Shipped by water to East Coast and Gulf points only on a C. I. F. basis.

(7) Applied a uniform net addition to the ocean freight rate on water shipments, and a uniform net addition on sales made in the primary market.

(c) Pursuant to said understanding, agreement, combination, conspiracy, and planned common course of action, and in furtherance thereof, the respondent Weyerhaeuser Sales Co., during the same period of time, did and performed the following acts and things:

(1) Adopted and used a uniform basic price list containing uniform net extras to be charged thereon and uniform discounts to be extended therefrom.

(2) Compiled and used lists of buyers entitled to receive a socalled jobbers' discount of 5 percent.

(3) Adopted and used a so-called functional compensation plan of distribution that included: (a) Issuance of uniform net dealers' prices carrying uniform prices on different quantities and a uniform cash discount; (b) issuance of identically worded compensation schedules embodying definitions of trade factors, and providing for the functional discount under prescribed conditions as to who may receive and under what conditions same may be granted, and adopted an unpublished agreement interpreting the plan, which agreement provided that a buyer doing less than 40 percent of its business at wholesale would be considered a dealer under the plan; (c) establishment of an information bureau to develop information as to the trade status of buyers, which applied the secret requirement of 40 percent wholesale in determining the status of buyers under the plan and which transmitted to member respondents and subscriber respondents conclusions and findings as to the status of buyers.

(4) Shipped by water to East Coast and Gulf points only on a C. I. F. basis.

(5) Applied a uniform net addition to the ocean freight rate on water shipments, and a uniform net addition on sales made in the primary market.

(d) The respondent, Anacortes Veneer, Inc., began operations on November 23, 1939. On December 4, 1939, said respondent became a subscriber to the respondent association, and on December 5, 1939, said respondent issued Dealer Price List No. 39–B containing identical prices, terms and conditions as shown in Dealer Price List No. 39–B issued by other members of and subscribers to the respondent association. In connection with its Dealer Price List No. 39–B, said respond-

ent, on December 5, 1939, also issued, and made effective on that date, a Wholesale Functional Service Compensation Schedule identical in form, language, terms, conditions, and provisions with Wholesale Functional Service Compensation Schedules issued and used by all other members of and subscribers to the respondent association, and in connection with the use thereof said respondent made use of the services of the respondent, Douglas Fir Plywood Information Bureau.

Pointing out that these are the only facts tending to connect it with the unlawful combination and conspiracy admitted to have been engaged in by the other respondents, respondent, Anacortes Veneer,. Inc., contends that as to it the amended complaint must be dismissed. This is so, it is said, because this respondent did not begin operations until November 23, 1939, only 12 days before it issued its price list; that, being a new company faced with the problem of setting up a price list, it merely and naturally followed the price list already being used by the members of the industry generally; and that the record shows nothing more than a simple voluntary act on the part of Anacortes, importing no illegal conduct of any kind.

It may be, as the respondent contends, that the mere act on the part of one manufacturer of following the prices of another manufacturer is not in and of itself a violation of law. In the case of the respondent, Anacortes Veneer, Inc., however, that is not the full picture. The price list issued by Anacortes on December 5, 1939, contained prices, terms, and conditions of sale of plywood products identical in all respects with the prices, terms, and conditions of sale of such products which, admittedly, had been agreed upon and fixed and which were being used by the subscribers to and members of the respondent association, and others, pursuant to and in furtherance of an unlawful conspiracy. In addition, respondent Anacortes adopted the Compensation Schedule which likewise had been agreed upon by the other respondents which Compensation Schedule was used as a means of stabilizing the prices of plywood products. This respondent also availed itself of the use of the services of the respondent, Douglas Fir Plywood Information Bureau, which bureau was created to provide the membership of the respondent association with information necessary for the classification of buyers of plywood. Having become a member of the association and, presumably, having acquainted itself with the purposes and activities of said association and its members, respondent Anacortes, after obtaining for itself the benefits of such purposes and activities, obviously cannot now disclaim joint responsibility therefor.

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In the circumstances and for the reasons stated, the Commission is of the opinion and therefore finds, that the respondent, Anacortes Veneer, Inc., was a participant in the unlawful understanding, agreement, combination, and conspiracy herein described and that the acts of said respondent, as herein set forth, were all done pursuant to and in furtherance thereof.

PAR. 9. The capacity, tendency, and results of the aforesaid understanding, agreement, combination, conspiracy, and planned common course of action, and the acts and things done thereunder and pursuant thereto, by the respondents, as hereinbefore set forth, have been and now are:

(a) To interfere with and curtail the production of plywood products and the sale of same in interstate commerce to dealers therein who, but for the existence of said understanding, agreement, combination, conspiracy, and planned common course of action, would be able to purchase their requirements of said products from the manufacturers thereof.

(b) To force many dealers in plywood products to discontinue the sale of said products because of their inability to obtain them from manufacturers or to maintain a supply thereof at reasonable prices.

(c) To substantially increase the price of said plywood products to wholesalers, retailers, and to the consuming public.

(d) To substantially increase the price of said products when sold to the Government and to certain industrial buyers who, but for the understanding, agreement, combination, conspiracy, and planned common course of action, would be able to secure their requirements of said plywood products at substantially lower prices.

(e) To concentrate in the hands of the respondents the power to dominate and control the business policies and practices of the manufacturers and distributors of plywood products, and the power to exclude from the industry those manufacturers and distributors who do not conform to the rules, regulations, and requirements established by said respondents, and thus to create a monopoly in said member and subscriber, former subscriber, and nonaffiliate respondents named in paragraphs 2, 3 and 4 hereof in the sale of said plywood products.

PAR. 10. The amended complaint in this proceeding named as a respondent herein Harrison Clark in his individual capacity as well as in his capacity as assistant secretary of the respondent, Douglas Fir Plywood Association. It appears, however, that this respondent is still an officer of the respondent association, and any order to cease and desist issued herein will run against the respondent asso-

ciation and all of its officers, agents, representatives, and employees. So long as Mr. Clark is an officer of the association, or even an employee thereof, he will be bound by the terms of the order, even though not individually named therein. In view of this fact the Commission is of the opinion that insofar as the amended complaint names Mr. Clark as a respondent in his individual capacity, it may properly be dismissed.

The amended complaint also named as a respondent Buffelen Manufacturing Co. It appeared, however, from an appropriate motion made before the trial examiner, that this respondent was not organized until February 19, 1948, and that it did not participate in any of the unlawful acts or practices described in the complaint. Accordingly, the trial examiner on September 30, 1949, entered his order dismissing the amended complaint as to Buffelen Manufacturing Co.

## CONCLUSION

The acts and practices of the respondents, as herein found, were all to the prejudice and injury of the public and of competitors of said respondents; have had a dangerous tendency to and have actually hindered and prevented competition in the sale of plywood products in interstate commerce; have unreasonably restrained such commerce in plywood products; and have constituted unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, answers thereto filed on behalf of all of the respondents, a memorandum filed by counsel in support of the amended complaint as, for, and in lieu of an opening brief, attached to which memorandum was a proposed form of order to cease and desist which was recommended by counsel in support of the complaint (and, if the Commission should be of the opinion that an order to cease and desist in any form should be issued, by counsel for the respondents, also), briefs and memoranda filed on behalf of certain of the respondents, a reply brief of counsel in support of the complaint, and oral argument before the Commission, and the Commission having made its findings as to the facts and its conclusion that the respondents (except Buffelen Manufacturing Co.) have violated the provisions of the Federal Trade Commission Act:

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It is ordered, That the respondent, Douglas Fir Plywood Association, a corporation, its officers, members of its management committee. and its agents, representatives, and employees, the respondent, Douglas Fir Plywood Information Bureau, a voluntary organization, and its . officers, agents, representatives, and employees, the corporate respondents, Associated Plywood Mills, Inc., Elliott Bay Mill Co., Harbor Plywood Corp., M & M Wood Working Co., Northwest Door Co., Oregon-Washington Plywood Co., United States Plywood Corp., Vancouver Plywood & Veneer Cc Washington Veneer Co., West Coast Plywood Co., Anacortes Veneer, Inc., and The Wheeler, Osgood Co., individually and as members of and subscribers to said respondent association, and their respective officers, agents, representatives, and employees, the corporate respondents, Robinson Plywood and Timber Co., Pacific Mutual Door Co., and Weverhaeuser Sales Co., and their respective officers, agents, representatives, and employees, and the respondent, Wallace E. Difford, an individual, and his agents, representatives, and employees, in or in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of plywood products, do forthwith cease and desist from entering into, cooperating in, or carrying out any planned common course of action, understanding, agreement, combination, or conspiracy between or among any two or more of said respondents, or between or among any one or more of said respondents and other producers or sole distributors of plywood products for other producers not parties hereto, to do or perform any of the following acts or things:

1. Fixing, establishing, or maintaining uniform prices, and in connection therewith, uniform discounts, terms, or conditions of sale for any kind or grade of Douglas fir plywood, or in any manner fixing or establishing any prices, and in connection therewith, discounts, terms, or conditions for sale of such plywood;

2. Restricting or curtailing the production of Douglas fir plywood;

3. Compiling, exchanging, or disseminating, between and among members of or subscribers to the respondent association statistical information in respect to the production, sales, shipments, and orders on hand of Douglas fir plywood, or any one thereof, unless such statistical information as is made available to members or subscribers is readily, fully, and on reasonable terms made available to the purchasing and distributing trade, and where the identity of the manufacturer, seller, or purchaser cannot be determined through such information, and which has not the capacity or tendency of aiding in

securing compliance with announced prices, terms, or conditions of sale;

4. Preparing, adopting, or using any basic price list at which Douglas fir plywood is to be sold which contains uniform net extras or additions to be charged thereon, or the preparation, adoption or use of uniform net extras or additions in conjunction with a basic price list;

5. Preparing, maintaining, or circulating any list or classification of buyers of Douglas fir plywood considered or recognized by respondents as "jobbers," "wholesalers," or "dealers," or any similar list or classification of buyers; provided that nothing contained in this paragraph 5 shall prevent the respondent association from maintaining mailing lists of buyers and distributors of Douglas fir plywood when the association shows that such lists are solely for trade promotion purposes;

6. Adopting and using a plan of distribution which includes one or more of the following:

(a) Issuance of a uniform net dealers' price list carrying uniform prices on different quantities and a uniform cash discount;

(b) Adoption of uniform definitions of classes of buyers, and providing for the granting of a uniform discount under uniform prescribed conditions as to who may receive and under what conditions same may be granted;

7. Adopting and using any plan which includes a classification of buyers of Douglas fir plywood on the basis of entitlement to price or discount, or communicating to producers or distributors of such plywood conclusions and findings in reference to such classification;

8. Selling only on a delivered price basis, and in conjunction therewith:

(a) Computing the rail freight rate from any point other than the point of origin of the shipment;

(b) Using a uniform schedule of estimated weights;

(c) Adding a uniform net addition on sales made in the primary market;

9. Refusing to ship to East Coast and Gulf points on any basis other than a C. I. F. basis with uniform net additions to the ocean freight rate.

It is further ordered, That nothing contained herein shall be deemed to affect lawful relations, including purchase and sale contracts or transactions, among the several respondents, or between a respondent and its subsidiaries, or between subsidiaries of a respondent, or be-

tween any one or more of said respondents and any others not parties hereto, and not in unlawful restraint of trade.

It is further ordered, For reasons appearing in the Commission's findings as to the facts in this proceeding, that the amended complaint herein be, and it hereby is, dismissed as to the respondent, Harrison Clark, in his individual capacity, it being understood, however, that said amended complaint is not being dismissed as against the said Harrison Clark as an officer of the respondent, Douglas Fir Plywood Association.

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

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# IN THE MATTER OF

# MARTIN W. PRETORIUS AND MARIE JOYCE DOING BUSINESS AS MARTIN W. PRETORIUS AND AS PRETORIUS APPROVED PRODUCTS

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

Docket 5454. Complaint, Apr. 16, 1948 1-Decision, Oct. 24, 1950

- Where two individuals engaged in the interstate sale and distribution of various foods, drugs, devices, and cosmetics under a plan whereby one of them gave lectures on nutrition in different localities, the first one or two lectures, either free or given at a nominal charge to induce some of the audience to take the later lectures, for which a charge was made and with which there was included a series of booklets purporting to describe the "Pretorius System of Better Nutrition", and designed to create an interest in and induce the purchase of said individuals' products; in advertising their cosmetic products through the mails and by various means—
- (a) Falsely represented that the presence of cholesterin in cosmetics is essential to allow the skin to function normally, that cosmetic creams which contain it cleanse far better than others, that it will prevent face creams from interfering with the function of the skin; and that it is essential in oils and creams applied to the body to prevent interference with normal evaporation; and
- (b) Falsely represented that use of face creams which contain mineral oil may cause cancer, and that cosmetic creams which contain wax seal the pores of the skin and interfere with evaporation; and
- Where said individuals, in advertising their devices "Pretorius Liquifier" and "Pretorius Approved Ultra-Violet Ray Lamp" (formerly known as "New Century Sun Lamp") through circulars, booklets, and otherwise; directly or by implication—
- (a) Falsely represented that the use of said "Liquifier" would eliminate and safeguard against nutritional deficiencies, and make the minerals and vitamins in raw vegetables more readily available, and extract minerals and vitamins not obtained when the vegetables were eaten in solid form; the facts being that while it might to a degree expedite the digestion and assimilation of such products, it had no value in other respects above set out;
- (b) Falsely represented that its said ultra-violet lamp was suitable for use as a sun lamp and to give sun baths, and that use thereof increased resistance to disease, gave increased energy, assured fine teeth or bone structure, cured sterility, stimulated peristalisis, and was of value in the treatment of abscesses, anemia, cancer and numerous other conditions;
- The facts being that said device was not a sun lamp, and resistance to disease which its use would give was limited to rickets in children; and
- (c) Falsely represented that the ultra-violet rays produced by said lamp were essential to the formation of sufficient quantities of vitamin D and would

<sup>&</sup>lt;sup>1</sup> Amended.

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immunize one against colds and other ailments and conditions, and have numerous specified beneficial effects including the averting of the effect of advancing years upon the skin; and

- (d) Falsely represented that sufficient amounts of vitamin D cannot be obtained from foods; that exposure to the rays of their said lamp increased the ability of the body to utilize the minerals for the neutralizing of the body acids, increased the iodine content of the thyroid gland, and assisted in the formation of antitoxins; and made numerous other similar specified false representations; and,
- Where said individuals, in advertising their food and drug products designated as "Pretorius Alfamint Tea", "Alfa-Tabs" (formerly known as "Pretorius Alfamint Tablets" and Alfalfa Tablets"), "Pretorius Concentrated Alfalfa Tablets", "Laminar Tablets", "Celery Tablets" or "Solvettes", "Pretorius Nezets", "Minrich", "Pretorius Concentrated Powdered Vegetables", "Pretorius Vircets", and "Pretorius Vitoloids", and their laxative preparations "Flushettes", "X-Pel" and "Peri-Lator", as aforesaid set forth—
- (a) Falsely represented that the alkalinity of the body could be maintained by a selection of alkaline foods, or use of their mineral preparations, or the two combined, and that the tendency of waste products to accumulate in the tissues and impair circulation, could be overcome, and the acid neutralized, circulation restored, and nutrition improved through use of their mineral preparations;
- (b) Falsely represented that people in general were exposed to dietary deficiencies in vitamins and minerals, due to impoverishment of the soil in said substances, resulting in crops similarly impoverished, and to other factors, including methods of processing and cooking, and that use of their preparations would avert such deficiencies, etc; that the taking thereof was essential to and would assure proper nutrition; and that the more taken, the better the digestion would be;
- (c) Falsely represented that a well nourished body is immune to illness and premature age, and that undernourishment of the tissues is the cause of flu, asthma, high-blood pressure, failing eye sight and other specified ailments;
- (d) Falsely represented that, to a degree, tooth decay, glandular deficiencies, rheumatism and other ailments are due to a lack of vitamins and minerals, and that the long lists of conditions were a result of such deficiencies, and would only be averted by the use of their said preparations; and that statistics showed that 90 percent of all people were anemic or on the verge of anemia, and that such conditions and many others specified could be cured by taking their "Vitoloids," which would also benefit cold hands and feet as well as diabetes;
- (e) Falsely represented that headaches, lowered resistance, chronic ailments, lassitude and other specified ailments were due to constipation and would be averted or relieved by the use of their laxative preparations "Flushettes", "X-Pel" and "F-ri-Lator";
- (f) Falsely represented that their "Laminar" was of value in averting cavities in the teeth and falling hair;
- (g) Falsely represented that their "Nezets" and "Virvets" were of value in the treatment of, and, in connection with their other recommended procedures,

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constituted competent and adequate treatment for abscesses, anemia, acidosis, weak heart, pyorrhea cavities in the teeth and numerous other specified ailments and conditions;

- (h) Falsely represented that their "Alfamint Tea", "Concentrated Powdered Vegetables", "Flushettes", and "X-Pel" were of value in the treatment of, and, in connection with their other recommended procedures, constituted competent treatment for a similar long enumeration of ailments;
- (i) Falsely represented that aches and pains, lassitude, premature age, impaired ability to work, dull hair and eyes, and bad complexion were due to impaired circulation caused by accumulation of acid wastes in the system, which would be remedied and numerous other benefits be brought about by following their "Three Day Pep-Up Plan";
- (j) Falsely represented that the alkaline minerals build greater resistance to disease, help avert tooth cavities, and have various other beneficial results, and that lack of minerals results in rickets, muscular soreness, over and underweight, etc.
- (k) Falsely represented that wastes in the body tissues would interfere with the flow of blood, and accumulate as a result of sluggish elimination through the lungs and other organs, which conditions their mineral preparations would overcome, and thus cure bad breath, coughs, lassitude, headaches, and sour stomach, and avert pneumonia and tuberculosis;
- (1) Falsely represented that nutritional anemia will develop as a result of insufficient copper or manganese, that the formation of hemoglobin in the blood is dependent upon the presence of chlorophyll in food, that obesity due to thyroid deficiency will be corrected by taking iodine and copper, and that large amounts of mineral foods are necessary in order to gain weight;
- (m) Falsely represented that many skin disorders are caused by sluggish bowel activity, that constipation, stomach, lung, kidney and glandular disorders are frequent causes of dry skin, that oily skin is due to an accumulation of acid wastes in the skin, and that enlarged pores, blackheads, and acne are results of accumulated wastes and will be benefited by artificially induced defecation;
- (n) Falsely represented that there is a condition of sluggish liver, and that minerals in the diet would render saliva alkaline and protect against dental cavities:
- (o) Falsely represented that menstrual disturbances would be averted and the menopause postponed by the good blood which their preparations would provide, and that the use of the products included in their "Pep-up diet", namely, "Alfamint Tea", "Flushetts", "X-Pel" and "Powdered Vegetables", would diminish the uncomfortable symptoms of the menopause; and
- (*p*) Falsely represented that vitamin D deficiency caused loss of teeth, nervousness, overweight, underweight, anemia and lack of vigor and verve, and that infections were due to poor blood;
- With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and thereby into the purchase of substantial quantities of their said products:
- Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce.

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- In said proceeding, while the complaint alleged that respondents had disseminated other false advertisements with reference to their cosmetic products, it appeared that the representations in question which dealt with the presence or absence of certain ingredients in the preparations were inadvertently made, and were discontinued upon discovering the error; and the Commission, under such circumstances, was of the opinion that the public interest did not require corrective action with respect thereto.
- While the complaint in said proceeding, as respects respondents' violet ray lamp, charged respondents with the dissemination of false advertisements, in that the advertisements failed to reveal certain facts material under the circumstances concerning their said lamp, or the consequence which might result from its use under prescribed or usual conditions, the Commission found that said charge had not been sustained.
- While the complaint also alleged that certain other representations by the respondents were false, misleading and deceptive, and respondents, who were not represented by counsel, during the hearings admitted said allegations by a stipulation read into the record; the Commission, after considering the entire advertisements in which the representation appeared, was of the opinion that they dealt for the most part with expressions of opinion by the respondents, and had only a remote connection, if any, with the sale and distribution of their products; and that, therefore, corrective action with respect thereto was not warranted.

Before Mr. Earl J. Kolb, trial examiner.Mr. R. P. Bellinger for the Commission.Mr. E. B. Simmons, of San Antonio, Tex., for respondents.

# AMENDED 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 Martin W. Pretorius and Marie Joyce, copartners, doing business in the name of Martin W. Pretorius and as Pretorius Approved Products, 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 amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Martin W. Pretorius and Marie Joyce, are copartners doing business in the name of Martin W. Pretorius and as Pretorius Approved Products. Respondents' office and principal place of business is located at 1115 South Glendale Avenue, Glendale, Calif. One or the other, or both of said respondents, have in the past traded and done business under the name New Century Foods, Inc.

PAR. 2. Respondents are now, and have been for more than 2 years last past, engaged in the business of selling various "cosmetics" as "cosmetics" is defined in the Federal Trade Commission Act.

The designations used by respondents for the said cosmetics are :

Pretorius Cleansing Cream.

Pretorius Hand Cream.

Pretorius Lubricating Cream.

Pretorius Skin Freshener.

Pretorius Lip Stick.

Pretorius Rouge.

Pretorius Dermol.

Respondents cause the said cosmetics, when sold, to be transported from their place of business in the State of California 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 their said cosmetics 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, subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning their said cosmetics 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 their purchase, including, but not limited to, certain circulars entitled "Pretorius Approved Products Shopping List," "Martin Pretorius Now Presents," "The Pretorius System of Better Nutrition News," Vol. I, No. 11, and respondents have disseminated and caused the dissemination of advertisements, including, but not limited to, the circulars referred to above, by various means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said cosmetics in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among the statements and representations contained in the said advertisements and specifically in, but not limited to, the three circulars referred to in the preceding paragraph, disseminated as aforesaid with respect to said products are the following:

Martin Pretorius Cholesterinized Cosmetics. These cosmetics are made from edible natural fruit and nut oils, such as grape seed, apricot, soy-bean, walnut, sesame seed, peanut, almond, and avocado.

They do not contain a particle of bees-wax, paraffin, mineral oil, petroleum or coal oil products. No fish or animal body waxes, fats or oils \* \* \*.

Beauty Creams containing only edible natural fruit, nut, vegetable and seed oils.

These creams do not contain a particle of bees-wax, paraffin, mineral oil, petroleum or coal oil products, no fish or animal body waxes, fats or oils, and NO water.

All these oils and creams are cholesterinized so they will not interfere with normal evaporation from the skin.

The use of lipstick, rouge, foundation or make-up base, etc., made largely or entirely with bees-wax paraffin, mineral oil etc., is naturally unwise.

Remember—creams without cholesterin in them may interfere with the normal functioning of the skin.

Skin Freshener — — Made with extracts of lemon and apple juice, buttermilk, plus boric acid and other ingredients combined to form a neutral solvent. It contains no alcohol.

Lip-Stick — — — Made with cocoa butter, castor oil, and olive oils and pure certified vegetable colors.

Lip-Stick and Rouge—as well as creams—made largely with mineral oil, paraffin and other insoluble waxes tend to form a seal on the lip and skin surface which may interfere with the normal functioning of the tissues.

Rouge - - Made with the same oils as the lip-stick.

Lubricating Cream — — — Made of — — — Almond, peanut oils.

Cholesterin is added to give the oil (Dermol) a chemically similar property to the oil secreted by the human skin, that is it will not interfere with normal evaporation from the skin.

PAR. 5. Through the use of the advertisements containing the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents have represented. directly and by implication, that all of the said cosmetics are made exclusively from edible fruit, nut, seed, and vegetable oils; that none of them contain bees-wax, paraffin, mineral oil, petroleum products, fish or animal oils, or water; that the presence of cholesterin in cosmetics is essential to allow the skin to function normally; that the presence of a substantial amount of bees-wax, paraffin, mineral oil, fish or animal fats or oils renders them harmful or undesirable; that the "Skin freshener" is made of lemon and apple juice extracts, buttermilk and other ingredients, is a neutral solvent and contains no alcohol: that the "lip-stick" and "rouge" are composed solely of cocoa butter, olive and castor oils and color; that the "lubricating cream" contains almond and peanut oils; that only cholesterin will prevent face creams from interfering with the functioning of the skin, and that its presence is essential in oils and creams applied to the body to prevent interference with normal evaporation.

PAR. 6. The said advertisements 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 "Dermol"

contains both butoben and phenazine which are synthetic preserv-The "cleansing creams" also contain both butoben and atives. phenazine. The "hand cream" contains both butoben and phenazine. and also triethanolamine, an alkaline chemical, amaranth, a coal-tar derivative, petrolatum, a petroleum product, and water. The "lipstick" contains in addition to castor oil and color, ozokerite, a paraffine product, bees-wax, an animal product, spermaceti, an animal product. lanolin, an animal product, sesame oil, and cetyl alcohol, and does not contain olive oil. The "rouge" contains no olive oil, cocoa butter or castor oil, but does contain lanolin, petroleum, spermaceti, cetyl alcohol, and ozokerite. The "skin-freshener" does not contain extract of lemon juice, extract of apple juice, or buttermilk, but does contain both alcohol and water and is not neutral but acid. The "lubricating cream" contains both butoben and phenazine and does not contain either almond oil or peanut oil. Cholesterin and like ingredients are not necessary to prevent face creams or body oils from interfering with skin function. The fact that bees-wax paraffin, mineral oil products and coal tar derivatives are used in cosmetic preparations does not, without more, render them objectionable or their use unwise. Under the ordinary conditions of use, body oils, such as "Dermol" will not interfere with normal evaporation from the skin, even if they do not contain cholesterin or an equivalent product.

PAR. 7. Respondents are now, and have been for more than 2 years last past, engaged in the business of selling various devices, as "device" is defined in the Federal Trade Commission Act.

The designations used by the respondents for the said devices are: Pretorius Liquifier.

New Century Sun Lamp.

Respondents cause the said devices, when sold, to be transported from their place of business in the State of California 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 their said devices in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 8. In the course and conduct of their business, respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning their said devices 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 their purchase.

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including, but not limited to, certain circulars entitled: "Drink Your Minerals and Vitamins," "Makes Juice Extracting Obsolete," "Light Your Way to Health" and "Pretorius Approved New Century Ultra-Violet Ray Lamp," and certain booklets entitled "The Pretorius System of Better Nutrition," "Sun Bathing for Vigor and Beauty," "Why Have Indigestion?" and "Natures Solution to 101 Body Disorders," and respondents have disseminated and caused the dissemination of advertisements, including but not limited to the circulars and booklets referred to above, by various means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. Among the statements and representations contained in the advertisements referred to in paragraph 8, and specifically in, but not limited to the circulars entitled "Drink Your Minerals and Vitamins" and "Make Juice Extracting Obsolete" and the booklet "Natures Solution to 101 Body Disorders" with respect to the said "Pretorius Liquifier" are the following:

With this liquifier in the house no nutritional deficiencies will ever exist. It safeguards one against such deficiencies .

This liquifier makes the elements such people (sick and malnourished) need available no matter how impaired their digestive systems.

It makes available minerals or vitamins in the most assimable form.

It helps one to quickly regenerate sick parts of the body by supplying the elements needed in the most assimable form.

It helps prevent nutritional deficiencies.

Boils — — — Parsley, endive, lettuce and beet leaves in juice or liquid forms should be used liberally.

PAR. 10. Through the use of the advertisements containing the statements and representations set forth in paragraph 9 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the use of this device will eliminate nutritional deficiencies and absolutely insure the user against them; that certain food elements in raw vegetables will not be extracted by the processes of an "impaired" digestive system when the vegetables are eaten in solid form, but will be extracted if the vegetables are eaten in the form to which they are reduced by this liquefier; that the vitamins and minerals in raw vegetables are rendered more assimilable by being liquefied; that the liquefication of raw vegetables will help avert nutritional deficiencies and that raw vegetables which have been "liquefied" possess nutritional, preventive and therapeutic powers in excess of those possessed by the same vegetable in other forms.

PAR. 11. The advertisements referred to in paragraph 9 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, nutritional deficiencies arise from many causes other than an inadequate supply of raw vegetables, and such deficiencies as might arise from this cause are averted by eating the required raw vegetables regardless of whether they are eaten as a sort of puree, or liquid or otherwise. The grinding of raw vegetables by respondent's device will not avert or insure against nutritional deficiencies due to lack of raw vegetables or any other cause. Regardless of the form in which they are ingested, raw vegetables will be digested and assimilated by the individual system to the same extent and degree; their reduction to a liquid or puree may to a degree expedite their digestion and assimilation but will not result in better or more complete or effective digestion or assimilation. No more vitamins and minerals will be assimilated from liquefied raw vegetables than from raw vegetables in other forms. The liquefaction of raw vegetables will in no way contribute to the averting of nutritional deficiencies, nor will it enhance the nutritional. preventive or therapeutic properties of the vegetables themselves.

PAR. 12. Among the statements and representations contained in the advertisements referred to in paragraph 8, and specifically in, but not limited to, the circulars "Light Your Way to Health," "The Pretorius System of Better Nutrition," "Pretorius Approved New Century Ultra-Violet Lamp," and the booklets "Sun Bathing for Vigor and Beauty," "Natures Solution to 101 Body Disorders" and "Why Have Indigestion?" with respect to the said "New Century Sun Lamp" are the following:

New Century Sun Lamp.

In the book just mentioned I show you how to get all the benefits of a daily sun bath in four minutes in your home \* \* \*.

\* \* \* Ultra-Violet rays either directly from sunshine or through the use of an ultra-violet lamp in your home.

Ultra-Violet radiation has long been recognized as a controllable activator of resistance-building Vitamin D.

Sun-baths with a cold quartz home lamp.

Ultra-Violet rays exert a powerful germicidal effect on skin infections.

Most minor skin infections respond quickly to its germ-killing effects.

Ultra-Violet rays increase the body resistance to disease.

Ultra-Violet rays increase the oxygen carrying capacity of the blood toward normal and so give fresh energy.

Ultra-Violet rays increase the absorption of calcium toward normal by forming vitamin D resulting in fine teeth and bone structure.

Ultra-Violet rays promote an alkaline condition of the body.

Ultra-Violet rays soothe the nerve endings thus relieving pain.

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No person can utilize sufficient calcium, phosphorus, iron and iodine without Vitamin D which is formed in the skin as result of exposure to the sun or ultraviolet rays from a lamp.

No one can afford to deprive himself of the benefits of a daily ultra-violet exposure when such exposure builds immunity to colds, flu, pneumonia, and TB. Gives one more energy and vigor through increasing oxidation. Helps preserve one's teeth. May prevent one from bleeding to death after an accident.

Stabilizes the nervous system—prevents nervousness and restlessness. Induces sound restful sleep at night. Makes children grow normally. Stimulates glandular function. Keeps the skin young and helps prevent skin diseases such as eczema, acne and psoriasis. Keeps the hair and nails healthy.

All the benefits which might come to you through the careful selection and preparation of natural foods are lost unless you also have a daily ration of ultra-violet days—by sunbathing in the sun or through the use of an ultra-violet lamp.

Sunlight increases your body's ability to assimilate .and use the alkaline minerals for neutralizing body acid.

Glands-weight affected by sunlight-sunlight increases the iodine in the thyroid gland.

One of the best aids to the body in forming antitoxins is sunlight.

Wounds will frequently heal very much faster if exposed to sunlight.

Burns treated with ultra-violet rays will not only heal faster but with less scar tissue.

Obesity-certain forms of obesity are aided by sunlight.

Sterility—Many childless homes have been blessed with a child due to improved health from sunbathing.

Increased muscular tone — — — when exposed to the ultra-violet rays of the sun.

Sunlight seems to stimulate peristalsis.

Sunbathing has a stimulating effect on the brain.

When properly fed and sunbathed the skin becomes a velvety, firm, healthy colored tissue usually free from anything in the nature of pimples, acne or other surface disfigurement — — —.

Yes, sunlight is a skin food. It hastens the growth of new clean tissue.

A total exclusion of sunlight induces the severer forms of anemia — — —. Of course you can get vitamin D from fish oils.

- - - sunlight - - - one cannot have good blood without it.

Ultra-Violet rays is a specific in respiratory disorders including hay fever.

PAR. 13. Through the use of the advertisements containing the statements and representations set forth in paragraph 12, and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the rays emitted by the said lamp are the same as those of the sun; that the lamp is a sun lamp and can be used to give sun baths; that by the use of the lamp resistance to disease will be increased; that the lamp's rays have a powerful germicidal effect on skin infections, to which most minor skin infections respond quickly; that the use of the lamp will give increased energy and vigor; that by the use of the lamp one will be

assured of fine teeth and bone structure; that the use of the lamp will promote an alkaline condition of the body; that the lamp rays relieve pain by soothing nerve endings; the sun or ultra-violet bathing are essential to the formation of sufficient quantities of vitamin D, and that vitamin D is essential to the systemic utilization of calcium. phosphorus, iodine, and iron; that daily exposure to ultra-violet light will immunize against colds, flu, pneumonia and tuberculosis, preserve the teeth, prevent excessive bleeding, "stabilize" the nervous system, prevent nervousness and restlessness, induce sound sleep, make children grow normally, stimulate glandular function, aver the effects of advancing years upon the skin, avert skin ailments such as acne, eczema, and psoriasis and keep the hair and nails healthy: that an adequate diet must be supplemented with exposure to ultra-violet light; that either sunlight or ultra-violet light will increase the ability of the body to utilize minerals for the neutralization of body acids: that either sunlight or ultra-violet light increases the weight of the glands and the iodine content of the thyroid gland; that either sunlight or ultra-violet light assists the formation of anti-toxins in the body: that exposure to ultra-violet rays is beneficial to the healing of wounds and burns, to arthritis, to sinusitis, to asthma, to certain types of obesity and to muscular pain, will cure sterility, stimulate peristalsis, stimulate the brain, and when used in connection with proper nutrition, assure a velvety skin free from pimples, acne, and other surface blemishes, that sunlight is a skin food and promotes the growth of new, clean tissues; that total lack of sunlight causes the severer forms of anemia; that fish oils are the only food source of vitamin D; that one cannot have good blood without sunlight, and that ultra-violet ray is a specific for hay fever and all other respiratory disorders.

PAR. 14. The advertisements referred to in Paragraph 12 are misleading in material respects, and constitute "false advertisements" as that term is described in the Federal Trade Commission Act. In truth and in fact, the said lamp emits some rays which sunlight does not contain and does not emit certain other rays which are contained in sunlight; it is not a sun lamp, and baths given by this lamp are not sun baths. The resistance to disease which the use of the lamp will give is limited to resistance to rickets in children. The germicidal effects of the lamp's rays are limited to germs on the surface, and in skin infections the germs are so hidden by the tissue that the rays do not reach them; the response of even slight skin infections to ultra-violet rays is very erratic, and many do not respond at all. The use of the lamp will not give the user increased energy and vigor.

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Lamp users are not assured of having fine teeth or bone structure. The rays emitted from the lamp have no effect upon the acidity or alkalinity of the body; they neither soothe nerve ends nor relieve pain. The body obtains vitamin D from many sources other than exposure to sunlight or ultra-violet ray lamps, and such exposure is not essential to the obtaining of adequate amounts thereof; vitamin D has no part in the utilization of either iron or iodine. Daily exposure to ultra-violet light will not immunize one against colds, influenza, pneumonia or tuberculosis, preserve the teeth, prevent excessive bleeding, "stabilize" the nervous system, prevent nervousness or restlessness or induce sound sleep. Normal growth in children is not dependent solely upon vitamin D or ultra-violet rays, and many causes of abnormal growth are wholly unaffected by the use of ultra-violet light. Daily exposure to ultra-violet light will not stimulate glandular functions, avert the effect of advancing years upon the skin, avert skin ailments such as acne, psoriasis, and exzema, or keep the hair or nails healthy. Unless a diet is deficient in vitamin D, no dietary . benefit will be gained from exposure to ultra-violet light. Neither exposure to sunlight nor to ultra-violet light increases the ability of the body to utilize minerals for the "neutralization of body acids," increases the weight of the glands or the iodine content of the thyroid gland. Neither sunlight nor ultra-violet light assists the body in the formation of anti-toxins. Neither wounds nor burns are benefited by exposure to ultra-violet rays, nor is asthma, sinusitis, nor arthritis nor obesity of any type, nor muscular tone; it will not cure sterility, stimulate peristalsis, stimulate the brain, nor assure, in connection with proper nutrition, a velvety skin nor one free from pimples, acne, or the like. Neither sunlight nor ultra-violet light is a skin food. nor will either promote the growth of new tissue. Lack of sunlight does not cause anemia. Vitamin D is obtained from many food sources besides fish oils. Exposure to sunlight is not essential to "good blood." Ultra-violet rays are not a specific for hav fever or any other respiratory ailment.

PAR. 15. In addition, respondents through the use of various statements and claims in the said advertisements referred to in paragraph 12 and specifically in, and not limited to, the booklet "Natures Solution to 101 Body Disorders," have represented, directly and by implication that the said "sun lamp" is of value in the treatment of abscesses, acidosis, anemia, arthritis, asthma, boils, bronchitis, cancer of the skin, catarrh, cavities of the teeth, colds, falling hair, all heart ailments, hypo-thyroid, lumbago, nervousness, neuritis, neuralgia, poor appetite, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema,

psoriasis, tonsillitis, tuberculosis, tumors, and varicose veins, and in averting colds and hemorrhages.

PAR. 16. The said advertisements referred to in paragraph 15 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 the said sun lamp is of no value in the treatment of any of the ailments and conditions referred to in paragraph 15, or in averting colds or hemorrhages.

PAR. 17. The said advertisements referred to in paragraph 15 with respect to the said lamp are further misleading in material respects, and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act for the reason that they fail to reveal facts material in the light of the representations made concerning said lamp, or material with respect to the consequences which may result from the use of the said lamp under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact, the rays emitted by the said lamp are dangerous to the eyes unless they are properly protected, and are dangerous when applied to persons afflicted with pellagra, lupus erythematosis, or certain forms of eczema.

PAR. 18. Respondents are now and have been for more than 2 years last past, engaged in the business of selling various food and drugs as "food" and "drug" are defined in the Federal Trade Commission Act.

The designations used by respondents for the said products, and their formulas and directions for use thereof are as follows:

Designation: "Pretorius Alfamint Tea"

Formula: 75% dehydrated alfalfa leaves, and 25% dehydrated pepperment or spearmint leaves, finely ground, and sprayed with either oil of peppermint or oil of spearmint.

Direction: As a beverage.

Designation : "Pretorius Alfamint Tablets"

Formula: 75% dehydrated alfalfa leaves and 25% dehydrated peppermint or spearmint leaves, finely ground and sprayed with either oil of peppermint or oil of spearmint and held together with glucose. 8 grain tablets. Direction: Six tablets 3 times a day.

Designation: "Pretorius Concentrated Alfalfa Tablets" Formula: Dehydrated and pulverized alfalfa. 9 grain tablets. Direction: Six tablets 3 times a day with meals.

Designation: "Laminar Tablets"

Formula: Pacific Kelp, celery stalk, leaves and seeds, and kale. Dried, pulverized and bound with glucose. 8 grain tablets.

Direction: Six tablets 3 times a day.

Designation: "Pretorius X-Pel" and "Peri-Lator"

Formula: Inactive ingredient, Karaya Gum, 97%; active ingredient Cas. cara Sagrada, 3%.

Direction: Teaspoon full on arising and on retiring, followed by 2 glasses of liquid.

Designation: "Pretorius Virvets"

Formula: Dehydrated and tableted young wheat, oat, barley and rye shoots. 1/2 gram tablets. Twenty tablets contain:

5,000 USP Units		Vitamin A
.09 Mg.	(a)	Vitamin B–1
.25 Mg.		Vitamin B-2
.75 Mg.		Nicotinie Acid
.10 Mg.		Vitamin B-1 (Pyridoxine)
35.00 Mg.		Vitamin C
1.00 Mg.		Vitamin E
1.50 Mg.		Vitamin K

Direction: 5 to 20 tablets twice daily.

Designation: "Pretorius Vitoloids"

Formula: Organic Food iron from iron tartrate, sodium copper chlorophyl, molasses and yeast. 5 grain tablets.

Direction: One tablet daily for 10 Mg. of iron, the minimum daily requirement. Three tablets daily for blood iron deficiency.

Designation: "Celery Tablets" and "Solvettes."

Formula: Celery leaves, stalks and seeds, powdered and held with glucose. 8 grain tablets.

Direction: Six tablets 3 times a day.

Designation: "Pretorius Flushettes."

Formula: TV Senna leaves, Buckthorn Bark, Licorice Root, as active ingredients. 8 grain tablets.

Directions: Adults, 1 to 4 on retiring, children 1 to 2.

Designation: "Pretorius Nezets."

Formula: Bone flour, kelp, iron tartrate and sodium copper chlorophyl. Twelve tablets contain:

Calcium	2,435	Mg.
Phosphorus	1,165	Mg.
Iron	36. 9	Mg.
Iodine	6.76	Mg.
Copper	4.57	Mg.
Manganese	66.1	Mg.
Magnesium	85.9	Mg.
Sulphur	15.8	Mg.
Chlorine	108.8	Mg.
Sodium	100.4	Mg.
Potassium	182.8	Mg.
Fluorine	. 43	Mg.
ations: 6 to 19 daily		

Directions: 6 to 12 daily.

Designation : "Minrich."

Formula : Dehydrated and powdered.

	Onion	- 21.47%
	Salt	_ 11. 77
	Celery	9.35
	Spinach	4.20
	Carrot	3. 73
	Garlie	18
	Sodium Glutemate	18
	Tomato	19.60
	Barley	10.50
	Pimento	- 9.35
	Pumpkin	- 4.02
	Lettuce	.93
5.11	Fo each 100 pounds of powder an added 500 grams of :	
The second	Phosphoric acid	_ 36.00%
	Potash bicarbonate	- 4.16
	Sodium bicarbonate	56
	Iron oxide	- 2.26
Sept. His	Sulphur	57
	Fluorine	
	Calcium phosphate	- 41.26
	Lime carbonate	
	Aluminum	_ 3.45
	Manganese dioxide	05
ett. 196 12	Epsom salt	- 1.10
	Traces of iodine, copper, zinc, chromium, vanadium,	silicon.

Directions: As a broth or sprinkle. Designation: "Pretorius Concentrated Powdered Vegetables" Formula: Dehydrated and powdered

Tomato	Potato
Pimento	Celery
Okra	Parsley
Watercress	Beet leaves
Turnip leaves	Endive
Kale	Salt
Sodium Glutemate	

Directions: As a soup, spread or seasoning.

Respondents cause the said food and drugs to be transported from their place of business in the State of California 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 their said foods and drugs in commerce between and among the various States of the United States and the District of Columbia.

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PAR. 19. In the course and conduct of their business, respondents, subsequent to March 21, 1938, have disseminated and caused the dissemination of certain advertisements concerning their said food and drugs by the United States mail 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 their purchase, including, but not limited to certain circulars entitled "Set Your Sails," "Makes Juice Extracting Obsolete," "Food Chart," "Does Health Depend on Luck ?," "Good Health is Not an Accident," "Seek Health in Your Food," "Pretorius Approved Products Shopping List," "Pretorius Improve Your Health System Food Chart," "Pretorius System Better Nutrition News," Vol. I, No. 11 and Vol. 1, No. 10: and certain booklets entitled "Balanced Meals," "Better Health," "How to Get More Vitality from Food," "Why Have Indigestion," "Sun Bathing for Vigor and Beauty," "Eat Right to Feel Right," "Nature's Solution to 101 Body Disorders," "Balance Your Meals," "The Secret of Complete Elimination," "Good Circulation," "Better Digestion," "The Spark Plug to Energy," "Streamline Your Body," "How to Gain Weight," "Feminine Attractiveness," "The Pretorius 3 Day Pep-Up Plan," "Three Day Pep-Up Diet" and "Three Day Pep-Up Regimen" and respondents have disseminated and caused the dissemination of advertisements including, but not limited to, the circulars and booklets referred to above, by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said foods and drugs in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 20. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the circulars, "Seek Health in Your Food," "Set Your Sails," "Good Health is Not an Accident," "Does Health Depend on Luck?," and "Better Nutrition News," Vol. 1, No. 10, and the booklets "Secret of Complete Elimination," "Three Day Pep-Up Regimen," "Streamline Your Body," "Balanced Meals" and "3 Day Pep-Up Diet," with respect to respondents' mineral preparations, Alfamint, Laminar, Nezets, Celery Tablets, Solvettes, Min-Rich, Powdered Vegetables, Vegetable Broth and Alfalfa tablets are the following:

By taking the highly alkaline beverage "Alfamint" \* \* \* you supply the body with the alkalis needed to neutralize some of the injurious acids. In this way the kidneys are relieved of handling excessive acids which might injure them and bring on those swollen ankles so common among middle aged people.

\* \* \* one of the most tasty-and at the same time-alkalinizing beverages.

The Alfamint Tea suggested not only helps to increase the alkalinity of your blood.

By making a highly alkaline tea from Alfamint and drinking two to six cups a day, you will be introducing into your system \* \* \* large amounts of organic alkalis which will help neutralize those vitality robbing Fatigue acids.

\* \* \* Alfamint Tea to give you \* \* \* mineral wealth.

By including Alfamint in your diet you can be surer of getting a good supply of the Alkaline minerals \* \* \*.

Alfamint Tea or Tablets, therefore, add many needed Alkaline Minerals to the diet.

Dehydrated celery \* \* \* rich in the valuable minerals of California grown celery.

Celery Tablets \* \* \* Take with you on that trip you're planning.

Celery Tablets \* \* \* Pulverized to make the minerals easily available.

Laminar Tablets \* \* \* Rich in minerals especially Iodine.

Let Laminar Tablets supplement your diet with extra minerals.

There's a wealth of health in the minerals of the sea \* \* \* Enrich your diet—add to its mineral nutriment by eating Laminar tablets daily.

Solvettes, \* \* \* In Solvettes you get this dehydrated, pulverized fullness of celery's mineral values.

\* \* \* Minrich \* \* \* a good source of all the minerals often lacking in the average diet.

Start balancing your meals and supplement them with Alfamint and Minrich \* \* \*.

Pretorius Approved Vegetable Broth has an alkaline reaction in the body. One of the reasons why it is recommended by Martin W. Pretorius,

Alkaline Alfalfa leaves \* \* \* make available to the body large amounts of alkaline minerals.

Our diets must therefore include food minerals \* \* \* as they are found in \* \* \* Nezets.

 $P_{AR}$ . 21. Through the use of the advertisements containing the statements and representations set forth in paragraph 20, and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the alkalinity of the human body will be preserved only by a conscious selection of "alkaline" foods, by the use of their mineral preparations which are valuable for this purpose, or the two combined.

PAR. 22. The advertisements referred to in paragraph 20 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, the human physiology is such that the system preserves its alkalinity with great tenacity and is very little affected by food; it is almost impossible for the normal alkaline reaction of the blood or body to be changed toward acidity except when the diet is very largely composed of fats or when there is some abnormal and powerful motivating cause. The habitual use, or any use, of respondents' said products for the purpose of preserving the alkalinity of the blood or body is wholly unnecessary and will confer no benefit on the user.

PAR. 23. Among the statements and claims contained in the advertisements referred to in paragraph 19, and specifically in, but restricted to, the booklets entitled "3 Day Pep-Up Plan," "Eat Right to Feel Right," "Balance Your Meals" and "The Secret of Complete Elimination" with respect to respondents' mineral preparations are the following:

Congestion, i. e.: the accumulation of wastes in your tissues, slows up the flow of blood through the congested part.

\* \* \* rid the body of accumulated wastes that congest the tissues, organs and glands \* \* \*.

The wastes that must be disposed of \* \* \* are produced,

(a) By the production of energy in our muscles through oxidation.

(b) By the constant wasting away of the tissues which leaves dead cells. When tissues, organs or glands become congested with waste products, the blood cannot flow normally through them to deliver the nourishing substances they need.

Alkaline minerals neutralize the destructive acids found in the body.

Acidosis \* \* \* is due to a lack of alkaline minerals in the blood stream or the accumulation of acid wastes due to improper elimination.

The Alkaline minerals \* \* \* help prevent Acidosis by neutralizing the destructive acids found in the body.

\* \* \* we have to supply the body with extra alkaline minerals to help dispose of the accumulated fatigue acids.

PAR. 24. Through the use of the advertisements containing the statements and representations set forth in paragraph 23 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the body is continually creating waste products as a result of muscular activity and degeneration of the body cells; that these waste products are acid; that they tend to accumulate in the body tissues over long periods and "congest" them; that this impairs the circulation to one's detriment; that by eating alkaline minerals "congestion" will be averted or remedied by neutralization of those acids, circulation restored and nutrition improved or maintained; that respondents' mineral preparations are essential to, and will, accomplish these results and that lack of minerals in the blood stream is a cause of acidosis.

PAR. 25. The advertisements referred to in paragraph 23 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, the expenditure of muscular energy and the metabolism of glucose incident thereto involves the formation of certain acids which are, however, immediately neutralized to salts of acids by the sodium and potassium in the blood stream. Sodium and potassium

dietary deficiencies are to all intents and purposes nonexistent. The so-called "acid wastes" are not acid as opposed to alkaline. The normal metabolic and eliminative processes break down and get rid of these wastes as they are formed unless the expenditure of energy generates them faster than the metabolic processes of oxidation and reduction will break them down. In this event, they accumulate, and such accumulation or, as respondents say, "congestion," is a normal part of the human physiology. Such an accumulation does not cause any slowing of circulation. The body's normal metabolic processes break down these accumulations by oxidation and reduction during periods of rest or reduced energy output with great rapidity. The elimination of these "acid wastes" will not be helped or hastened by consuming mineral pills unless they contain sodium or potassium and then only in the extremely remote event that the person is deficient in these elements; getting rid of the "wastes" as they exist in the body is not a matter of neutralizing them with alkaline minerals. If the physiological processes are normal there will be no accumulation of "acid wastes" for other than short periods. The body does not have the problem of the disposition of "dead cells." The process of protein degradation in the cells results in the formation of both acids and alkalis. The acids are in part neutralized by the simultaneously produced alkalis, and the remainder by the sodium and potassium in the blood stream. The body excreta are acid, as the body saves and neutralizes the alkalis, and the blood stream remains alkaline so long as life persists. Acidosis is not a result of lack of minerals in the blood stream but of an upset in the body's metabolic processes. Respondents' products are of no value in clearing up the so-called "acid wastes" nor in restoring circulation to "congested" areas nor in getting rid either of "dead cells" nor the debris of protein degradation in the cells.

PAR. 26. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the circulars "Seek Health in Your Foods," "Makes Juice Extracting Obsolete," "Better Nutrition News," Vol. 1, No. 11, and "Food Chart," and the booklets "Better Health," "Balanced Meals," "How to Get More Vitality from Food," "Why Have Indigestion," "Eat Right to Feel Right," "How to Gain Weight," "3-Day Pep-Up Diet," and "Better Digestion" with respect to respondents' mineral and vitamin preparations, "Alfamint, Laminar, Virvets, Vitoloids, Celery Tablets, Solvettes, Nezets, Min-Rich, Powdered Vegetables, Alfalfa Tablets, and Vegetable Broth" are the following:

These liquid roods are intended merely to supplement your regular meals with a drink made of certain foods rich in the minerals and vitamins in which most people are deficient.

Balance your meals and add supplementary minerals and vitamins.

\* \* \* the family's income can be completely cut off because she has given him meals that lack certain vital substances. \* \* \*

\* \* \* there are very few minerals in refined foods.

How to preserve your teeth \* \* \* Supply your blood with adequate amounts of calcium by supplementing your meals with extra minerals \* \* \*.

It is suggested therefore that you supplement your diet with these cereal shoots, which are now available in dehydrated tablet form.

Undernourishment of the tissues may leave in its wake a costly, life-wrecking list of ailments \* \* \*. These are but a few of the effects which may come from, or be greatly aggravated by malnutrition. Most of them can be avoided by carrying out the suggestions which follow when selecting your foods, in addition to the *Complete* Pretorius "Improve-Your-Health" Program \* \* \*.

Supplementary feeding. Even our best foods do not always supply us with adequate amounts of all vitamins and minerals, \* \* \*. This leaves us no alternative but to supplement our diet of natural foods with extra vitamin and mineral concentrates in the most natural form we can get them.

Because so many of our foods-

(a) Are grown on poor or worn out soils that have not been properly mineralized.

(b) Are picked green before a normal amount of vitamins and minerals are stored in them.

(c) Are picked or harvested too long before they are eaten.

(d) Are cooked in such a way as to destroy some of the vitamins and minerals.

(e) Are from animals that have been fed on devitalized foods and are themselves deficient.

it is important that we supplement our meals with EXTRA vitamins and minerals in a natural form.

Now more than ever before it is necessary for everyone to supplement their diets with extra minerals.

Enrich your diet-add to its mineral nutriment by eating Laminar Tablets daily.

Be sure to take your Virvets and Nezets with your meals daily to enrich your diet with food vitamins and minerals.

A deficiency through the loss of minerals and vitamins in your diet may result in any of the following conditions: Constipation, poor digestion, rheumatism, arthritis, neuritis, dry skin, anemia, colds and flu, tiredness, poor teeth, shortness of breath, rickets, cold hands and feet, poor appetite, poor complexion, muscular weakness, irregular heart, impaired vision, nervous disorders, sterility, underweight and goiter.

Due to the fact that many of our foods are old when they reach us and are devitalized in other ways, we *cannot* always depend upon them to supply all our vitamin needs. It is important therefore to make sure that sufficient vitamins are taken daily by supplementing our diet with extra vitamins in as near a natural form as possible.

In order to make good digestive juices it is necessary that the glands be adequately supplied with those mineral salts which play a very active part in the formation of the secretions in the glands \* \* \* it would be wise to supplement your natural food source of minerals by taking six teaspoons of Minrich daily \* \* \* to add minerals \* \* \*.

We cannot depend upon our foods alone to supply our vitamin and mineral needs even if we eat the best natural foods available. Why not? Because even the best Natural foods available are often grown on wornout soils, and days, weeks and sometimes months old before they reach us. Further more often than not they are picked green, treated with chemicals, processed and improperly cooked.

Foods grown on worn-out soils not only do not have sufficient minerals in them, but also do not develop sufficient vitamins. As soon as a food is harvested it begins to lose some of its vitamins and if it is picked green it naturally has not had time to develop all its vitamins. Again, foods made from white flour, sugar, dextrose or other such refined, processed ingredients are practically devoid of minerals and vitamins. When foods are cooked and boiled many of the vitamins and minerals are lost in the cooking water that is discarded and because of the heat they are subjected to while being cooked. Therefore, because of the poor quality of even our best foods, it is imperative that we supplement our diets with extra food minerals and vitamins. Not just one, two, three or four or more of them, but *all* vitamins and minerals and further that they should be harmoniously combined by Nature in food form.

When the same crops are grown on the same soil year after year without fertilizing it, certain elements in the soil become exhausted. Crops grown on such exhausted soils are deficient in certain minerals and cannot properly nourish the body. We can help prevent mineral deficiencies \* \* \* by supplementing our meals with minerals in a form available to the body, i. e.: as they are found in plants.

\* \* \* we cannot always depend upon the ordinary foods we eat to supply all our mineral needs, for so many foods are grown on poorly fertilized soils and so are themselves often deficient in the precious minerals that can do so much for us.

The best thing you can do to help prevent mineral and vitamin deficiencies \* \* \* is to buy all your food at your Natural Food Store and through supplementary feeding to add the minerals and vitamins so often lacking in our foods grown and prepared the conventional way.

The moment a vegetable or fruit is plucked from the soil or tree, it begins to disintegrate.

Many of the essential nourishing substances in our foods are destroyed or lost through the devitalizing methods used in manufacturing and preserving them and through destructive methods of cooking.

If the foods she chooses do not furnish the body with all the vital substances upon which good health depends, or prepares the family's food so that certain mineral substances are lost or destroyed in her cooking, she may unknowingly be responsible for the poor health, the lack of pep and vitality, the loss of teeth and eyesight and many other disorders that exist in her family.

Very few women realize the precious vitamins and minerals, so vital to the well being of members of their families, may be lost during the preparation of food in their kitchens.

Anything you can do therefore to enrich your diet with the minerals and vitamins to improve circulation to the glands should improve your digestion.

PAR. 27. Through the use of the advertisements containing the statements and representations set forth in paragraph 26, and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that people in general are exposed to a grave likelihood of deficiencies in vitamins and minerals; that this likelihood is due to impoverishment of the soil in vitamins and minerals, resulting in crops impoverished in the same way, improper harvesting of crops, delay, in their distribution to the ultimate consumer, improper methods of processing foods and improper methods of cookery; that the situation is such as to demand the use of vitamin and mineral supplements to the diet if such deficiencies are to be averted, and that they will be averted by the use of respondents' vitamin and mineral preparations.

PAR. 28. The advertisements referred to in paragraph 26 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, respondents' representations as to the value of their said preparations, predicated upon their exposition of the causes of mineral and vitamin deficiencies, misleading, even if such exposition were true, which is not conceded. Upon the basis of this exposition, the persons to whom the said advertisements are directed have sustained life on a diet deficient in vitamins and minerals for their entire lifetimes or for substantial periods. A deficient diet, over any extended period, would result in vitamin and mineral deficiencies of a degree that would require vitamins and minerals in therapeutic amounts and which would not be benefited by the amounts of certain minerals and vitamins provided by respondents' preparations.

 $P_{AR.}$  29. Through the use of the advertisements containing the statements and representations set forth in paragraph 26, and others similar thereto not specifically set out herein, respondents have further represented, directly and by implication, that a great number of people are exposed to dietary deficiencies in vitamins and minerals and that therefore there is a likelihood that the individual who reads their advertisements is exposed thereto.

PAR. 30. The advertisements referred to in paragraph 26 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, whether a person is exposed to dietary deficiencies in vitamins or minerals is a question of fact in each individual case, the solution of which depends upon many factors such as income, avail-

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ability of foods, place of residence, personal food habits, and others as well. So far as any individual is concerned, the fact that even a large number of other persons which includes persons who differ from him in respect to income, availability of foods, place of residence, food habits or in other respects are exposed to dietary deficiencies, has no bearing at all upon whether the individual in question is also exposed. Such questions are not resolvable by the application of general averages or other generalizations.

PAR. 31. Through the use of the advertisements containing the statements and representations set forth in paragraphs 26, 33, and 39, and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the taking of "mineral and vitamin" dietary supplements is essential to, and will assure the proper nutrition of and benefit all persons, regardless of age or sex, residence, or income, or any other factor, and that the more taken the better the digestion will be.

PAR. 32. The advertisements referred to in paragraphs 26, 33, and 39 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, with the exception of calcium, iodine, iron, and phosphorous, no minimum daily requirements for "minerals" have been established, dietary deficiencies in them are unknown to medical science and there is no reason to doubt that they are included in adequate amounts in any ordinary diet. The same is true of iodine, the lack of which in certain limited localities has been overcome by the general use of iodized salt. The body processes are sparing of iron which they preserve and reutilize; in the absence of excessive bleeding, iron dietary deficiency is unknown, and the need for supplemental iron is limited to women who are of an age to menstruate, who are pregnant or lactating or who are having an abnormal blood loss. The only persons who may require calcium or phosphorous dietary supplements are pregnant or lactating women. There is no general or widespread need for mineral dietary supplements, their use will not assure proper nutrition and they will be beneficial only when a person's diet is insufficient in one or more of the minerals provided by the supplement. The use of vitamin and mineral supplements will not assure proper nutrition in any case.

None of respondents' vitamin preparations taken as directed will supply the user with even minimal daily requirement of all the known vitamins. A super abundance of vitamins and minerals will not result in an improved digestion.

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PAR. 33. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the booklet "Eat Right to Feel Right," with respect to respondents' mineral and vitamin preparations, "Alfamint, Laminar, Virvets, Nezets, Vitoloids, Celery Tablets, Solvettes, Min-Rich, Powdered Vegetables, Vegetable Broth and Alfalfa Tablets" are the following:

Eating Natural foods and obeying Nature's laws insures proper nutrition of every part of the body. A well nourished body does not become sick or age prematurely.

Devitalized foods do not satisfy, and lead to overeating \* \* \*.

Undernourishment of the tissues may leave in its wake a costly, life wrecking list of ailments: Flu, Coughs, Cold, High blood pressure, Constipation, Asthma, Heart Weakness, Acidosis, Sinus infection, Arthritis, Colitis, Fading eyesight, Bone malformations, Neuritis, Rheumatism, Stunted growth, Stomach disorders.

These are but a few of the effects which may come from, or be greatly aggravated by malnutrition.

The longer the time that elapses between the time the vegetable or fruit is picked and the time you eat it, the less energy you will get from it.

Many of the essential substances in our foods such as vitamins and minerals are destroyed or lost through devitalizing methods used in manufacturing or preserving them and through destructive methods of cooking.

There are many manufactured and preserved foods being sold today in spite of their injurious effects upon the health of the people who consume them. For example, \* \* \* Bread made from refined white flour. Crackers made from white flour. Pies made from white flour and refined white sugar. Cake made from white flour, and white sugar. Macaroni made from white flour. Spaghetti made from white flour. Candies made from white sugar, corn syrup and dextrose. Desserts and drinks sweetened with white sugar and dextrose. Fruit canned with white sugar. Fruits dried with sulphur dioxide. Food preserved with chemical preservatives.

All of these foods are deficient in organic minerals and vitamins.

Many conditions such as tooth decay, glandular deficiencies, indigestion, rheumatism, acidosis, anemia, cold hands and feet, poor appetite, and high blood pressure can be traced to a lack of minerals and vitamins in their diets.

Mothers who allow their children to eat ordinary devitalized candies made from devitalized white sugar, dextrose and corn syrup are willfully stunting the growth of their children for such candies are deficient in calcium.

Depiction of rats: One described as not having had enough calcium and with a "short stubby body due to poorly formed bones," a second which "had an abundance of calcium" and whose "bones were well formed," a third which "did not have enough Vitamin B" with consequent "spastic paralysis," whose body is greatly distorted, and another depiction of the third rat restored to normal by Vitamin B accompanied by the statement;

If the lack of just one mineral and one vitamin can have such a disastrous effect upon a rat, just think of the serious effect upon your life and the lives of your family the mineral and vitamin deficient foods you may be serving will have.

\* \* \* devitalized white flour and products made from it were stunting the growth of our children and robbing people of their health and happiness.

\* \* \* using such refined sugars, as well as candy made from them, definitely leads to deficiency, disease.

\* \* \* ruining their children's teeth by giving them candies, desserts, ice cream, etc., made from such devitalized white sugars.

Go over those symptoms carefully \* \* \*

(This is followed by lists of "Vitamin Deficiency Symptoms" and "Mineral Deficiency Symptoms" for Vitamin A, Thiamin, Ascorbic acid, Vitamin D, Riboflavin, Nicotinic acid, Adermin, Vitamin E, and Vitamin K and the minerals Calcium, Chlorine, Cobalt, Copper, Iodine, Iron, Magnesium, Manganese, Phosphorus, Potassium, Sodium, Sulphur, Zinc.)

Now that you know what may happen to you if you eat "devitalized" food, I am sure you are anxious to eat only natural foods with all the vitamins and minerals intact. Even our best natural foods do not always supply us with adequate amounts of all vitamins and minerals \* \* \*. This leaves us no alternative but to supplement our list of natural foods with extra vitamin and mineral concentrates in the most natural form we can get them.

PAR. 34. Through the use of the advertisements containing the statements and representations set forth in paragraph 33 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that a well nourished body is immune to illness and premature age; that "devitalized" food does not satisfy the appetite and leads to over-eating; that undernourishment of the tissues is the cause of flu, coughs, colds, asthma, sinus infections, arthritis, colitis, high-blood pressure, heart weakness, fading eyesight, bone malformations, neuritis, constipation, acidosis, rheumatism, stunted growth, and stomach disorders; that the longer the time between the picking and eating of fruit or vegetables the less the energy that will be derived from them; that foods are wholly demineralized and devitaminized by manufacturing, preserving and cooking methods; that bread, crackers, pies, cakes, macaroni, spaghetti, candies, desserts, drinks and canned fruit, in the preparation of which white flour, white sugar, corn syrup, or dextrose are used, fruits dried by a process employing sulphur dioxide and foods preserved with chemical preservatives are injurious, and that these foods are wholly lacking minerals and vitamins; that tooth decay, glandular deficiencies, indigestion, rheumatism, acidosis, anemia, cold hands and feet, poor appetite and high blood pressure are due to lack of minerals and vitamins; that the eating of candy made from white sugar, dextrose and corn syrup will stunt the growth of children because such candies are deficient in calcium; that the effects of a vitamin or mineral deficiency in humans on any ordinary diet is comparable to effects of a great or complete deprivation of a vitamin or mineral on laboratory animals; that eat-

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ing foods made from white flour stunts the growth of children and robs people of health and happiness; that the use of white sugar or candy made from it causes deficiency diseases and tooth decay; that the conditions set forth in connection with the various vitamins and minerals in respondents' lists of vitamin and mineral symptoms are a result of deficiencies in those vitamins and minerals and will only be averted by the use of mineral and vitamin supplements; and that respondents' preparations constitute adequate supplements; that there is a likelihood that a person will develop a mineral deficiency unless mineral dietary supplements are employed.

PAR. 35. The advertisements referred to in paragraph 33 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, a well-nourished body is not immune to disease, nor to premature old age. "Devitalized" foods, as defined by respondent, do satisfy the appetite: a satisfied appetite is not a matter of vitamins and minerals. Undernourishment of the tissues or the body as a whole is not the cause of flu, colds, coughs, asthma, sinus infections, arthritis, colitis, high blood pressure, heart weakness, fading eyesight. neuritis, constipation, acidosis, rheumatism, or stomach disorders, and is only one of many causes of bone malformations and stunted growth. The loss in energy value of fruits and vegetables between picking and eating is in general insignificant so long as the skin is unbroken and the interval is not excessive for the particular foods. The loss of vitamins and minerals from food by reason of manufacturing, processing and cooking is complete only in the rarest instances, and the extent of the loss from these factors is extremely variable. Bread. crackers, pies, cakes, macaroni, spaghetti, candies, desserts, drinks and canned fruits in the preparation of which white flour, white sugar, corn syrup, or dextrose are used and fruits dried by a process employing sulphur dioxide are not injurious to health, and in this day and age chemical preservatives are but rarely if ever employed in quantities that render them injurious to health. The fact that a particular food element has been wholly removed from a particular food product does not result in deprivation of the individual of the particular element, as these elements are all found in a wide variety of foods. The food products to which respondent refers are not wholly lacking in vitamins and minerals. Glandular deficiencies, indigestion, rheumatism, acidosis, cold hands and feet are not caused by vitamin or mineral dietary deficiencies, and there are many causes of tooth decay, anemia and poor appetite which are in no way related to nutrition. Calcium is obtained from a variety of sources and the eating of cal-

cium-free candy by children will not stunt their growth. The growth of children will not be stunted nor health and happiness be impaired by eating white flour products. Eating articles containing white sugar does not cause deficiency diseases or tooth decay. Many of the conditions represented in respondents' lists of symptoms of vitamin and mineral deficiencies do not result from deficiencies in the respective vitamins and minerals. So many foods contain minerals that in the absence of some unusual condition, the likelihood of a person developing a mineral deficiency due to lack of intake of minerals is negligible, and there is no general need for mineral dietary supplements. Vitamins too are of such universal occurrence in various foods that there is nothing approaching a universal need for vitamin dietary supplements. None of respondents' vitamin preparations, taken as directed, will supply even the minimal daily requirements of all the known vitamins.

PAR. 36. Among the statements and claims contained in the advertisements referred to in paragraph 19, and specifically in, but not limited to, the booklet "Balance Your Meals" with respect to respondents' mineral preparations is the following:

A lack of minerals may result in poor circulation, undernourished condition, cold hands and feet, a lack of energy, the loss of your teeth, cavities in your teeth, irregular heart action, \* \* \* excessive bleeding, muscular soreness, nervousness, loss of weight, indigestion, muscular weakness, scaly skin, \* \* \* infections, glandular disturbances, coarseness of the hair, mental dullness, overweight conditions, a low vitality, pallid complexion, minor skin disorders \* \* \*.

PAR. 37. Through the use of the advertisement containing the statements set forth in paragraph 36, and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that the conditions and ailments set forth in the preceding paragraph are the result of a lack of minerals in the diet.

PAR. 38. The advertisements referred to in paragraph 36 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, the said conditions and ailments are not results of lack of minerals in the diet.

PAR. 39. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the circular "Better Nutrition News," Vol. 1, No. 11, and the "Shopping List" and the booklet entitled "Nature's Solution to 101 Body Disorders" with respect to respondent's "Vitoloids" are the following:

Statistics show that 70% of the public is anemic and 20% on the verge of it.

One tablet a day serves to supply all the iron, copper and manganese needed to maintain a normal amount of hemoglobin in the blood once it has been brought back to normal by taking three a day.

Do you know that one New Vitoloids supply you with the minerals needed to make rich, red energy producing blood.

Three tablets a day is considered a therapeutic dose for correcting nutritional anemia.

Cold hands and feet - - organic food iron.

Diabetes - - organic iron.

PAR. 40. Through the use of the advertisements containing the statements and representations set forth in paragraph 39 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that because statistics show (which is not conceded) that 90 percent of all people are either anemic or on the verge of anemia; that the odds are nine to one that the individual readers of their advertisements are either verging on or have anemia due to lack of iron in their diets; that such deficiency will be cured by taking three "Vitoloids" daily; that it is necessary to take one "Vitoloid" daily to avert iron deficiency anemia; that by taking "Vitoloids" one will be assured of all the minerals necessary for building rich, energy producing blood; that cold hands and feet are due to lack of iron and that this condition and also diabetes, will be benefited by taking "Vitoloids."

PAR. 41. The advertisements referred to in paragraph 39 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, the question of whether a person has or is likely to have an iron dietary deficiency, or anemia, is a question of fact in each individual case, the solution of which depends upon several factors, notably age and sex and freedom from the existence of excessive or abnormal loss of blood. So far as any individual is concerned, the fact that other persons, even a large number, in which are included persons who differ from him in age, sex, amount of bleeding or in other respects are exposed to or are on the verge of or have an iron dietary deficiency, has no bearing at all upon whether the individual in question has, is on the verge of, or is exposed to iron deficiency. Seventy percent of the public are not anemic nor are 20 percent more on the verge of anemia. Three "Vitoloids" daily are not an effective treatment for iron deficiency anemia. If by reason of blood loss a person requires supplementary iron, one Vitoloid daily will be inadequate to avert deficiency; if such a condition does not exist, no Vitoloids are needed. The use of "Vito-

loids" does not assure the user of all the minerals needed for rich, red, energy producing blood. Cold hands and feet are due to many causes which will not be helped by taking iron preparations. "Vitoloids" are of no value in the treatment of diabetes.

PAR. 42. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not restricted to, the booklet "The Secret of Complete Elimination" with respect to respondent's laxatives, "Flushettes," "X-Pel" and "Peri-Lator," are the following:

Waste products like Uric acid, Sulphuric acid, Carbonic acid, etc., must first be combined with some alkaline elements before they can be taken up by the blood stream and carried to the organs of elimination by the blood stream.

It is therefore important that one's diet should supply sufficient alkaline minerals.

It is advisable to supplement one's diet with extra food minerals \* \* \*.

By supplementing your diet with extra food minerals you can be surer that you will have in the blood stream the minerals needed to combine with the carbonic acid wastes and to carry them to the lungs to be eliminated as carbon dioxide.

\* \* \* it seems advisable to try to evacuate the bowels three times a day. Sluggish Bowel Action may result in :

Headaches	Foul breath
Lowered Resistance	Lassitude
Frequent Colds	Bloated abdomen
Chronic ailments	Acid indigestion
Biliousness	Poor complexion
Poor appetite	Susceptibility to infection
Coated Tongue	Sluggishness
Mental Dullness	

and many other conditions too numerous to mention.

\* \* \* increased efficiency, well being, freedom from headaches, insomnia, and many other discomforts and a notable increase in endurance after having estab— (sic) normal habits of three bowel movements daily.

"The refuse of any meal should be evacuated from the large intestine within twenty-four hours after the meal is eaten. If any waste matter remains in the large intestine longer it begins to putrefy, create gases and bloating of the abdomen. Experiments have shown that through reverse peristalsis, waste from the large intestine may be forced back into the small intestine where the rapid absorption of putrefaction poisons gives rise to headaches, bad complexion and all the other symptoms stated previously.

One should never retire at night if the bowels have not moved during the day without doing something to empty them.

PAR. 43. Through the use of the advertisements containing the statements and representations set forth in paragraph 42, and others similar thereto not specifically set out herein, respondents have repre-

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sented, directly and by implication, that acid waste products, such as uric acid, carbonic acid and sulphuric acid must be neutralized before they can be taken up by the blood stream, and that this may be accomplished by eating minerals; that there is a likelihood that the diet and blood may be deficient in the minerals required for combination with "acid wastes" including "carbonic acid wastes," as a preliminary to their excretion; that headaches, lowered resistance, frequent colds. chronic ailments, biliousness, poor appetite, coated tongue, mental dullness, foul breath, lassitude, bloated abdomen, acid indigestion, poor complexion, susceptibility to infections and sluggishness are due to constipation and will be averted or relieved by the use of respondents' said preparations; that the bowels should be evacuated three times a day and that this will increase efficiency, well-being and endurance and free the individual from insomnia and headaches: that any meal should be evacuated within 24 hours, otherwise the contents of the bowels will putrefy which is to be avoided, creating gases the large intestine to the small intestine from which "putrefactive and bloating, and will, through reverse peristalsis be forced back from poison" will be absorbed, resulting in all the ailments to which respondent has referred as due to "sluggish bowel action," and that one should never go to bed if the bowels have not moved that day, without emptying them.

PAR. 44. The advertisements referred to in paragraph 42 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, the neutralization of "acids" is carried on in and by the blood stream itself and not by some process prior to their entry into it. There is no way in which ingested minerals can reach such "waste products" except through the blood stream. The sodium and potassium in the blood stream which combine with "acid wastes" are of such general occurrence in any ordinary diet that there is only a most remote possibility of a dietary deficiency in them. Constipation does not result in lowered resistance, frequent colds, chronic ailments, mental dullness, lassitude, acid indigestion, a poor complexion or susceptibility to infection; and none of these will be averted or relieved by the use of respondents' preparations. Headaches, "biliousness," poor appetite, coated tongue, foul breath and bloated abdomen, may occur either as manifestations of constipation or of a large number of other ailments and conditions. Only when due to constipation may the use of respondent's laxative preparations afford a temporary relief. Efficiency, endurance, well-being, and freedom from headaches and in-

somnia bear no relation to the number of daily bowel evacuations. Respondents' theory of the necessity of three bowel movements daily is without any basis in medicine, science or common sense, as are the statements that a meal should be evacuated within 24 hours after it is eaten, and that one should never go to bed if the bowels have not moved during the day, without emptying them.

The "putrefaction" of food in the large intestine is a normal part of the body's processes. The gas formed is a normal consequence of the process, and will vary considerably in amount in different individuals, and in the same person at different times. The body is specifically designed to prevent reverse peristalsis from pushing matter back from the large intestine to the small; any time this occurs the person's condition is highly critical and is not due to the retention of fecal matter in the large intestine for 24 hours.

The said advertisements are "false advertisements" for the further reason that they fail to reveal facts material in the light of the representations which are made therein, or material with respect to the consequences which may result from the use of the said preparations under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact, the said preparations are irritant laxatives and are potentially dangerous when taken by one suffering from abdominal pains, nausea, vomiting, or other symptoms of appendicitis.

PAR. 45. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the booklet "Natures Solution to 101 Body Disorders" are the following:

Cavities — — — Kelp, Kale and Celery should be included. Falling Hair — — — Iodine — Rich Kelp.

PAR. 46. Through the use of the advertisements containing the statements and representations set forth in paragraph 45, and others similar thereto not specifically set out therein, respondents have represented, directly and by implication, that "Laminar" is of value in averting cavities in the teeth and falling hair.

PAR. 47. The advertisements referred to in paragraph 45 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, "Laminar" is of no value in averting cavities in the teeth or falling hair.

PAR. 48. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not

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limited to, the booklets entitled "Natures Solution to 101 Body Disorders," "Eat Right to Feel Right" and "Balance Your Meals" with respect to "Nezets" and "Virvets" are the following:

Abcess — — Suggested Program — — — To improve the quality of the Blood. In addition to the general instructions for improving the quality of the blood on page 9, the following is suggested.

The instructions referred to contain the following statement:

The Booklet "Eat Right to Feel Right" teaches one how to discriminate between good foods capable of making good blood and those that lead to nutritional deficiencies.

Only by studying the booklet "Balance Your Meals" — — — can one discover a diet balanced to suit one's own physical requirements.

The booklet, "Eat Right to Feel Right," contains the following statement:

This leaves us no alternative but to supplement our diet of natural foods with EXTRA vitamin and mineral concentrates in the most natural form we can get them — — dehydrated cereal shoots.

The booklet, "Balance Your Meals," contains the following statement:

It is essential, therefore, that you include in your diet as much fruit and vegetable juices as possible in addition to supplementing your diet with natural vitamin and mineral concentrates to prevent nutritional deficiencies. Natural vitamin and mineral concentrates made of dehydrated cereal (rye, barley, wheat and oat) shoots, kelp, vegetables and powdered bone give safer protection than synthetic vitamins and inorganic minerals.

PAR. 49. Through the use of the advertisements containing the statements and claims set forth in paragraph 48, and others similar thereto not specifically set out herein, which relate to various bodily ailments and conditions, respondents have represented, directly and by implication, that their "Nezets" and "Virvets," which are readily identified as the products referred to in the last two quotations in paragraph 48, are of value in the treatment of and in connection with their other recommended procedures constitute a competent and adequate treatment for abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, chronic appendicits, arthritis, asthma, bad breath, local inflammation of the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, constipation, poor digestion, cavities in the teeth, lung ailments, bladder inflammation, Bladder stones, boils, Brights disease, bronchitis, cancer, catarrh, cavities, coated tongue, colds, cold hands and feet, colitis, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle ear, eye disturbances, uremia, lead poison-

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ing, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gall stones, gonorrhea, hay fever, headaches, all heart ailments, prevention of hemorrhages, hemorrhoids, prevention of ruptures, high blood pressure, hyper-chloridia, hyper-thyroid, hypo-thyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leukorrhea, liver disorders, low blood pressure, lumbago, disorders of menstruation and menopause, including hot flashes, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tonsillitis, tuberculosis, tumors and varicose veins.

PAR. 50. The advertisements referred to in paragraph 48 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, the said preparations, either singly or in combination, are of no value in the treatment of the causes of any of the ailments and conditions mentioned in the preceding paragraph or the manifestations thereof.

PAR. 51. Among the statements and claims contained in the said advertisements referred to in paragraph 19 and specifically in, but not limited to, the booklets entitled "Natures Solution to 101 Body Disorders," and "3 Day Pep-Up Plan" with respect to "Alfamint Tea, Concentrated Powdered Vegetables, Flushettes and X-Pel," is the following:

Catarrh — — — Suggested Program — — — To Speed up circulation: In addition to the general instructions on page 5 for speeding up circulation, the following is suggested:

The instructions referred to include the statement: "Go on a Three Day Pep-Up Diet."

PAR. 52. Through the use of the advertisements containing the statements and representations set forth in paragraph 51 and others similar thereto not specifically set out herein which relate to various bodily ailments and conditions, respondents have represented, directly and by implication, that their products which are used in his "3 Day Pep-Up Diet" are of value in the treatment of, and in connection with their other recommended procedures, constitute an adequate and competent treatment for abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, acute appendicitis, chronic appendicitis, arthritis, asthma, bad breath, local inflammation in the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, constipation, poor digestion, cavities in the teeth, lung diseases, bladder inflammation, bladder stones, boils,

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Brights disease, bronchitis, cancer not of digestive tract, catarrh, cavities, coated tongue, colds, cold hands and feet, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle ear, eye disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gall stones, gonorrhea, hay fever, headaches, all heart ailments, prevention of hemorrhages, hemorrhoids, prevention of ruptures, high blood pressure, hyper-chloridia, hyper-thyroid, hypo-thyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leukorrhea, liver disorders, locomotor ataxis, low blood pressure, lumbago, disorders of menstruation and menopause, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tonsillitis, tuberculosis, tumors, and varicose veins.

PAR. 53. The so-called "3 Day Pep-Up Diet" requires the use of "mild Herbal Laxative Tablets," a "Bulk-Producing Intestinal Activator made from Karaya," "alkaline tea" and "vegetable soup," together with a highly restricted diet. Those articles are readily identified as the respondents' products designated "Flushettes," "X-Pel," "Alfamint Tea" and "Powdered Vegetables."

. PAR. 54. The advertisements referred to in paragraph 51 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, the said preparations, either singly or in combination, are of no value in the treatment of any of the ailments and conditions mentioned in paragraph 52, or the manifestations thereof; the regimen proposed by respondents does not constitute an adequate treatment for the said ailments and conditions, and to it the said preparations contribute nothing more than a presumably palatable beverage (Alfamint Tea), some nourishment (Powdered Vegetables) and purging (Flushettes or X-Pel).

PAR. 55. Among the statements and claims contained in the advertisements referred to in paragraph 19, and specifically in, but not limited to the booklet "3 Day Pep-Up Plan," with respect to Alfamint Tea, concentrated Powdered Vegetables, Flushettes and X-Pel, are the following:

— — — congestion of your body with acid wastes. These wastes irritate and inflame your tissues, resulting in aches and pains. Further they slow up your circulation, and sluggish circulation, Makes you feel logy and tired all the time, Slows you down at work — ruins your career, Results in soft flabby muscles, Ages you prematurely, Takes the luster out of your hair, Makes your eyes dull and listless, Ruins your complexion.

The Pretorius 3 Day Pep-Up Plan helps — — to sweep the accumulated wastes out of your system. — — you pep-up your circulations. — — —

Stop your pains and aches. Replace soft sagging flabby tissues with firm healthy ones. Stimulate the brain — — — .

Build greater immunity to colds and flu. Gives you added pep and vigor - -. Improve your complexion. Improve your vision—make the eyes clearer and brighter. Put more color in your cheeks. Help you keep feeling younger longer.

You should put this 3 day pep-up plan in action :--

Whenever you feel a cold coming on,

Whenever any part of your body is inflamed,

Whenever you have a common headache,

Whenever you have gone without sufficient sleep.

This will help restore kidney function.

PAR. 56. Through the use of the advertisements containing the statements and representations set forth in paragraph 55 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that aches and pains, lassitude, lack of energy, impaired ability to work, flabby muscles, premature age, dull hair and eyes and bad complexion are due to impaired circulation caused by accumulation of acid wastes in the system; that by following the respondents' "3 Day Pep-Up Plan" aches and pains will be stopped, firm tissue will replace soft, flabby tissue, the brain will be stimulated, immunity to colds and flu acquired, vim, vigor and vitality increased, the complexion and vision improved, the cheeks made rosy, the eyes made clearer and brighter, colds averted, inflammation and headaches cured, the consequences of lack of sleep averted and kidney function restored, and that the use of their products for which the plan calls, contribute to these results.

PAR. 57. The advertisements referred to in paragraph 55 are misleading in material respects and constitute "false advertisements" as the term is defined in the Federal Trade Commission Act. In truth and in fact, the conditions which respondents assert to be due to impaired circulation due to accumulated wastes are not due thereto. The following of respondents' plan will not produce any of the results claimed by the respondents as set out in paragraphs 55 and 56, nor will the use of the respondents' products in connection with the plan contribute to these results.

PAR. 58. Among the statements and representations contained in the advertisements referred to in paragraph 19, disseminated as aforesaid, with respect to respondents' various food, drugs, and cosmetics and devices, and specifically in, but not limited to, the "Food Chart," and booklets entitled "3 Day Pep-Up Plan," "Secret of Complete

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Elimination," "The Spark Plug to Energy," "Streamline Your Body," "How to Gain Weight," "Feminine Attractiveness," "Nature's Solution to 101 Body Disorders," and "Better Digestion," are the following:

(1) If these alkaline mineral-rich fruits and vegetables are not eaten in sufficient amounts poor circulation, undernourished conditions, cold hands and feet and a lack of energy may result.

(2) These alkaline fruits and vegetables build greater immunity to disease, help prevent cavities in one's teeth, regulate the beating of one's heart, help prevent excessive bleeding when injured and regulate the functioning of the glands.

(3) The Elasticity of the muscles and efficiency of the nerves depend upon the minerals supplied by these fruits and vegetables.

(4) Rickets, muscular soreness, indigestion, muscular weakness, scaly skin, anemia, infections, coarseness of the hair, mental dullness, low vitality, pallid complexion . . . may be directly due to a lack of mineral rich foods in the diet.

(5) Underweight or overweight conditions may be due to a lack of the minerals needed to feed the particular glands that control weight.

(6) Congestion, i. e. the accumulation of wastes in your tissues slows up the flow of blood through the congested part.

(7) Sluggish elimination through the lungs, skin, kidneys, liver and bowels allows irritating acid wastes to accumulate in your body. This leads to congestion, slows up your circulation and results in many disorders.

(8) By Improving the function of your lungs you may Overcome bad breath, Do away with irritating coughs, Prevent pneumonia and tuberculosis, Dispense with that drowsy feeling.

Enrich the blood with minerals. By supplementing your diet with extra food minerals . . .

The results of sluggish lungs—such poisoning is frequently responsible for pallid complexion, sour stomach, headaches, drowsiness and the proverbial "tired feeling."

(9) Nutritional anemia is therefore a result of a deficiency in one or another of the triad—iron, manganese and copper.

(10) . . . the formation of hemoglobin depends upon the presence of chlorophyl in your foods.

(11) glandgular obesity . . . if you don't want to take thyroid all your life then try to remove the cause which may be due to either:

(a) A lack of the necessary minerals, especially iodine and copper in your diet.

(12) Therefore, if you wish to increase your weight . . . you must not only increase the intake of . . . protein food, but you must also take large amounts of mineral rich foods.

(13) Excessive consumption of acid-forming protein foods . . . is most injurious to the kidneys . . . also injures your skin.

(14) It is a well established fact that sluggish bowel activation results in many skin disorders.

(15) The following internal irregularities often cause a dry skin: Constipation, stomach, lung or kidney disorders and glandular disturbances.

(16) The oily skin has glands which function too actively and secrete too much oil on to the face. This excessive secretion may be due to the accumulation of acid wastes which stimulate the glands into over-activity.

(17) . . . mineral oil has some cancer producing properties . . . why take a chance with a cream that has mineral oil in it when there are face creams made without it available.

(18) Further, creams containing wax . . . may seal the pores of your skin . . . interfere with its respiration.

(19) The addition of cholesterin . . . enables the cleansing oil to cleanse up to 1200% better.

(20) . . . surplus wastes created. This often congests the skin, resulting in enlarged pores, blackheads and acne. The first step in eradicating such conditions is to speed up elimination through the bowels.

(21) Sunlight on the face, as a rule, successfully relieves acne . . .

(22) A sluggish liver is often responsible for a sallow skin.

(23) It is essential that you include in your diet sufficient alkaline mineral rich fruits and vegetables so that your saliva may be kept highly alkaline, thus protecting your teeth against acid bacteria that eat through the enamel and cause cavities.

(24) . . . hair roots will be well nourished resulting in the hair growing normally . . . if your diet contains the minerals . . . and if you sunbathe daily.

(25) If therefore, improving the quality of your blood and speeding up circulation as well as a massage of the thyroid gland and calcium pantothenate do not restore the color of your hair, let nature take its course.

(26) To avoid menstrual disturbances therefore you should do everything possible to keep yourself physically fit by improving the quality of your blood . . .

(27) Menopause can be postponed by . . . adequate amounts of good blood.

(28) During menopause . . . the "Pretorius Three Day Pep Up Diet" . . . will be less tendency toward "hot flashes" and other such disagreeable symptoms.

(29) Disease cannot invade a healthy organ, gland or tissue of the body. A healthy organ, gland or tissue is one that is well-nourished.

(30) Vitamin D is the only vitamin which cannot be obtained in sufficient quantities from one's food. Daily exposures to the sun or Ultra-Violet Ray Lamp are essential to enrich the blood with Vitamin D.

(31) Blood without sufficient Vitamin D . . . may result in the loss of one's teeth, nervousness, over and under weight conditions—anemia—a lack of pep and many other disorders too numerous to mention here."

(32) Abscess . . . an infection due to poor blood.

(33) Local sterilization—Expose the abscessed part to Ultra-Violet rays for two minutes twice a day.

(34) The only natural digestive aid known today is papaya—Tablets made from Papaya are more effective in aiding digestion than are the papaya drinks.

(35) Cancer is caused by irrational living.

(36) Epilespsy - - - constipation is sometimes a direct cause.

(37) Locomotor ataxia-may be caused by over-exertion, sexual excesses, exposure to cold, alcoholic intemperance-.

PAR. 59. Through the use of the advertisements containing the statements and representations set forth in paragraph 58 and others similar

thereto not specifically set out herein, respondents have represented, directly and by implication, as follows:

(1) That lack of sufficient minerals in the diet results in poor circulation, undernourishment, cold hands and feet and lack of energy.

(2) That the alkaline minerals build greater resistance to disease, help to avert cavities in the teeth, regulate the beating of the heart, help prevent excessive bleeding when injured and regulate the functioning of the glands.

(3) That the elasticity of the muscles and proper functioning of the nervous system are dependent upon alkaline minerals.

(4) That as a result of lack of minerals, rickets, muscular soreness, indigestion, muscular weakness, scaly skin, anemia, infection, coarseness of the hair, mental dullness, low vitality, and pallid complexion may develop in anyone, regardless of age.

(5) That overweight and underweight are due to lack of minerals.

(6) That wastes accumulate in the tissues of particular parts of the body, and interfere with the flow of blood through those parts.

(7) That acid wastes accumulate in the body as a result of sluggish elimination through the lungs, skin, kidneys, liver and bowels.

(8) That respondents' mineral preparations will improve the quality of the blood, improving elimination from the lungs and thus overcome and cure bad breath, coughs, lassitude, headaches and sour stomach, and avert pneumonia and tuberculosis.

(9) That nutritional anemia may develop as a result of insufficient copper or manganese.

(10) That the formation of hemoglobin in the blood is dependent upon the presence of chlorophyl in the food.

(11) That obesity due to thyroid deficiency will be corrected by taking iodine and copper.

(12) That large amounts of mineral foods are necessary in order to gain weight.

(13) That excessive protein intake is injurious to the skin and kidneys.

(14) That many skin disorders are caused by sluggish bowel activity.

(15) That constipation, stomach, lung and kidney disorders and glandular disorders are frequent causes of dry skin.

(16) That oily skin is due to an accumulation of acid wastes in the skin.

(17) That the use of face creams containing mineral oil may cause cancer.

(18) That cosmetic creams containing wax seal the pores of the skin and interfere with evaporation.

(19) That cosmetic creams containing cholesterin cleanse far better than others.

(20) That enlarged pores, blackheads and acne are results of accumulated wastes, and will be benefitted by artificially induced defecation.

(21) That sunlight is a dependable treatment for acne.

(22) That there is a condition of "sluggish liver."

(23) That minerals in the diet will render the saliva alkaline and protect against dental cavities.

(24) That daily sun-bathing is essential to nice hair.

(25) That respondents' food and drug products are of value in restoring prematurely gray hair to its earlier color.

(26). That menstrual disturbances will be averted by improving the quality of the blood by means of respondents' food and drug products.

(27) That the menopause can be postponed by the good blood which the use of respondents' preparations will provide.

(28) That the use of the products included in respondents' "Pep-Up Diet," i. e., Alfamint, Flushettes, X-Pel and Powdered Vegetables will diminish the uncomfortable symptoms of the menopause.

(29) That disease cannot invade a healthy, well-nourished organ, gland or tissue.

(30) That sufficient amounts of vitamin D cannot be obtained from foods, and that for a sufficient amount to be obtained, daily sun or violet ray baths are essential.

(31) That vitamin D deficiency causes the loss of teeth, nervousness, overweight, underweight, anemia, and the lack of vigor and verve.

(32) That infections are due to poor blood.

(33) That ultraviolet rays will sterilize abscesses.

(34) That papaya tablets aid the digestion of proteins.

(35) That cancer is caused by irrational living.

(36) That constipation is a cause of epilepsy.

(37) That locomotor ataxia may be due to causes other than syphilis.

PAR. 60. The advertisements referred to in paragraph 58 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:

(1) Poor circulation, undernourishment, cold hands and feet and lack of energy are not results of lack of minerals in the diet.

(2) The alkaline minerals do not build greater resistance to disease, help avert cavities in the teeth, regulate the beating of the heart, prevent excessive bleeding or regulate the functioning of the glands.

(3) Elasticity of the muscles and proper functioning of the nervous system not dependent upon the alkaline minerals.

(4) Rickets is an ailment which does not occur in adults. Muscular soreness, indigestion, muscular weakness, scaly skin, anemia, infections, coarseness of the hair, mental dullness, low vitality and pallid complexion are not due to lack of alkaline minerals.

(5) Neither overweight nor underweight is due to lack of minerals.

(6) The so-called "wastes" do not accumulate in the tissues nor interfere with the flow of blood.

(7) Sluggish elimination does not result in accumulations of acid wastes.

(8) Respondents' mineral preparations are of no value in the treatment of bad breath, coughs, lassitude, headache, or sour stomach or in averting pneumonia or tuberculosis.

(9) Deficiencies in copper or manganese are not causes of nutritional anemia.

(10) Chlorophyl is not an essential nutrient substance and its presence in food is not necessary to the formation of hemoglobin in the blood.

(11) Iodine or copper or the two combined will not correct obesity due to thyroid deficiency.

(12) Large amounts of mineral foods are not necessary if one is to gain weight.

(13) Excessive consumption of protein foods is not injurious to the kidneys or skin.

(14) Sluggishness of bowel activity is not a cause of skin disorders.

(15) Dry skin is not caused by constipation or disorders of the stomach, lungs, kidneys or glands.

(16) Oily skin is not caused by an accumulation of acid wastes in the skin.

(17) There is no justification for the assertion that face creams containing mineral oil are carcinogenic.

(18) Cosmetic creams containing wax do not, as they are ordinarily used, seal the pores of or interfere with evaporation from the skin.

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(19) The inclusion of cholesterin does not appreciably affect the cleansing properties of cosmetic creams.

(20) Enlarged pores, blackheads and acne are not caused by surplus wastes, nor benefitted by artificially induced defection.

(21) The effects of sunlight on acne are very erratic.

(22) There is no such condition as a sluggish liver.

(23) The consumption of minerals will not protect against dental cavities by alkalinizing the saliva or otherwise.

(24) Daily sun-bathing is not essential to nice hair.

(25) Respondents' food and drug products are of no value in restoring prematurely gray hair to its earlier color.

(26) Respondents' food and drug products are of no value in averting menstrual disturbances.

(27) Respondents' food and drug products are of no value in postponing the menopause.

(28) The use of Alfamint, Flushettes, X-Pel and Powdered Vegetables does not diminish the discomforts of the menopause.

(29) Healthy and well-nourished glands, tissues and organs can be invaded by disease.

(30) Sufficient amounts of vitamin D can be obtained from foods, and daily sun or violet ray baths are not required for sufficient amounts to be had.

(31) Vitamin D deficiency does not result in nervousness, overweight, underweight, anemia, lack of verve and vigor. It is but one of many factors that may be involved in the loss of teeth.

(32) Infections are not due to poor blood.

(33) Exposure to ultraviolet rays will not sterilize abscesses.

(34) Papaya preparations do not assist the digestion of protein in the human digestive tract.

(35) Irrational living is not recognized by the medical profession as the cause of cancer.

(36) Epilepsy is not caused by constipation.

(37) Syphilis is the sole cause of locomotor ataxia.

PAR. 61. Among the statements and claims contained in the advertisements referred to in paragraph 19 and specifically in, but not limited to, the booklet "Eat Right to Feel Right" with respect to respondents' vitamin and mineral products are the following:

Vitamin Deficiency Symptoms

Vitamin A

Extreme deficiency symptoms — — — Weakness, Loss in Weight. — — —

# FEDERAL TRADE COMMISSION DECISIONS

# Complaint

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Mild deficiency symptoms - - Poor appetite - - -Poor resistance to infections. Vitamin B. Extreme deficiency symptoms - - Loss in weight, - -Mild deficiency symptoms - - Weakness, Poor appetite - - -Vitamin C Extreme deficiency symptoms - - - Swollen gums, Loose teeth. Mild deficiency symptoms - - Tender joints - - -Headache ----Vitamin D Extreme deficiency symptoms - - - Lesions in bones and teeth — — — Mild deficiency symptoms - - Restlessness, Lack of vigor - - -Vitamin G (B<sub>2</sub>) Extreme deficiency symptoms - - Weakness, Loss of body weight ----Mild deficiency symptoms: Lack of vigor. Vitamin P-P-Nicotinic Acid Extreme deficiency symptoms - - Inflammation of the skin, --- Diarrhea ---Mild deficiency symptoms - - Indigestion, Constipation, Nausea - - -Vitamin Ba Extreme deficiency symptoms - - Abscesses, Diarrhea. Mild deficiency symptoms - - - Muscle incoordination. Vitamin E Extreme deficiency symptoms - - Sterility. Mild deficiency symptoms - - - Muscular weakness. Mineral Deficiency Symptoms Calcium - Muscular soreness, Nervousness. Chlorine - Loss in Body weight, Digestive disturbances. Cobalt - Scaly skin. Copper - Weakness. Iodine - Weakness, Overweight. Iron - Low vitality, Pallid complexion. Magnesium - Nervousness, Digestive disturbances. Manganese — Poor tissue respiration. Phosphorous - Loss in weight, Weakness. Potassium - Nerve disorders, Poor digestion.

Sodium — Loss in weight, Weakness.

Sulphur - Skin Inflammation.

Zinc — Retarded growth.

### Findings

PAR. 62. Through the use of the advertisements containing the statements and claims set forth in paragraph 61 and others similar thereto not specifically set out herein, respondents have represented, directly and by implication, that from the presence of the said symptoms or conditions enumerated in the preceding paragraphs and others not so enumerated, the existence of deficiencies in the specified vitamins and minerals may be determined by members of the general public and with a degree of certitude sufficient to render it reasonably probable that such conditions will be benefitted by the use of respondents' vitamin and mineral preparations.

PAR. 63. The advertisements referred to in paragraph 61 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, the causes of the symptoms and conditions enumerated above, and many others set out in the said advertisements, but not enumerated herein, are so numerous that from their mere existence vitamin or mineral deficiencies cannot be determined by members of the general public with any reasonable degree of certitude.

PAR. 64. The use by respondents of the said false advertisements with respect to their said preparations 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 statements and representations contained in the said advertisements were true, and that the preparations "Flushettes," "X-Pel" and "Peri-Lator" may be taken under all conditions without ill effects, and into the purchase of substantial quantities of said preparations by reason of said erroneous and mistaken belief.

PAR. 65. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

# REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 18, 1946, issued and subsequently served its complaint in this proceeding upon the respondent, Martin W. Pretorius, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 18, 1946, respondent filed his answer to said complaint, denying in part and admitting in part the allegations thereof. On April 16, 1948, the Commission issued

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and subsequently served its amended complaint in this proceeding upon the respondents, Martin W. Pretorius and Marie Joyce, copartners doing business in the name of Martin W. Pretorius and as Pretorius Approved Products, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, to which no answer was filed. Testimony and other evidence, including a stipulation as to the facts. entered into between counsel in support of the complaint and the respondents, were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final consideration by the Commission upon the amended complaint, testimony and other evidence (including the stipulation as to the facts), the trial examiner's recommended decision and exceptions thereto by counsel supporting the complaint, and briefs in support of and in opposition to the allegations of the complaint (oral argument not having been requested); and the Commission, having duly considered the matter and having entered its order disposing of the exceptions to the trial examiner's recommended decision, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusions drawn therefrom:

# FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, Martin W. Pretorius and Marie Joyce, for several years last past have been engaged in the business of selling and distributing various foods, drugs, devices, and cosmetics, as the terms "food," "drug," "device," and "cosmetic" are defined in the Federal Trade Commission Act. Their office and principal place of business is located at 1115 South Glendale Avenue, Glendale, Calif. Respondent Marie Joyce was employed by respondent Martin W. Pretorius in 1934 and was manager of said business from 1939 to 1946, when she became a partner in said business. This partnership was dissolved on February 28, 1949, and since that time respondent Joyce has been acting as manager of said business. The respondents have at various times transacted business under the following trade names: "Martin W. Pretorius," "Pretorius Approved Products," "The Pretorius Improve Your Health System," "Pretorius System of Better Nutrition," and "New Century Food, Inc."

PAR. 2. The respondents, Martin W. Pretorius and Marie Joyce, have at all times mentioned herein acted in conjunction and coopera-

tion with each other in performing the acts and practices hereinafter described, and during all times mentioned herein the said respondents have caused their foods, drugs, devices, and cosmetics, when sold, to be transported from their place of business in the State of California to purchasers thereof located in various 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 their said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. The respondents followed a plan of procedure whereby respondent Martin W. Pretorius would go into a particular locality, town, or city, and give lectures on nutrition. The first one or two lectures were either free or given at a nominal charge. These preliminary lectures were for the purpose of inducing some of the audience to take the course of nutrition covered by the later lectures for which a charge was made. Included in this charge was the series of booklets purporting to describe the "Pretorius System of Better Nutrition," for reading in connection with the lectures given by respondent Martin W. Pretorius. These booklets covered a variety of subjects having to do with nutrition and health and were designed to create an interest in and induce the purchase of the various foods, drugs, devices, and cosmetics sold and distributed by the respondents.

Par. 4. In the course and conduct of their business the respondents have disseminated, and caused the dissemination of, false advertisements concerning their cosmetic products, 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 the purchase of said products, and the respondents have also disseminated, and caused the dissemination of, false advertisements, by various means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said cosmetic products in commerce as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations made, directly or by implication, in said false advertisements disseminated and caused to be disseminated as aforesaid with respect to their cosmetic products are the representations that the presence of cholesterin in cosmetics is essential to allow the skin to function normally; that cosmetic creams containing cholesterin cleanse far better than others; that cholesterin will prevent face creams from interfering with the function of the skin and that its presence is essential in oils and creams applied to the body, to prevent interference with normal evaporation;

that the use of face creams containing mineral oil may cause cancer; and that cosmetic creams containing wax seal the pores of the skin and interfere with evaporation.

PAR. 5. The foregoing representations 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, cholesterin and like ingredients are not necessary to prevent face creams or body oils from interfering with skin functions, and under the ordinary conditions of use, body oils will not interfere with normal evaporation from the skin even if they do not contain cholesterin or an equivalent product. The inclusion of cholesterin does not appreciably affect the cleansing properties of cleansing creams. There is no justification for the representation that face creams containing mineral oil are carcinogenic. Cosmetic creams do not, as they are ordinarily used, seal the pores of or interfere with evaporation from the skin.

PAR. 6. While the complaint herein alleges that the respondents have disseminated other false advertisements with reference to their various cosmetic products, it appears that the representations contained in the alleged false advertisements which deal with the presence or absence of certain ingredients in the various preparations were inadvertently made and were discontinued upon discovery that they were in error. Under these circumstances the Commission is of the opinion that the public interest does not require corrective action with respect to such representations.

PAR. 7. In the course and conduct of their business the respondents have disseminated and caused the dissemination of, false advertisements concerning their devices known as "Pretorius Liquefier" and "Pretorius Approved Ultra-Violet Ray Lamp," the latter formerly known as "New Century Sun Lamp." 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 the purchase of said devices. The respondents have also disseminated, and caused the dissemination of, false advertisements by various means for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices in commerce as "commerce" is defined in the Federal Trade Commission Act. Such advertisements were contained in circulars, booklets, and other advertising literature disseminated by the respondents.

Among and typical of the statements and representations made, directly or by implication, in said false advertisements disseminated and caused to be disseminated as aforesaid with respect to the device

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"Pretorius Liquefier" are the representations that the use of said device will eliminate and safeguard against nutritional deficiencies and will make the minerals and vitamins in raw vegetables more readily available than when eaten in solid form; and will extract or supply from raw vegetables minerals and vitamins not obtained when the vegetables are eaten in solid form.

Among and typical of the statements and representations made. directly or by implication, in the said false advertisements disseminated and caused to be disseminated as aforesaid with respect to the device formerly known as New Century Sun Lamp and now known as Pretorius Approved Ultra-Violet Ray Lamp are the representations that the rays emitted from the said lamp are the same as those of the sun ; that said lamp is suitable for use as a sun lamp and to give sun baths; that the use of an ultraviolet ray lamp such as that sold by respondents increases resistance to disease; that the rays of such lamp have a powerful germicidal effect on skin infections to which most minor skin infections respond quickly; that the use of the lamp will give increased energy and vigor, assure fine teeth and bone structure, promote an alkaline condition of the body, and relieve pain by soothing nerve endings; that the ultraviolet rays produced by said lamp are essential to the formation of sufficient quantities of vitamin D and that vitamin D is essential to the systemic utilization of calcium, phosphorus, iodine, and iron; that sufficient amounts of vitamin D cannot be obtained from foods and that for sufficient amounts to be obtained, daily sun or violet-ray baths are essential; that daily exposure to such violet-ray light will immunize against colds, flu, pneumonia, and tuberculosis, preserve the teeth, prevent excessive bleeding, stabilize the nervous system, prevent nervousness and restlessness, induce sound sleep, make children grow normally, stimulate glandular function, avert the effects of advancing years upon the skin, avert skin ailments such as acne, eczema, psoriasis, and keep the hair and nails healthy; that an adequate diet must be supplemented with exposure to ultraviolet light: that such light will increase the ability of the body to utilize minerals for the neutralization of body acids: that ultraviolet light has the effect of increasing the iodine content of the thyroid gland; that ultraviolet light assists in the formation of antitoxins in the body; that exposure to ultraviolet rays is beneficial to the healing of wounds and burns, to arthritis, to sinusitis, to asthma, to certain types of obesity, and to muscular tone, and will cure sterility, stimulate peristalsis, stimulate the brain and, when used in connection with proper nutrition, assure a velvety skin, usually free from pimples. acne, and other surface blemishes; that the rays of said ultraviolet

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lamp act as a skin food and promote the growth of new, clean tissue, and constitute a specific for hay fever and all other respiratory disorders.

The respondents have also represented that their ultraviolet ray lamp is of value in the treatment of abscesses, acidosis, anemia, arthritis, asthma, boils, bronchitis, cancer of the skin, catarrh, cavities of the teeth, colds, falling hair, all heart ailments, hypothyroid, lumbago, nervousness, neuritis, neuralgia, poor appetite, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tonsillitis, tuberculosis, tumors, and varicose veins, and in averting colds and hemorrhages.

PAR. 8. The foregoing representations with respect to respondents' devices known as Pretorius Liquefier and Pretorius Approved Ultra-Violet Ray Lamp are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act.

The function of respondents' device known as Pretorius Liquefier is to liquefy food products. Such liquefaction may, to a degree, expedite the digestion and assimilation of such food products, but has no value in making the minerals and vitamins more readily available or in extracting or supplying minerals or vitamins not otherwise available. No more vitamins and minerals will be assimilated from liquefied raw vegetables than from raw vegetables in other forms.

Respondents' ultraviolet ray lamp emits some rays which sunlight does not contain and does not emit certain rays which are contained in sunlight, and it is not a sun lamp and baths given by this lamp are not sun baths. The resistance to disease which the use of the lamp will give is limited to rickets in children. The germicidal effects of the lamp's rays are limited to germs on the surface of the skin, and in skin infections the germs are so hidden by the tissues that the rays do not reach them. The response of even slight skin infections to ultraviolet rays is very erratic and many do not respond at all. The use of respondents' ultraviolet lamp will not give the user increased energy and vigor or assure fine teeth and bone structure. The rays emitted from said lamp have no effect upon the acidity or alkalinity of the body and neither soothe nerve ends nor relieve pain. Vitamin D is obtained from many sources other than exposure to sunlight or ultraviolet ray lamps, and such exposure is not essential to the obtaining of adequate amounts thereof. Vitamin D has no part in the utilization of either iron or iodine. Sufficient amounts of vitamin D can be obtained from foods, and daily sun or violet-ray baths are not required for sufficient amounts to be had. Daily exposure to ultraviolet light

will not immunize one against colds, influenza, pneumonia, or tuberculosis, and will not preserve the teeth, prevent excessive bleeding, stabilize the nervous system, prevent nervousness or restlessness, or induce sound sleep. Normal growth in children is not dependent solely upon vitamin D or ultraviolet rays, and many causes of abnormal growth are wholly unaffected by the use of ultraviolet light. Daily exposure to ultraviolet light will not stimulate glandular functions, avert the effects of advancing years upon the skin, avert skin ailments such as acne, psoriasis, and eczema, or keep the hair or nails healthy. Unless a diet is deficient in vitamin D, no dietary benefit will be gained from exposure to ultraviolet light. Neither exposure to sunlight nor to ultraviolet light increases the ability of the body to utilize minerals for the "neutralization of body acids" or increases the iodine content of the thyroid gland. Neither sunlight nor ultraviolet light assists the body in the formation of antitoxins. Neither wounds nor burns are benefited by exposure to ultraviolet rays, nor is asthma, sinusitis, arthritis, obesity of any type, or muscular tone. Respondents' ultraviolet ray lamp will not cure sterility, stimulate peristalsis, stimulate the brain, nor assure, in connection with proper nutrition, a velvety skin or one usually free from pimples, acne, or other skin blemishes. The ultraviolet light from respondents' lamp is not a skin food and will not promote the growth of new tissue. Ultraviolet rays are not a specific for hay fever or other respiratory ailments.

Respondents' ultraviolet ray lamp has no value in the treatment of abscesses, acidosis, anemia, arthritis, asthma, boils, bronchitis, cancer of the skin, catarrh, cavities of the teeth, colds, falling hair, heart ailments, hypothyroid, lumbago, nervousness, neuritis, neuralgia, poor appetite, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tonsillitis, tuberculosis, tumor, and varicose veins, nor in averting colds or hemorrhages.

PAR. 9. While the complaint in this proceeding charges the respondents with the dissemination of false advertisements in that such advertisements fail to reveal facts material in the light of the representations made concerning their ultraviolet ray lamp or material with respect to the consequences which may result from the use of said lamp under the conditions prescribed in the said advertisements or under the conditions which are customary or usual, the Commission finds that such charge has not been sustained.

PAR. 10. The designations used by the respondents for various food and drug products sold and distributed by them, and the formulas and directions for use thereof, are as follows:

Designation : "Pretorius Alfamint Tea."

Formula: 75 percent dehydrated alfalfa leaves, and 25 percent dehydrated peppermint or spearmint leaves, finely ground, and sprayed with either oil of peppermint or oil of spearmint.

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- Directions: Use as a beverage.
- Designation: "Alfa-Tabs" (formerly known as "Pretorius Alfamint Tablets" and "Alfalfa Tablets").
- Formula: 75 percent dehydrated alfalfa leaves and 25 percent dehydrated peppermint or spearmint leaves, finely ground and sprayed with either oil of peppermint or oil of spearmint and held together with glucose, 8 grain tablets.

Directions: Six tablets three times a day.

Designation: "Pretorius Concentrated Alfalfa Tablets." Formula: Dehydrated and pulverized alfalfa. 9 grain tablets. Directions: Six tablets three times a day with meals.

Designation : "Laminar Tablets."

Formula: Pacific Kelp, celery stalk, leaves and seeds, and kale. Dried, pulverized and bound with glucose. 8 grain tablets.

Directions: Six tablets three times a day.

The sale of "Laminar Tablets" was discontinued by the respondents in 1943.

Designation: "Pretorius X-Pel" (formerly known as "Peri-Lator").

- Formula: Inactive ingredient, Karaya Gum, 97 percent; active ingredient, Cascara Sagrada, 3 percent.
- Directions: Teaspoonful on arising and on retiring, followed by two glasses of liquid.

**Designation:** "Pretorius Virvets."

Formula: Dehydrated and tableted young wheat, oat, barley and rye shoots. One-half gram tablets. Twenty tablets contain:

5,000	<b>USP</b> Units	Vitamin A
.09	Mg.	Vitamin B-1
.25	Mg.	Vitamin B-2
.75	Mg.	Nicotinic Acid
.10	Mg.	Vitamin B-1 (Pyridoxine)
35.00	Mg.	Vitamin C
1.00	Mg.	Vitamin E
1.50	Mg.	Vitamin K

Directions: 5 to 20 tablets twice daily.

Designation: "Pretorius Vitoloids."

Formula: Organic food iron from iron tartrate, sodium copper chlorophyl, molasses and yeast. 5 grain tablets.

Directions: One tablet daily for 10 mg. of iron, the minimum daily requirement. Three tablets daily for blood iron deficiency.

The formula for "Vitoloids" was changed in 1945 by increasing the iron to 25 mg. of iron and the dosage of three tablets a day was increased to eight tablets a day to furnish 200 mg. of iron.

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Designation : "Celery Tablets," also known as "Solvettes."

Formula : Celery leaves, stalks and seeds, powdered and held with glucose. 8 grain tablets.

Directions: Six tablets three times a day.

The sale of "Celery Tablets" was discontinued by the respondents in 1942.

Designation: "Pretorius Flushettes."

Formula: TV Senna leaves, Buckthorn Bark, Licorice Root, as active ingredients. 8 grain tablets.

Directions: Adults, 1 to 4 on retiring, children 1 to 2.

Designation : "Pretorius Nezets."

Formula: Bone flour, kelp, iron tartrate, and sodium copper chlorophyl.

Twelve tablets contain:

Calcium	2,435	Mg.
Phosphorous	1,165	Mg.
Iron	36.9	Mg.
Iodine	6.76	Mg.
Copper	4.57	Mg.
Manganese	66.1	Mg.
Magnesium	85.9	Mg.
Sulphur	15.8	Mg.
Chlorine	108.8	Mg.
Sodium	100.4	Mg.
Potassium	182.8	Mg.
Fluorine	.43	Mg.

Directions: 6 to 12 daily.

The above formula was changed about 1944 or 1945 and was composed as follows: Bone flour, yeast, kelp, alfalfa, iron glutamate, copper peptonate and molasses as a binder. Four tablets daily will supply:

.10	Mg.		Iodine
10.00	Mg.		Iron
750.00	Mg.		Calcium
340.00	Mg.		Phosphorous
2.40	Mg.	+	Copper
4.00	Mg.		Chlorophyllin

Designation : "Minrich."

Formula: Dehydrated and Powdered-

Onion	21.47%
Salt	11.77
Celery	9.35
Spinach	4.20
Carrot	3.73
Garlic	.18
Sodium Glutamate	.18
Tomato	19.60
Barley	10.50

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Formula	a : Dehydrated and Powdered—Continued	white of
Pi	mento	9.35%
P	1mpkin	4.02
L	ettuce	.93
To each	100 pounds of power and an added 500 grams of :	the street
P	hosphoric acid	36.00%
Pe	otash bicarbonate	4.16
Sc	dium bicarbonate	.56
	on Oxide	2.26
SI	ılphur	.72
C	alcium phosphate	41.26
Li	me carbonate	7.86
A	luminum	3.45
M	anganese dioxide	.05
E	psom salt	1,10

Traces of iodine, copper, zinc, chromium, vanadium, silicon. Directions: As a broth or sprinkle.

The sale and distribution of "Minrich" was discontinued in 1942, and the present product is known as "Pretorius Concentrated Powdered Vegetables."

Designation: "Pretorius Concentrated Powdered Vegetables." Formula: Dehydrated and powdered—

> Tomato Pimento Okra Watercress Turnip leaves Kale Sodium Glutamate

Potato Celery Parsley Beet leaves Endive Salt

Directions : As a soup, spread or as a seasoning.

PAR. 11. In the course and conduct of their business respondents have disseminated, and have caused the dissemination of, false advertisements concerning their said food and drug products designated "Pretorius Alfamint Tea," "Alfa-Tabs," formerly known as "Pretorius Alfamint Tablets" and "Alfalfa Tablets," "Pretorius Concentrated Alfalfa Tablets," "Laminar Tablets," "Celery Tablets," "Solvettes," "Pretorius Nezets," "Minrich," "Pretorius Concentrated Powdered Vegetables," "Pretorius Virvets," and "Pretorius Vitoloids," and their laxative preparations "Flushettes," "X-Pel," and "Peri-Lator," by United States mails and by various other means in commerce as "commerce" is defined in the Federal Trade Commission Act. Respondents have also disseminated, and have caused the dissemination of, false advertisements concerning the said food and drug

preparations, by various means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said food and drug products in commerce as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations made, directly or by implication, in said false advertisements, disseminated and caused to be disseminated as hereinabove set forth, by United States mails and by means of booklets, circulars, and other advertising literature are the following:

1. That the alkalinity of the human body can be maintained by the selection of alkaline foods, or the use of respondent's mineral preparations, or the two combined.

2. That the body is continually creating waste products as the result of muscular activity and degeneration of the body cells, which waste products are acid and tend to accumulate in the body tissues and congest them, impairing the circulation; and that this can be overcome, the acid neutralized, circulation restored, and nutrition improved by the use of respondent's mineral preparations.

3. That people in general are exposed to dietary deficiencies in vitamins and minerals due to improverishment of the soil in vitamins and minerals, resulting in crops impoverished in the same way, im-'proper harvesting of crops, delay in distribution to consumer, improper methods of processing and cooking; and that the situation is such as to demand the use of vitamin and mineral supplements to avert such deficiencies, which can be accomplished by the use of respondents' vitamin and mineral preparations; that the taking of mineral and vitamin dietary supplements is essential to and will assure proper nutrition; and that the more taken the better the digestion will be.

4. That a well-nourished body is immune to illness and premature age.

5. That undernourishment of the tissues is the cause of flu, coughs, colds, asthma, sinus infections, arthritis, colitis, high blood pressure, heart weakness, fading eyesight, bone malformations, neuritis, constipation, acidosis, rheumatism, stunted growth, and stomach disorders.

6. That to a degree, tooth decay, glandular deficiencies, indigestion, rheumatism, acidosis, anemia, cold hands and feet, poor appetite, and high blood pressure are due to lack of vitamins and minerals.

7. That the conditions set forth in connection with the various vitamins and minerals in respondents' lists of vitamin and mineral symptoms are a result of deficiencies in those vitamins and minerals

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and will only be averted by the use of vitamin and mineral supplements, and the respondents' preparations constitute adequate supplements.

8. That the following conditions are a result of lack of minerals in the diet: poor circulation, undernourished condition, cold hands and feet, lack of energy, loss of teeth, cavities in teeth, irregular heart action, excessive bleeding, muscular soreness, nervousness, loss of weight, indigestion, muscular weakness, scaly skin, infections, glandular disturbances, coarseness of hair, mental dullness, overweight conditions, a low vitality, pallid complexion, and minor skin disorders.

9. That statistics show that 90 percent of all people are anemic or are on the verge of anemia, making the odds 9 to 1 that a person is anemic or verging on anemia due to lack of iron in the diet; and that such condition can be cured by taking "Vitoloids," which will assure all minerals necessary to build rich, energy-producing blood.

10. That cold hands and feet are due to lack of iron and this condition and also diabetes will be benefited by taking "Vitoloids."

11. That headaches, lowered resistance, frequent colds, chronic ailments, biliousness, poor appetite, coated tongue, mental dullness, foul breath, lassitude, bloated abdomen, acid indigestion, poor complexion, susceptibility to infections, and sluggishness are due to constipation and will be averted or relieved by use of respondents' laxative preparations "Flushettes," "X-Pel," and "Peri-Lator."

12. That "Laminar" is of value in averting cavities in the teeth and falling hair.

13. That "Nezets" and "Virvets" are of value in the treatment of and, in connection with respondents' other recommended procedures, constitute competent and adequate treatment for abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, chronic appendicitis, arthritis, asthma, bad breath, local inflammation of the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, constipation, poor digestion, cavities in the teeth, lung ailments, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer, catarrh, coated tongue, colds, cold hands and feet, colitis, deafness, diabetes, dizziness, hysteria, migraine. inflammation of the middle ear, eye disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hav fever. headaches, all heart ailments, prevention of hemorrhages, hemorrhoids, prevention of ruptures, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney

stones, lack of energy, leucorrhea, liver disorders, low blood pressure, lumbago, disorders of menstruation and menopause, including hot flashes, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tuberculosis, tumors, and varicose veins.

14. That "Alfamint Tea," "Concentrated Powdered Vegetables," "Flushettes," and "X-Pel" are of value in the treatment of and, in connection with respondents' other recommended procedures, constitute an adequate and competent treatment for abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, arthritis, asthma, bad breath, local inflammation in the mouth, chronic inflammation of the tissues of the nose, pyorrhea. tonsillitis, constipation, poor digestion, cavities in the teeth, lung diseases, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer not of the digestive tract, catarrh, coated tongue, colds, cold hands and feet, deafness, diabetes, dizziness, hysteria, mioraine, inflammation of the middle ear, eve disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hay fever, headaches, all heart ailments, prevention of hemorrhages, hemorrhoids, prevention of ruptures, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leucorrhea, liver disorders, locomotor ataxia, low blood pressure, lumbago, disorders of menstruation and menopause, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tuberculosis, tumors, and varicose veins.

15. That aches and pains, lassitude, lack of energy, impaired ability to work, flabby muscles, premature age, dull hair and eyes, and bad complexion are due to impaired circulation caused by the accumulation of the acid wastes in the system, that by following respondents' "3 Day Pep-Up Plan" aches and pains will be stopped, firm tissue will replace soft, flabby tissue, the brain will be stimulated, immunity to colds and flu acquired, vim, vigor, and vitality increased, the complexion and vision improved, the cheeks made rosy, eyes made clearer and brighter, colds averted, inflammation and headaches cured, the consequences of lack of sleep averted, and kidney function restored; and that the use of respondents' products, for which the plan calls, contributes to these results.

16. That the alkaline minerals build greater resistance to disease, help avert cavities in the teeth, regulate the beating of the heart,

help prevent excessive bleeding when injured, regulate the functioning of the glands, and help prevent poor circulation, undernourishment, cold hands and feet, and lack of energy.

17. That the elasticity of the muscles and proper functioning of the nervous system are dependent upon alkaline minerals.

18. That as a result of lack of minerals, rickets, muscular soreness, indigestion, muscular weakness, scaly skin, anemia, infection, coarseness of the hair, mental dullness, low vitality, and pallid complexion may develop in anyone regardless of age.

19. That overweight and underweight are due to lack of minerals.

20. That wastes accumulate in the tissues of particular parts of the body and interfere with the flow of blood through those parts.

21. That acid wastes accumulate in the body as a result of sluggish elimination through the lungs, skin, kidneys, liver, and bowels.

22. That respondents' mineral preparations will improve the quality of the blood, improve elimination from the lungs, and thus overcome and cure bad breath, coughs, lassitude, headaches, and sour stomach and avert pneumonia and tuberculosis.

23. That nutritional anemia may develop as a result of insufficient copper or manganese.

24. That the formation of hemoglobin in the blood is dependent upon the presence of chlorophyll in the food.

25. That obesity due to thyroid deficiency will be corrected by taking iodine and copper.

26. That large amounts of mineral foods are necessary in order to gain weight.

27. That many skin disorders are caused by sluggish bowel activity.

28. That constipation, stomach, lung, and kidney disorders and glandular disorders are frequent causes of dry skin.

29. That oily skin is due to an accumulation of acid wastes in the skin.

30. That enlarged pores, blackheads, and acne are results of accumulated wastes and will be benefited by artificially induced defecation.

31. That there is a condition of sluggish liver.

32. That minerals in the diet will render the saliva alkaline and protect against dental cavities.

33. That menstrual disturbances will be averted by improving the quality of the blood by means of respondents' food and drug products.

34. That the menopause can be postponed by the good blood which respondents' preparations will provide.

35. That the use of the products included in respondents' pep-up diet, that is, "Alfamint Tea," "Flushettes," "X-Pel," and "Powdered

Vegetables" will diminish the uncomfortable symptoms of the menopause.

36. That Vitamin D deficiency causes the loss of teeth, nervousness, overweight, underweight, anemia, and a lack of vigor and verve.

37. That infections are due to poor blood.

PAR. 12. The representations set forth in paragraph 11 are false, deceptive, and misleading, and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. The human physiology is such that the system preserves its alkalinity with great tenacity and is very little affected by food; it is almost impossible for the normal alkaline reaction of the blood or body to be changed toward acidity except when the diet is very largely composed of fats or when there is some abnormal and powerful motivating cause. The use of respondents' products for the purpose of preserving the alkalinity of the blood or body is wholly unnecessary and will confer no benefit on the user.

2. The so-called "acid wastes" are not acid as opposed to alkaline. The normal metabolic and eliminative processes break down and get rid of these wastes as they are formed, unless the expenditure of energy generates them faster than the metabolic process of oxidation and reduction will break them down. In this event they accumulate, and such accumulation is a normal part of the human physiology. Such an accumulation does not cause any slowing of circulation. The body's normal metabolic processes break down these accumulations by oxidation and reduction during periods of rest or reduced energy output with great rapidity. The process of protein degradation in the cells results in the formation of both acids and alkalies. The acids are in part neutralized by simultaneously produced alkalies and the remainder by sodium and potassium in the blood stream. Respondents' products are of no value in the clearing up of the so-called acid wastes; restoring circulation to congested areas; getting rid of "dead cells"; or removing the debris of protein degredation in the cells.

3. There is no general or widespread need for mineral or dietary supplements, and their use will not assure proper nutrition. A deficient diet, over any extended period, would result in vitamin and mineral deficiencies of a degree that would require vitamins and minerals in therapeutic amounts and which would not be benefited by the amounts of certain minerals and vitamins provided by respondents' preparations. A superabundance of vitamins and minerals will not result in an improved digestion.

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4. A well-nourished body is not immune to disease nor to a premature old age.

5. Undernourishment of the tissues of the body as a whole is not the cause of flu, colds, coughs, asthma, sinus infection, arthritis, colitis, high blood pressure, heart weakness, fading eyesight, neuritis, constipation, acidosis, rheumatism, or stomach disorders, and is only one of many causes of bone malformations and stunted growth.

6. Glandular deficiencies, indigestion, rheumatism, acidosis, and cold hands and feet are not caused by vitamin or mineral dietary deficiencies, and there are many causes of tooth decay, anemia, and poor appetite which are in no way related to nutrition.

7. Many of the conditions represented in respondents' lists of symptoms of vitamin and mineral deficiencies do not result from deficiencies in the respective vitamins and minerals. So many foods contain minerals that in the absence of some unusual condition the likelihood of a person developing a mineral deficiency due to a lack of intake of minerals is negligible, and there is no general need for mineral dietary supplements. Vitamins too are of such universal occurrence in various foods that there is nothing approaching a universal need for vitamin dietary supplements. None of respondents' vitamin preparations taken as directed will supply even the minimal daily requirements of all the known vitamins.

8. The following conditions and ailments are not results of lack of minerals in the diet: poor circulation, undernourished condition, cold hands and feet, lack of energy, loss of teeth, cavities in teeth, irregular heart action, excessive bleeding, muscular soreness, nervousness, loss of weight, indigestion, muscular weakness, scaly skin, infections, glandular disturbances, coarseness of hair, mental dullness, overweight conditions, a low vitality, pallid complexion, and minor skin disorders.

9. The question as to whether a person has or is likely to have an iron dietary deficiency or anemia, is a question of fact in each individual case, the solution of which depends upon several factors, notably age and sex, and freedom from existence of excessive or abnormal loss of blood. So far as any individual is concerned, the fact that other persons, even a large number, in which are included persons who differ in age, sex, amount of bleeding, or in other respects, are exposed to or are on the verge of or have an iron dietary deficiency, has no bearing at all upon whether the individual in question has, is on the verge of, or is exposed to iron deficiency. Seventy percent of the people are not anemic nor are twenty percent more on the verge

of anemia. The use of "Vitoloids" does not assure the user of all the minerals needed for rich, energy-producing blood.

10. Cold hands and feet are due to many causes which will not be helped by taking iron preparations. "Vitoloids" are of no value in the treatment of diabetes.

11. Constipation does not result in lowered resistance, frequent colds, chronic ailments, mental dullness, lassitude, acid indigestion, a poor complexion, or susceptibility to infection, and none of these will be averted or relieved by the use of respondents' preparations. Headaches, biliousness, poor appetite, coated tongue, foul breath, and bloated abdomen may occur as manifestations of constipation or of a large number of other ailments and conditions. Only when due to constipation may the use of respondents' laxative preparations afford temporary relief.

12. Respondents' product "Laminar" is of no value in averting cavities in the teeth or falling hair.

13. Respondents' products "Nezets" and "Virvets," either singly or in combination, are of no value in the treatment of abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, chronic appendicitis, arthritis, asthma, bad breath, local inflammation of the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, constipation, poor digestion, cavities in the teeth, lung ailments, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer, catarrh, coated tongue, colds, cold hands and feet, colitis, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle ear, eye disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hay fever, headaches, heart ailments, hemorrhoids, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leucorrhea, liver disorders, low blood pressure, lumbago, disorders of menstruation and menopause, including hot flashes, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostrate disorders, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tuberculosis, tumors, and varicose veins, or any of the causes or manifestations of said ailments or conditions; nor in the prevention of hemorrhages and ruptures.

14. Respondents' "3 Day Pep-Up Diet" requires the use of "mild Herbal Laxative Tablets," a "Bulk-producing Intestinal Activator made from Karaya," "alkaline tea," and "vegetable soup," together with a highly restricted diet. These articles are respondents' prod-

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ucts designated "Flushettes," "X-Pel," "Alfamint Tea," and "Powdered Vegetables." Said preparations, either singly or in combination, are of no value in the treatment of abcesses, acidosis, adenoids. adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, arthritis, asthma, bad breath, local inflammation in the mouth, chronic inflammation of the tissues of the nose, pyorrhea. tonsillitis, poor digestion, cavities in the teeth, lung diseases, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer not of the digestive tract, catarrh, coated tongue, colds, cold hands and feet, constipation, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle car, eye disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hav fever. headaches, heart ailments, hemorrhoids, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leucorrhea, liver disorders, locomotor ataxia, low blood pressure, lumbago, disorders of mensturation and menopause, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tuberculosis, tumors, and varicose veins, or any of the causes or manifestations of said ailments or conditions; nor in the prevention of hemorrhages and ruptures. The regimen proposed by respondents does not constitute an adequate treatment for said ailments and conditions, and to it the said preparations contribute nothing more than a presumably palatable beverage (Alfamint Tea,) some nourishment (Powdered Vegetables), and purging (Flushettes and X-Pel).

15. The conditions which respondents assert to be due to impaired circulation due to accumulated wastes, such as aches and pains, lassitude, lack of energy, impaired ability to work, flabby muscles, premature age, dull hair and eyes, and bad complexion, are not due thereto. The following of respondents' "3 Day Pep-Up Plan" will not stop aches and pains, replace soft, flabby tissue with firm tissue, stimulate the brain, give immunity to colds and flu, increase vim, vigor, and vitality, improve the complexion and vision, make the cheeks rosy, make eyes clearer or brighter, avert colds, cure inflammation and headaches, avert the consequences of lack of sleep, or restore the kidney functions, nor will the use of respondents' products for which said plan calls contribute to these results.

16. The alkaline minerals do not build greater resistance to disease, help avert cavities in the teeth, regulate the beating of the heart, prevent excessive bleeding or regulate the functioning of the glands.

Poor circulation, undernourishment, cold hands and feet, and lack of energy are not results of lack of minerals in the diet.

17. The elasticity of the muscles and proper functioning of the nervous system are not dependent upon alkaline minerals.

18. Rickets is an ailment which does not occur in adults. Muscular soreness, indigestion, musclar weakness, scaly skin, anemia, infections, coarseness of the hair, mental dullness, low vitality, and pallid complexion are not due to the lack of alkaline minerals.

19. Neither overweight nor underweight is due to lack of minerals.

20. The so-called "wastes" do not accumulate in the tissues nor interfere with the flow of blood.

21. Sluggish elimination does not result in the accumulation of acid wastes.

22. Respondents' mineral preparations are of no value in the treatment of bad breath, coughs, lassitude, headache, or sour stomach, or in averting pneumonia or tuberculosis.

23. Deficiencies in copper and manganese are not causes of nutritional anemia.

24. Chlorophyll is not an essential nutrient and its presence in food is not necessary to the formation of hemoglobin in the blood.

25. Iodine or copper or the two combined will not correct obesity due to thyroid deficiency.

26. Large amounts of mineral foods are not necessary if one is to gain weight.

27. Sluggishness of bowel activity is not a cause of skin disorders.

28. Dry skin is not caused by constipation or disorders of the stomach, lungs, kidneys, or glands.

29. Oily skin is not caused by an accumulation of acid wastes in the skin.

30. Enlarged pores, blackheads, and acne are not caused by surplus wastes nor benefited by artifically induced defection.

31. There is no such condition as a sluggish liver.

32. The consumption of minerals will not protect against dental cavities by alkalizing the saliva or otherwise.

33. Respondents' food and drug products are of no value in averting menstrual disorders.

34. Respondents' food and drug products are of no value in postponing the menopause.

35. The use of "Alfamint Tea," "Flushettes," "X-Pel," and "Powdered Vegetables" does not diminish the discomforts of the menopause.

36. Vitamin D deficiency does not result in nervousness, overweight, underweight, anemia, and lack of verve and vigor. It is but one of many factors that may be involved in the loss of teeth.

37. Infections are not due to poor blood.

PAR. 13. In addition to the representations set forth hereinabove, the complaint alleges that certain other representations by the respondents are false, misleading, and deceptive, and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. The respondents, who were not represented by counsel during the hearings in this proceeding, admitted, by a stipulation as to the facts which was read into the record, these allegations of the complaint. However, the Commission, after consideration of the entire advertisements in which the representations appear, is of the opinion that they deal, for the most part, with expressions of opinion by the respondents and have only a remote, if any, connection with the sale and distribution of respondents' products, and that, therefore, corrective action with respect to such representations is not warranted.

PAR. 14. The use by the respondents of the aforesaid false advertisements with respect to their said products has had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations contained in said advertisements were true and into the purchase of substantial quantities of said products by reason of said erroneous and mistaken belief.

### 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 TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, to which no answer was filed, testimony and other evidence, including a stipulation as to the facts between counsel in support of the complaint and the respondents, introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, with exceptions thereto, and briefs of counsel (oral argument not having been requested); and the Commission having made

its findings as to the facts and its conclusion that respondents have violated the Federal Trade Commission Act:

It is ordered, That the respondents, Martin W. Pretorius and Marie Joyce, individuals, trading as Martin W. Pretorius, Pretorius Approved Products, The Pretorius Improve Your Health System, Pretorius System of Better Nutrition, or New Century Food, Inc., or under any other trade name, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of their various cosmetic products, devices, drugs, and foods, or any other product or device of substantially similar composition or construction or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

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

1. That cholesterin is essential in oils and creams applied to the body, to prevent interference with normal evaporation.

2. That cholesterin is necessary to prevent face creams or body oils from interfering with the functioning of the skin.

3. That the inclusion of cholesterin in cosmetic creams increases their cleansing properties.

4. That face creams containing mineral oil are carcinogenic.

5. That cosmetic creams containing wax seal the pores of the skin or interfere with evaporation from the skin.

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

1. That the use of respondents' device designated Pretorius Liquefier will eliminate or safeguard against nutritional deficiencies, or that said device has any value in making minerals or vitamins in raw vegetables more readily available or in extracting or supplying minerals or vitamins not otherwise available.

2. That respondents' device formerly known as New Century Sun Lamp and now known as "Pretorius Approved Ultra-Violet Ray Lamp" is suitable for use as a sun lamp or to give sun baths, or that

its use will provide resistance to disease other than resistance to rickets in children, or that the rays of said lamp have a germicidal effect upon skin infections in excess of affecting germs on the surface of the skin.

3. That the use of respondents' ultra-violet ray lamp will give increased energy or vigor, assure fine teeth or bone structure, or have any effect on the acidity or alkalinity of the body, soothe nerve ends, or relieve pain.

4. That the vitamin D supplies by respondents' ultra-violet ray lamp has any part in the utilization of either iron or iodine.

5. That exposure to the ultraviolet light supplied by respondents' ultraviolet ray lamp will immunize one against cold, influenza, pneumonia, or tuberculosis, preserve the teeth, prevent excessive bleeding, stabilize the nervous system, prevent nervousness or restlessness, or induce sound sleep.

6. That exposure to the ultraviolet light supplied by respondents' ultraviolet ray lamp will stimulate glandular functions, avert the effect of advancing years upon the skin, avert skin ailments such as acne, psoriasis, and eczema, or keep the hair or nails healthy.

7. That any dietary benefit will be gained from the use of respondents' ultraviolet ray lamp, unless limited to conditions where a dietary deficiency in vitamin D exists.

8. That sufficient amount of vitamin D cannot be obtained from foods or that daily sun or violet-ray baths are essential to obtain sufficient amounts.

9. That exposure to the rays of respondents' ultraviolet ray lamp increases the ability of the body to utilize minerals for the neutralization of the body acids or increases the iodine content of the thyroid gland.

10. That the rays from respondents' ultraviolet ray lamp will assist the body in the formation of antitoxins, or have any beneficial effect in healing of wounds or burns or in the treatment of asthma, sinusitis, arthritis, obesity of any type, or muscular tone.

11. That respondents' ultraviolet ray lamp will cure sterility, stimulate peristalsis, stimulate the brain, or assure, in connection with proper nutrition, a velvety skin or one usually free from pimples, acne, or other skin blemishes.

12. That the ultraviolet light from respondents' ultraviolet ray lamp acts as a skin food or that it will promote the growth of new tissue.

13. That the ultraviolet rays from respondents' ultraviolet ray lamp are a specific for hay fever or other respiratory ailments.

14. That respondents' ultraviolet ray lamp is of value in the treatment of abscesses, acidosis, anemia, arthritis, asthma, boils, bronchitis, cancer of the skin, catarrh, cavities of the teeth, colds, falling hair, heart ailments, hypothyroid, lumbago, nervousness, neuritis, neuralgia, poor appetite, pyorrhea, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tonsillitis, tuberculosis, tumors, or varicose veins, or in averting colds or hemorrhages.

C. Disseminating or causing to be disseminated any advertisement concerning respondents' food and drug products designated "Pretorius Alfamint Tea Alfa-Tabs," formerly known as "Pretorius Alfamint Tablets and Alfalfa Tablets, Pretorius Concentrated Alfalfa Tablets, Laminar Tablets, Celery Tablets, Solvettes, Pretorius Nezets, Minrich, Pretorius Concentrated Powdered Vegetables, Pretorius Virvets, and Pretorius Vitoloids," and their laxative preparations "Flushettes, X-Pel, and Peri-Lator," by means of the United States mails or by any other means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication:

1. That the alkalinity of the human body can be maintained by the selection of alkaline foods, or the use of respondents' mineral preparations, or the two combined.

2. That respondents' mineral preparations have any value in the clearing up of so-called "acid wastes," or in restoring circulation to congested areas.

3. That people in general are exposed to dietary deficiencies in vitamins and minerals due to impoverishment of the soil in vitamins and minerals, resulting in crops impoverished in the same way, improper harvesting of crops, delay in distribution to consumer, and improper methods of processing and cooking, to the extent that the use of vitamin and mineral supplements such as those sold by the respondents is necessary to avert such deficiencies or to assure proper nutrition.

4. That a well-nourished body is immune to illness or premature age.

5. That undernourishment of the tissues is the cause of influenza, coughs, colds, asthma, sinus infections, arthritis, colitis, high blood pressure, heart weakness, fading eyesight, neuritis, constipation, acidosis, rheumatism, or stomach disorders.

6. That glandular deficiencies, indigestion, rheumatism, acidosis, or cold hands and feet are due to lack of vitamins and minerals.

7. That symptoms which do not result from deficiencies in the respective vitamins or minerals result from deficiencies in those vita-

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8. That any of the following conditions are a result of a lack of minerals in the diet: poor circulation, undernourished condition, cold hands and feet, lack of energy, loss of teeth, cavities in teeth, irregular heart action, excessive bleeding, muscular soreness, nervousness, indigestion, muscular weakness, scaly skin, infections, glandular disturbances, coarseness of hair, mental dullness, a low vitality, pallid complexion, and minor skin disorders.

9. That 90 percent of all people, or any other percentage not based upon fact, are anemic or on the verge of anemia.

10. That Vitoloids will supply all minerals necessary to build rich, energy-producing blood, or be of any value in the treatment of diabetes.

11. That respondents' laxative preparations "Flushettes, X-Pel, and Peri-Lator" have any therapeutic value in the treatment of lowered resistance, frequent colds, chronic ailments, mental dullness, lassitude, indigestion, poor complexion, or susceptibility to infection.

12. That respondents' laxative preparations have any therapeutic value in the treatment of headaches, biliousness, poor appetite, coated tongue, foul breath, or bloated abdomen, in excess of supplying temporary relief where such conditions are symptomatic of constipation.

13. That respondents' preparation Laminar is of value in averting cavities in the teeth or falling hair.

14. That respondents' preparations Nezets and Virvets, used either singly or in connection with their other recommended procedures, have any therapeutic value in the treatment of abscesses, acidosis, adenoids, adhesions, anemia, swollen ankles, inefficient kidneys, weak heart, apoplexy, chronic appendicitis, arthritis, asthma, bad breath, local inflammation of the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, poor digestion, constipation, cavities in the teeth, lung ailments, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer, catarrh, coated tongue, colds, cold hands and feet, colitis, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle ear, eye disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hay fever, headaches, heart ailments, hemorrhoids, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leucorrhea, liver disorders, low blood pressure, lumbago, nervousness, neuritis, neuralgia, paralysis, poor appetite, prostate disorders, rheumatism, sciatica, sinus trouble, acne,eczema, psoriasis, tuberculosis, tumors, or varicose veins; or any of

the causes or manifestations of said ailments or conditions; or have any value in the prevention of hemorrhages or ruptures.

15. That the use of respondents' products Alfamint Tea, Concentrated Powdered Vegetables, Flushettes, and X-Pel, either singly or in connection with their other recommended procedures, is of therapeutic value in the treatment of abscesses, acidosis, adenoids, adhesions, anemia, arthritis, apoplexy, asthma, swollen ankles, inefficient kidneys, weak heart, local inflammation in the mouth, chronic inflammation of the tissues of the nose, pyorrhea, tonsillitis, poor digestion, cavities in the teeth, lung diseases, bladder inflammation, bladder stones, boils, Bright's disease, bronchitis, cancer not of the digestive tract, catarrh, colds, cold hands and feet, deafness, diabetes, dizziness, hysteria, migraine, inflammation of the middle ear, eve disturbances, uremia, lead poisoning, dropsy, epilepsy, fallen arches, falling hair, fibroid tumors, inflammation of the gall bladder, gallstones, gonorrhea, hay fever, heart ailments, hemorrhoids, high blood pressure, hyperchlorhydria, hyperthyroid, hypothyroid, indigestion, insomnia, jaundice, kidney stones, lack of energy, leucorrhea, liver disorders, locomotor ataxia, low blood pressure, lumbago, nervousness, neuritis, neuralgia, paralysis, prostate disorders, rheumatism, sciatica, sinus trouble, acne, eczema, psoriasis, tuberculosis, tumors, or varicose veins; or any of the causes or manifestations of said ailments or conditions; or is of any value in the prevention of hemorrhages or ruptures.

16. That aches or pains, lassitude, lack of energy, impaired ability to work, flabby muscles, premature age, dull hair or eyes, or bad complexion is due to impaired circulation caused by the accumulation of "acid wastes" in the system.

17. That the following of respondents' 3 Day Pep-Up Plan will stop aches or pains, replace soft, flabby tissue with firm tissue; stimulate the brain, give immunity to colds or influenza, increase vim, vigor and vitality, improve the complexion, improve vision, make the cheeks rosy, make the eyes clearer or brighter, avert colds, cure inflammation, cure headaches, avert the consequences of lack of sleep, or restore kidney functions; or that the use of their products for which the plan calls contributes to these results.

18. That alkaline minerals build greater resistance to disease, help avert cavities in the teeth, regulate the beating of the heart, help prevent excessive bleeding when injured, or regulate the functioning of the glands.

19. That the elasticity of the muscles or proper functioning of the nervous system is dependent upon alkaline minerals.

20. That muscular soreness, indigestion, muscular weakness, scaly skin, anemia, infections, coarseness of the hair, mental dullness, low vitality, or pallid complexion is due to lack of alkaline minerals.

21. That either overweight or underweight is due to lack of minerals.

22. That wastes accumulate in the tissues or interfere with the flow of blood.

23. That sluggish elimination results in the accumulation of "acid wastes."

24. That respondents' mineral preparations are of value in the treatment of bad breath, coughs, lassitude, headache, or sour stomach, or that said preparations are of value in averting pneumonia or tuberculosis.

25. That deficiencies in copper and manganese are causes of nutritional anemia.

26. That chlorophyll is an essential nutrient substance or that its presence in food is necessary to the formation of hemoglobin in the blood.

27. That iodine or copper or the two combined will correct obesity due to thyroid deficiency.

28. That large amounts of mineral foods are necessary to gain weight.

29. That sluggishness of bowel activity is a cause of skin disorders.

30. That dry skin is caused by constipation or disorders of the stomach, lungs, kidneys, or glands.

31. That oily skin is caused by an accumulation of "acid wastes" in the skin.

32. That enlarged pores, blackheads, or acne is the result of accumulated wastes or will be benefited by artificially induced defecation.

33. That there is such a condition as sluggish liver.

34. That minerals in the diet will render the saliva alkaline and protect against dental cavities.

35. That respondents' food and drug products are of value in averting or relieving menstrual disturbances.

36. That respondents' food and drug products are of value in postponing the menopause.

37. That the use of "Alfamint Tea, Flushettes, X-Pel, and Powdered Vegetables" will diminish the discomforts of the menopause.

38. That Vitamin D deficiency results in nervousness, overweight, underweight, anemia, or lack of verve and vigor.

39. That infections are due to poor blood.

### MARTIN W. PRETORIUS ET AL.

#### Order

D. Disseminating or causing to be disseminated any advertisement, by any means, for the purpose 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 any of respondents' devices, cosmetics, foods, or drugs, which advertisement contains any of the representations prohibited in Paragraphs A, B, and C hereof.

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

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#### Complaint

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# IN THE MATTER OF

# BORK MANUFACTURING CO., INC., AND ALVIN BORKIN

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

Docket 5525. Complaint, Jan. 9, 1948-Decision, Oct. 24, 1950

- Where a corporation and its president who directed its activities, policies and practices, engaged in the manufacture and interstate sale and distribution of push cards and punch boards which, with explanatory legends or space therefor, were designed for use in the sale and distribution of merchandise to the public by means of a game of chance, under a plan whereby the purchaser of a push or punch who by chance selected a concealed winning number secured an article at much less than its normal retail price, others receiving nothing for their money other than the privilege of a push or punch—
- Sold such devices to dealers in candy, cigarettes, clocks, razors, cosmetics, clothing and other articles, by whom assortments were made up of merchandise together with said devices, and exposed and sold by the direct or indirect retailer purchasers to the purchasing public in accordance with the aforesaid sales plan; and thereby
- Supplied to and placed in the hands of others the means of conducting lotteries, games of chance or gift enterprises in the sale or distribution of their merchandise, contrary to an established public policy of the United States Government and in violation of criminal laws;
- With the result that many members of the purchasing public were induced to deal with retailers who thus sold said merchandise; many retailers were thereby induced to trade with manufacturers, wholesalers and jobbers who sold and distributed such merchandise together with said devices; and gambling was encouraged among members of the public, all to the injury thereof:
- *Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair acts and practices.

Before Mr. W. W. Sheppard, trial examiner. Mr. J. W. Brookfield, Jr. for the Commission. Mr. Maxwell Slote, of New York City, 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 Bork Manufacturing Co., Inc., and Alvin Borkin, an individual, and president of Bork

### Complaint

Manufacturing Co., Inc., 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 and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Bork Manufacturing Co., Inc., is a corporation organized 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 6201 Fifteenth Avenue, in the city of Brooklyn, N. Y. Respondent, Alvin Borkin, is an individual, and president of said corporate respondent and controls and directs the business activities, sales policies and practices of the corporate respondent. The respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter alleged. Respondents are now and for more than three years last past have been engaged in the manufacture of devices commonly known as push cards and punch boards, and in the sale and distribution of said devices to manufacturers of, and dealers in various articles of merchandise in commerce between and among the various States of the United States, and in the District of Columbia.

Respondents cause and have caused said devices when sold, to be transported from their place of business in the State of New York to purchasers thereof at their points of location in the various States of the United States other than New York, and in the District of Columbia. There is now and has been for more than three years last past a course of trade in such devices by said respondents in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business as described in paragraph 1 hereof, respondents sell and distribute, and have sold and distributed, to said manufacturers of and dealers in merchandise, push cards and punch boards so prepared and arranged as to involve games of chance, gift enterprises or lottery schemes when used in making sales of merchandise to the consuming public. Respondents sell and distribute, and have sold and distributed many kinds of push cards and punch boards, but all of said devices involve the same chance or lottery features when used in connection with the sale or distribution of merchandise and vary only in detail.

Many of said push cards and punch boards have printed on the faces thereof certain legends or instructions that explain the manner in which said devices are to be used or may be used in the sale or distribution of various specified articles of merchandise. The prices

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of the sales on said push cards and punch boards vary in accordance with the individual device. Each purchaser is entitled to one punch or push from the push card or punch board, and when a push or punch is made a disc or printed slip is separated from the push card or punch board and a number is disclosed. The numbers are effectively concealed from the purchasers and prospective purchasers until a selection has been made and the push or punch completed. Certain specified numbers entitle purchasers to designated articles of merchandise. Persons securing lucky or winning numbers receive articles of merchandise without additional cost at prices which are much less than the normal retail price of said articles of merchandise. Persons who do not secure such lucky or winning numbers receive nothing for their money other than the privilege of making a push or punch from said card or board. The articles of merchandise are thus distributed to the consuming or purchasing public wholly by lot or chance.

Others of said push card and punch board devices have no instructions or legends thereon but have blank spaces provided therefor. On those push cards and punch boards the purchasers thereof place instructions or legends which have the same import and meaning as the instructions or legends placed by the respondents on said push card and punch board devices first hereinabove described. The only use to be made of said push card and punch board devices, and the only manner in which they are used, by the ultimate purchasers thereof, is in combination with other merchandise so as to enable said ultimate purchasers to sell or distribute said other merchandise by means of lot or chance as hereinabove alleged.

PAR. 3. Many persons, firms and corporations who sell and distribute, and have sold and distributed, candy, cigarettes, clocks, razors, cosmetics, clothing, and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia, purchase and have purchased respondents' said push card and punch board devices, and pack and assemble and have packed and assembled, assortments comprised of various articles of merchandise together with said push cards and punch board devices. Retail dealers who have purchased said assortments either directly or indirectly have exposed the same to the purchasing public and have sold or distributed said articles of merchandise by means of said push cards and punch boards in accordance with the sales plan as described in paragraph 2 hereof. Because of the element of chance involved in connection with the sale and distribution of said merchandise by means of said push cards and punch

boards, many members of the purchasing public have been induced to trade or deal with retail dealers selling or distributing said merchandise by means thereof. As a result thereof many retail dealers have been induced to deal with or trade with manufacturers, wholesale dealers and jobbers who sell and distribute said merchandise together with said devices.

PAR. 4. The sale of merchandise to the purchasing public through the use of, or by means of, such devices in the manner above alleged, involves a game of chance or the sale of a chance to procure articles of merchandise at prices much less than the normal retail price thereof and teaches and encourages gambling among members of the public, all to the injury of the public. The use of said sales plan or methods in the sale of merchandise and the sale of merchandise by and through the use thereof, and by the aid of said sales plan or method is a practice which is contrary to an established public policy of the Government of the United States and in violation of criminal laws, and constitutes unfair acts and practices in said commerce.

The sale or distribution of said push cards and punch board devices by respondents as hereinabove alleged supplies to and places in the hands of others the means of conducting lotteries, games of chance or gift enterprise in the sale or distribution of their merchandise. The respondents thus supply to, and place in the hands of, said persons, firms, and corporations the means of, and instrumentalities for, engaging unfair acts and practices within the intent and meaning of the Federal Trade Commission Act.

PAR. 5. The aforesaid acts and practices of respondents as hereinabove alleged are all to the prejudice and injury of the public and constitute unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

# REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act the Federal Trade Commission, on January 9, 1948, issued and subsequently served its complaint in this proceeding upon respondents, Bork Manufacturing Co., Inc., a corporation, and Alvin Borkin, individually and as president of such corporation, charging said respondents with the use of unfair acts and practices in commerce in violation of the provisions of that act. After the filing by respondents of their answer to the complaint the trial examiner, theretofore duly designated by the Commission to perform in this proceeding the duties authorized by law, by order in which reference is made to respond-

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ents' waiver of further intervening procedure and the filing by the trial examiner of recommended decision granted respondents' motion for permission to withdraw said answer and substitute therefor an answer admitting all of the material allegations of fact set forth in the complaint and reserving in such answer to respondents the right to file brief herein within 60 days after the filing thereof, which substitute answer was duly filed on March 14, 1950, in the office of the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint and respondents' substitute answer (no brief having been filed by respondents); and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion based thereon.

### FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Bork Manufacturing Co., Inc., is a corporation organized 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 6201 Fifteenth Avenue, in the city of Brooklyn, N. Y. Respondent, Alvin Borkin, is an individual, and president of said corporate respondent and controls and directs the business activities, sales policies and practices of the corporate respondent. The respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter described. Respondents are now and for more than three years last past have been engaged in the manufacture of devices commonly known as push cards and punch boards, and in the sale and distribution of said devices to manufacturers of, and dealers in, various articles of merchandise in commerce between and among the various States of the United States, and in the District of Columbia.

Respondents cause and have caused said devices, when sold, to be transported from their place of business in the State of New York to purchasers thereof at their points of location in the various States of the United States other than New York, and in the District of Columbia. There is now and has been for more than 3 years last past a course of trade in such devices by said respondents in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their said business as described in paragraph 1 hereof, respondents sell and distribute, and have sold

and distributed, to said manufacturers of and dealers in merchandise, push cards and punch boards so prepared and arranged as to involve games of chance, gift enterprises or lottery schemes when used in making sales of mechandise to the consuming public. Respondents sell and distribute, and have sold and distributed many kinds of push cards and punch boards, but all of said devices involve the same chance or lottery features when used in connection with the sale or distribution of merchandise and vary only in detail.

Many of said push cards and punch boards have printed on the faces thereof certain legends or instructions that explain the manner in which said devices are to be used or may be used in the sale or distribution of various specified articles of merchandise. The prices of the sales on said push cards and punch boards vary in accordance with the individual device. Each purchaser is entitled to one punch or push from the push card or punch board, and when a push or punch is made a disk or printed slip is separated from the push card or punch board and a number is disclosed. The numbers are effectively concealed from the purchasers and prospective purchasers until a selection has been made and the push or punch completed. Certain specified numbers entitle purchasers to designated articles of merchandise. Persons securing lucky or winning numbers receive articles of merchandise without additional cost at prices which are much less than the normal retail price of said articles of merchandise. Persons who do not secure such lucky or winning numbers receive nothing for their money other than the privilege of making a push or punch from said card or board. The articles of merchandise are thus distributed to the consuming or purchasing public wholly by lot or chance.

Others of said push card and punch board devices have no instructions or legends thereon but have blank spaces provided therefor. On those push cards and punch boards the purchasers thereof place instructions or legends which have the same import and meaning as the instructions or legends placed by the respondents on said push card and punch board devices first hereinabove described. The only use to be made of said push card and punch board devices, and the only manner in which they are used, by the ultimate purchasers thereof, is in combination with other merchandise so as to enable said ultimate purchasers to sell or distribute said other merchandise by means of lot or chance as hereinabove described.

PAR. 3. Many persons, firms and corporations who sell and distribute, and have sold and distributed, candy, cigarettes, clocks, razors, cosmetics, clothing, and other articles of merchandise in commerce between and among the various States of the United States and in the

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District of Columbia, purchase and have purchased respondents' said push card and punch board devices, and pack and assemble and havepacked and assembled, assortments comprised of various articles of merchandise together with said push cards and punch board devices. Retail dealers who have purchased said assortments either directly or indirectly have exposed the same to the purchasing public and have sold or distributed said articles of merchandise by means of said push cards and punch boards in accordance with the sales plan as described in paragraph 2 hereof. Because of the element of chance involved in connection with the sale and distribution of said merchandise by means of said push cards and punch boards, many members of the purchasing public have been induced to trade or deal with retail dealers selling or distributing said merchandise by means thereof. As a result thereof many retail dealers have been induced to deal with or trade with manufacturers, wholesale dealers and jobbers who sell and distribute said. merchandise together with said devices.

PAR. 4. The sale of merchandise to the purchasing public through the use of, or by means of, such devices in the manner above described, involves a game of chance or the sale of a chance to procure articles of merchandise at prices much less than the normal retail price thereof and teaches and encourages gambling among members of the public, all to the injury of the public. The use of said sales plan or methods in the sale of merchandise and the sale of merchandise by and through the use thereof, and by the aid of said sales plan or method is a practice which is contrary to an established public policy of the Government of the United States and in violation of criminal laws, and constitutes unfair acts and practices in said commerce.

The sale or distribution of said push cards and punch board devices by respondents as described herein supplies to and places in the hands of others the means of conducting lotteries, games of chance or gift enterprises in the sale or distribution of their merchandise. The respondents thus supply to, and place in the hands of, said persons, firms and corporations the means of, and instrumentalities for, engaging in unfair acts and practices within the intent and meaning of the Federal Trade Commission Act.

### CONCLUSION

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

### ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answer of respondents, in which answer respondents admitted all the material allegations of fact set forth in the complaint and reserved the right of filing brief before the Commission, which right, however, has not been exercised by respondents; and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent Bork Manufacturing Co., Inc., a corporation, and its officers, agents, representatives, and employees, and respondent Alvin Borkin, individually and as an officer of said corporation, and his agents, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, punch boards, push cards, or other lettery devices which are to be used or may be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise, or lottery scheme.

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

Commissioner Mason concurring in the findings as to the facts and conclusion, but not concurring in the form of order to cease and desist, for the reasons stated in his opinion concurring in part and dissenting in part in docket 5203, Worthmore Sales Co.<sup>1</sup>

<sup>1</sup> See 46 F. T. C. 606.