

IN THE MATTER OF  
FEDERAL ORGANIZATION, INC., AND SAMUEL L.  
PRESNER

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

*Docket 3782. Complaint, May 5, 1939—Decision, Aug. 2, 1939*

Where a corporation and an individual, who was president thereof prior to its dissolution, and formulated, controlled, and directed its policies and practices, engaged in sale and distribution of devices and medicinal preparations containing drugs, for treatment of genital and urinary disorders and diseases, and acting together and in cooperation with each other in doing the acts and things below set out; in advertisements which they disseminated and caused to be disseminated concerning their said products, through the mails, through newspapers and periodicals of general circulation and through circulars and other printed or written matter, and which were intended and calculated to induce purchase of their said products—

- (a) Represented, through such typical statements as "We believe our products will be of great help, for more than 20,000 customers have found them effective \* \* \* safe to use. \* \* \* no dangerous drugs and no harmful chemicals of any kind. \* \* \* not habit forming \* \* \* used by countless doctors," and "If weak, nervous, de-energized, suffer from Gland, Kidney, Stomach or other weakness, send for details \* \* \*," etc., and "MEN—STRENGTHEN VITAL POWERS. Increase energy. \* \* \* Confidential information \* \* \*," that their preparations and devices were safe for use, contained no dangerous drugs, were recommended by doctors, constituted a cure or remedy and competent treatment for weak, nervous, and deenergized conditions and for gland, kidney, stomach, and other weaknesses, and would increase sex power, vitality, and manpower without dangerous use of harmful drugs and artificial stimulants;

Facts being their said preparations and devices generally were not safe for use or recommended by doctors, and were not a cure or remedy or competent treatment for aforesaid conditions or gland, kidney, stomach, or other disorders, and would not increase sex power or vitality;

- (b) Represented that their "Vibro Appliance" and other devices named, were aids in the development of the male sexual anatomy and would restore sexual power, and that their "Vitamin E Perles" would prevent impotency and degeneration of said cells, and was a potent tonic and stimulant for men or women, and that their "Spanish Passion Extract" and "Double Strength Spanish Passion Extract" were healthful, and noninjurious, quick-acting stimulants for the organs of sex, and served as a tonic, and were beneficial in treatment of prostate troubles, cystitis, kidney diseases, inflammation of the urinary canal and bladder, and other related ailments and conditions, and that their preparation "African Jungle Tree" was a harmless, powerful sexual stimulant which would restore such vigor in man;

504

## Syllabus

- (c) Represented that their "Stamina Kel-Pep" would increase the appetite, assist digestion and overcome constipation, and build up energy, and the blood or tissues, and that their "Nerv-Tonik" was a tonic which would build up the body, give new blood, increase the weight, improve appetite, increase vigor, etc.;
- (d) Represented that their "Kidney Herb Tea" was a competent treatment for genitourinary diseases which would dissolve pus, gravel, kidney stones, and relieve bladder irritation, and that their "Z. K. Herb Pearls" would reduce high blood pressure; and
- (e) Represented that their "K-9 Herb Tabs" had antiseptic properties, and that their "Flora Laxaid" constituted a cure or remedy for constipation; Facts being their said various devices and preparations would not, as case might be, accomplish results claimed for them as above set forth, and were not a cure or remedy for, or competent treatment of, or beneficial treatment for various diseases, conditions, and disorders for which recommended, their said "Stamina Kel-Pep" contained iodine, use of which would be definitely harmful in event of users who had pulmonary tuberculosis or were suffering from goiter, and their "Spanish Passion Extract" and "African Jungle Tree" preparations contained yohimbine, use of which in sufficient quantities to be effective would be injurious to health, with irritation to urinary tract and serious nephritis as possible after effects; and

Where said corporation and said individual engaged as aforesaid, and in advertising their said products—

- (f) Disseminated false advertisements through failing to reveal to purchasers or prospective purchasers that use of their said devices and of their said preparations containing iodine and yohimbine by uninformed persons, under conditions recommended or such conditions as are customary and usual, might in some cases cause serious injury to health;
- (g) Represented that their various products had been approved by a research organization engaged in experimental study and application of scientific principles in testing and in analysis, or in preparation of, medicines, drugs, or chemicals, through use in various of their circulars, advertisements, and other printed matter, of facsimile of a purported seal bearing legend "A CERTIFIED FEDERAL PRODUCT Approved by the Federal Research Laboratories of New York," together, usually, with a "WARNING" to the reader against products imitating their own, and an invitation, for reader's protection, to "always look for the Federal Seal on every package represented to be a Federal Product," and represented thereby, through use of words "Federal" and "Federal Research Laboratories," that product sold by them had been tested and approved by some agency or experimental laboratory of the United States Government; and
- (h) Represented, through use of statement "Federal Organization, Inc., Successor to Federal Research Laboratories," in certain of their circulars, advertisements, and other printed matter, that they owned, controlled, or operated a laboratory equipped for experimental study, testing, analyzing, and preparation of medicine or drugs;

Facts being their said products had not been tested or approved by any experimental or testing laboratory, supposed "Federal Research Laboratory of New York" was merely trade name used by them, they did not own, control, or operate a laboratory equipped for experimental study, tests, analysis, or preparation of medicines, drugs, or chemicals, and their products had never

## Complaint

29 F. T. C.

been tested or approved by any United States Government agency or laboratory;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and with result of inducing, through use of such false, deceptive, and misleading statements, etc., directly or indirectly, purchase by public of their said devices, and medicinal preparations containing injurious drugs, and with likelihood so to induce such purchase: *Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

*Mr. J. W. Brookfield, Jr.* for the Commission.

## 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 Federal Organization, Inc., a corporation, and Samuel L. Presner, an individual, and president of Federal Organization, Inc., hereinafter referred to as respondents, have violated the provisions 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 complaint, stating its charges in that respect as follows:

PARAGRAPHS 1. Respondent Federal Organization, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business located at 198 Broadway, in the city of New York, State of New York, and respondent Samuel L. Presner, whose present address is 4434 Post Avenue, in the city of Miami, Fla., is an individual and is the president of Federal Organization, Inc., and formulates, controls, and directs its policies and practices. Said respondents act together and in cooperation with each other in doing the acts and things hereinafter alleged.

PAR. 2. Respondents during the year last past have been and still are engaged in the sale and distribution of devices and medicinal preparations containing drugs for the treatment of genital and urinary disorders and diseases. Among the products offered for sale and sold by respondents are certain devices designated "Vibro Appliance," "Brace-O Appliance," and "Giant Developer," represented to be aids in the development of the male sexual organ and aids in the performance of sexual act; a device designated "Prosto Massager," offered and sold as a treatment for the prostate gland; preparations designated "Vitamin E Perles," "Stamina Kel-Pep," "Spanish Passion Extract," "Double Strength Spanish Passion Extract," "African Jungle Tree," and "Nerv-Tonik" offered and sold as aphrodisiacs; preparations

designated "Kidney Herb Tea" and "K-9 Herb Tabs" offered and sold as treatment for kidney and urinary disorders and weakness; "Z. K. Herb Pearls" offered and sold as a treatment for reducing high blood pressure; and "Flora Laxaids" offered and sold as a laxative.

In the course and conduct of their business, respondents cause said devices and preparations, when sold, to be transported from their place of business in the State of New York to the 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 commerce in said devices and preparations among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said products, by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States; and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said products, and have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said products in commerce, as commerce is defined in the Federal Trade Commission Act. In the false statements and representations disseminated and caused to be disseminated as aforesaid the respondents represent that their preparations and devices are safe for use, that their preparations contain no dangerous drugs and are recommended by doctors; that said preparations and devices are a cure or remedy and a competent treatment for weak, nervous, and deenergized conditions and for gland, kidney, stomach, and other weaknesses; that said devices and preparations will increase sex power, vitality, and manpower without dangerous use of harmful drugs and artificial stimulants. Among and typical of such false statements and representations contained in said advertisements are the following:

We believe our products will be of great help, for more than 20,000 customers have found them effective. \* \* \* These products are safe to use. They contain no dangerous drugs and no harmful chemicals of any kind. They are not habit forming. They are used by countless Doctors.

If weak, nervous, de-energized, suffer from Gland, Kidney, Stomach or other weakness, send for details regarding our natural methods and herb remedies.

**MEN—STRENGTHEN VITAL POWERS.** Increase energy. New Method brings quickest results **WITHOUT** drugs, pills or medicine. Confidential information to men for 3¢ stamp.

In the various advertising circulars and other printed matter disseminated and caused to be disseminated as aforesaid, the respondents represent that their devices "Vibro Appliance," "Brace-O Appliance," "Giant Developer," and "Prosto Massager" are aids in the development of male sexual organs and will restore sexual power; that their preparation "Vitamin E Perles" will prevent sex impotency, degeneration of the sex cells, sex sterility, and is a potent tonic and nerve stimulant for male and female; that their preparation "Stamina Kelp-Pep" increases the appetite, assists digestion, overcomes constipation and builds up energy, endurance, red blood, and pounds of healthy flesh and tissue; that their preparations "Spanish Passion Extract" and "Double Strength Spanish Passion Extract" are healthful, not injurious, quick acting, stimulants for the sexual organs, and which serve as a tonic and which are beneficial in the treatment of prostate troubles, cystitis, kidney diseases, inflammation of the urinary canal and bladder, kidney stones, and gravel in the kidneys; that their preparation "Kidney Herb Tea" is a competent treatment for genito-urinary diseases and will dissolve pus, gravel and stones in the kidneys and relieve irritation of the bladder; that their preparation "African Jungle Tree" is a harmless, powerful sexual stimulant which will restore sexual vigor of man; that their preparation "Nerv-Tonik" is a food tonic which will build up the body with new blood, increase the weight, help the digestive system, improve appetite, stimulate the glands, and increase vital energy; that their preparation "Z. K. Herb Pearls" will reduce high blood pressure; that their preparation "Flora Laxaid" is a cure or remedy for constipation; and that their preparation "K-9 Herb Tabs" have antiseptic properties.

**PAR. 4.** In truth and in fact each and all the representations and claims hereinabove set forth, as well as many other claims not specifically mentioned herein which purport to be descriptive of the remedial, curative, or therapeutic properties of respondents' devices and preparations, are false, misleading, and untrue. Respondents' preparations and devices generally are not safe for use, are not recommended by doctors and are not a cure or remedy or a competent treatment for weak, nervous, or deenergized conditions or for gland, kidney, or stomach or other disorders and will not increase sex power or vitality.

The devices "Vibro Appliance," "Brace-O Appliance," "Giant Developer," and "Prosto Massager" will not aid in the development of male organs and will not restore sexual power. The various preparations hereinbefore mentioned are not a cure or remedy for, or a competent treatment of, or beneficial in the treatment of various diseases, conditions, and disorders for which said preparations are recommended by the respondents as above set out and will not accomplish the results as represented by the respondents.

Respondents' preparation "Stamina Kel-Pep" contains iodine, the use of which would be definitely harmful in the event the users thereof had pulmonary tuberculosis or were suffering from goiter.

Respondents' preparations "Spanish Passion Extract," "Double Strength Spanish Passion Extract," and "African Jungle Tree" contain yohimbine, a drug the use of which in sufficient quantities to be effective would be injurious to health and cause irritation and injury to the urinary tract and serious nephritis may be one of the after effects.

PAR. 5. In addition to the false and misleading statements hereinabove set forth, the respondents are also engaged in the dissemination of false advertisements as aforesaid in that the respondents fail to reveal to purchasers and prospective purchasers that the use of respondents' devices and the use of respondents' preparations containing iodine and yohimbine, by uninformed persons under the conditions recommended or under such conditions as are customary and usual may in some cases cause serious injury to health.

PAR. 6. For the purpose of misleading and deceiving purchasers and prospective purchasers the respondents represent that their various products have been approved by a research organization engaged in the experimental study and application of scientific principles in testing and analyzing or in the preparation of medicine, drugs, or chemicals. This representation is made by means of the facsimile of a purported seal in various of its circulars, advertisements, and other printed matter upon which appears the legend:

**A CERTIFIED  
FEDERAL  
PRODUCT**

Approved by the Federal Research  
Laboratories of New York

The facsimile of such seal is usually accompanied by the following or some similar statement:

**WARNING**

Imitation products are appearing on the market which are being represented as ours. In some instances our advertising literature and name of our prod-

## Findings

29 F. T. C.

ucts have flagrantly been copied in defiance of the law. We call this matter to your attention so that you will not be "taken in" by the unscrupulous methods which some firms dare use.

For your protection, always look for the Federal Seal on every package represented to be a Federal Product. It is your safeguard to quality and merit and satisfaction All Ways.

The use by the respondents of the word "Federal" and "Federal Research Laboratories" is a representation that the products sold by the respondents have been tested and approved by some agency or experimental laboratory of the United States Government.

In addition, in certain of its circulars, advertisements, and other printed matter, the respondents use the statement:

Federal Organization, Inc.  
Successors to Federal Research Laboratories.

By this means the respondents represent that they own, control, or operate a laboratory equipped for experimental study, testing, analyzing, and preparation of medicine or drugs.

In truth and in fact the products sold and distributed by the respondents, have not been tested or approved by any experimental or testing laboratory, but instead "Federal Research Laboratories" of New York is merely a trade name used by the respondents. Furthermore, the respondents do not own, control, or operate a laboratory equipped for experimental study, testing, analyzing, or preparation of medicine, drugs, or chemicals.

Respondents' products have never been tested or approved by any United States Government agency or laboratory.

PAR. 7. The use by respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid, with respect to said medicinal preparations and devices, has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations and advertisements are true, and induces or is likely to induce, directly or indirectly, the purchase by the public of respondents' devices and medicinal preparations containing injurious drugs.

PAR. 8. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on May 5, 1939, issued and served

its complaint in this proceeding upon respondents, Federal Organization, Inc., a corporation, and Samuel L. Presner, an individual, and president of Federal Organization, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On June 16, 1939, the respondent, Samuel L. Presner, filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Federal Organization, Inc., was a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal place of business located at 198 Broadway, in the city of New York, State of New York. On November 17, 1938, the said corporation was dissolved. Respondent Samuel L. Presner, whose present address is 4434 Post Avenue, in the city of Miami, State of Florida, is an individual and was the president of Federal Organization, Inc., and formulated, controlled and directed its policies and practices. Said respondents acted together and in cooperation with each other in doing the acts and things hereinafter found.

PAR. 2. Respondents during the year last past were engaged in the sale and distribution of devices and medicinal preparations containing drugs for the treatment of genital and urinary disorders and diseases. Among the products offered for sale and sold by respondents are certain devices designated "Vibro Appliance," "Brace-O Appliance," and "Giant Developer," represented to be aids in the development of the male sexual organ and aids in the performance of the sexual act; a device designated "Prosto Massager," offered and sold as a treatment for the prostate gland; preparations designated "Vitamin E Perles," "Stamina Kel-Pep," "Spanish Passion Extract," "Double Strength Spanish Passion Extract," "African Jungle Tree," and "Nerv-Tonik" offered and sold as aphrodisiacs; preparations designated "Kidney Herb Tea" and "K-9 Herb Tabs" offered and sold as treatment for kidney and urinary disorders and weakness; "Z. K. Herb Pearls" offered and sold as a treatment for reducing

## Findings

29 F. T. C.

high blood pressure; and "Flora Laxaid" offered and sold as a laxative.

In the course and conduct of their business, respondents caused said device and preparations when sold to be transported from their place of business in the State of New York to the purchasers thereof located in other States of the United States and in the District of Columbia. Respondents, at all times mentioned herein, maintained a course of trade in commerce in said devices and preparations among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents disseminated and caused the dissemination of false advertisements concerning their said products by United States mails, by insertion in newspapers and periodicals having a general circulation, and also in circulars and other printed or written matter, all of which were distributed in commerce among and between the various States of the United States, and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said products, and disseminated and caused the dissemination of, false advertisements concerning their said products by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said products in commerce, as commerce is defined in the Federal Trade Commission Act. In the false statements and advertisements disseminated and caused to be disseminated, as aforesaid, the respondents represented that their preparations and devices are safe for use; that their preparations contain no dangerous drugs and are recommended by doctors; that said preparations and devices are a cure or remedy and a competent treatment for weak, nervous, and deenergized conditions and for gland, kidney, stomach, and other weaknesses; that said devices and preparations will increase sex power, vitality, and manpower without dangerous use of harmful drugs and artificial stimulants. Among and typical of such false statements and representations contained in said advertisements are the following:

We believe our products will be of great help, for more than 20,000 customers have found them effective \* \* \* These products are safe to use. They contain no dangerous drugs and no harmful chemicals of any kind. They are not habit forming. They are used by countless Doctors.

If weak, nervous, de-energized, suffer from Gland, Kidney, Stomach or other weakness, send for details regarding our natural methods and herb remedies.

**MEN—STRENGTHEN VITAL POWERS.** Increase energy. New method brings quickest results WITHOUT drugs, pills or medicines. Confidential information to men for 3¢ stamp.

In the various advertising circulars and other printed matter, disseminated and caused to be disseminated as aforesaid, the respondents represented that their devices "Vibro Appliance," "Brace-O Appliance," "Giant Developer," and "Prosto Massager" are aids in the development of the male sexual organ and will restore sexual power; that their preparation "Vitamin E Perles" will prevent sex impotency, degeneration of the sex cells, sex sterility, and is a potent tonic and nerve stimulant for male and female; that their preparation "Stamina Kel-Pep" increases the appetite, assists digestion, overcomes constipation, and builds up energy endurance, red blood, and pounds of healthy flesh and tissue; that their preparations "Spanish Passion Extract" and "Double Strength Spanish Passion Extract" are healthful, not injurious, quick acting, stimulants for the sexual organs, and which serve as a tonic and which are beneficial in the treatment of prostate troubles, cystitis, kidney diseases, inflammation of the urinary canal and bladder, kidney stones, and gravel in the kidneys; that their preparation "Kidney Herb Tea" is a competent treatment for genitourinary diseases and will dissolve pus, gravel and stones in the kidneys and relieve irritation of the bladder; that their preparation "African Jungle Tree" is a harmless, powerful sexual stimulant which will restore sexual vigor of man; that their preparation "Nerv-Tonik" is a food tonic which will build up the body with new blood, increase the weight, help the digestive system, improve appetite, stimulate the glands and increase vital energy; that their preparation "Z. K. Herb Pearls" will reduce high blood pressure; that their preparation "Flora Laxaid" is a cure or remedy for constipation; and that their preparation "K-9 Herb Tabs" has antiseptic properties.

**PAR. 4.** In truth and in fact each and all of the representations and claims hereinabove set forth, as well as many other claims not specifically mentioned herein which purport to be descriptive of the remedial, curative, or therapeutic properties of respondents' devices and preparations, are false, misleading, and untrue. Respondents' preparations and devices generally are not safe for use, are not recommended by doctors and are not a cure or remedy or a competent treatment for weak, nervous, or deenergized conditions or for gland, kidney, stomach, or other disorders, and will not increase sex power or vitality.

The devices "Vibro Appliance," "Brace-O Appliance," "Giant Developer," and "Prosto Massager" will not aid in the development of male sexual organs and will not restore sexual power. The various preparations hereinbefore mentioned are not a cure or remedy for, or a competent treatment of, or beneficial in the treatment of various diseases, conditions and disorders for which said preparations are

## Findings

29 F. T. C.

recommended by the respondents as above set out and will not accomplish the results as represented by the respondents.

Respondents' preparation "Stamina Kel-Pep" contains iodine, the use of which would be definitely harmful in the event the users thereof had pulmonary tuberculosis or were suffering from goiter.

Respondents' preparations "Spanish Passion Extract," "Double Strength Spanish Passion Extract," and "African Jungle Tree" contain yohimbine, a drug the use of which in sufficient quantities to be effective would be injurious to health and cause irritation and injury to the urinary tract and serious nephritis may be one of the after effects.

PAR. 5. In addition to the false and misleading statements hereinabove set forth, respondents were also engaged in the dissemination of false advertisements, as aforesaid, in that the respondents failed to reveal to purchasers, and prospective purchasers that the use of respondents' devices and the use of respondents' preparations containing iodine and yohimbine, by uninformed persons under the conditions recommended or under such conditions as are customary and usual, may in some cases cause serious injury to health.

PAR. 6. For the purpose of misleading and deceiving purchasers and prospective purchasers, the respondents represented that their various products have been approved by a research organization, engaged in the experimental study and application of scientific principles in testing and analyzing, or in the preparation of, medicines, drugs, or chemicals. This representation was made by means of the facsimile of a purported seal in various of their circulars, advertisements, and other printed matter upon which appears the legend:

A CERTIFIED  
FEDERAL  
PRODUCT

Approved by the Federal Research  
Laboratories of New York

The facsimile of such seal is usually accompanied by the following or some similar statement:

## WARNING

Imitation products are appearing on the market which are being represented as ours. In some instances our advertising literature and name of our products have flagrantly been copied in defiance of the law. We call this matter to your attention so that you will not be "taken in" by the unscrupulous methods which some firms dare use. For your protection always look for the Federal Seal on every package represented to be a Federal Product. It is your safeguard to quality and merit and satisfaction All Ways.

504

## Order

The use by the respondents of the word "Federal" and "Federal Research Laboratories" is a representation that the products sold by the respondents have been tested and approved by some agency or experimental laboratory of the United States Government.

In addition, in certain of its circulars, advertisements, and other printed matter, respondents used the statement "Federal Organization, Inc., Successors to Federal Research Laboratories." By this means, the respondents represented that they own, control, or operate a laboratory equipped for experimental study, testing, analyzing, and preparation of medicine or drugs.

The products sold and distributed by the respondents have not been tested or approved by any experimental or testing laboratory, but instead "Federal Research Laboratory" of New York was merely a trade name used by the respondents. Furthermore, the respondents have not owned, controlled, or operated a laboratory equipped for experimental study, testing, analysis, or preparation of medicine, drugs, or chemicals.

Respondents' products have never been tested or approved by any United States Government agency or laboratory.

PAR. 7. The use by respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid with respect to said medicinal preparations and devices, had the capacity and tendency to, and has misled and deceived a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements were true, and induced or has been likely to induce, directly or indirectly, the purchase by the public of respondents' devices and medicinal preparations containing injurious drugs.

## CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice 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 complaint of the Commission and the answer of respondent Samuel L. Presner, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in said complaint and

that, without further evidence or other intervening procedure, the case might proceed to final hearing upon the record; it appearing that the respondent Federal Organization, Inc., is no longer in existence, and the Commission having made its findings as to the facts and conclusion that said respondent Samuel L. Presner has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That the respondent, Samuel L. Presner, an individual, his representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisements by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of devices now designated by the names of "Vibro Appliance," "Brace-O Appliance," "Giant Developer," "Prosto Massager," or any other similar devices, whether sold under the same names or any other name or names, or medicinal preparations containing drugs now designated "Stamina Kel-Pep," "Spanish Passion Extract," "Double Strength Spanish Passion Extract," "African Jungle Tree," "Nerv-Tonik," "Kidney Herb Tea," "K-9 Herb Tabs," "Z. K. Herb Pearls," "Flora Laxaid," or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or under any other name or names; or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said devices or medicinal preparations, which advertisements (1) represent, directly or through implication, (a) that his said devices "Vibro Appliance," "Brace-O Appliance," "Giant Developer" or "Prosto Massager" will aid in the development of the male sexual organ, restore sexual power or cure or relieve disorders of the prostate gland; (b) that his said preparation "Stamina Kel-Pep" will increase the appetite, assist digestion, overcome constipation or build up energy, endurance, the blood or tissues; (c) that said preparations "Spanish Passion Extract" or "Double Strength Spanish Passion Extract" are healthful stimulants or tonics for the sexual organs, or constitute effective remedies or beneficial treatments for prostate disorders, cystitis, kidney disorders, inflammation of the urinary organs, kidney stones or gravel; (d) that said preparation "African Jungle Tree" is a harmless sexual stimulant or will restore sexual vigor; (e) that said preparation "Nerv-Tonik" is a tonic, or will build up the body, give new blood, increase the weight, aid the

504

## Order

digestive system, improve the appetite, stimulate the glands or increase vigor; (f) that said preparation "Kidney Herb Tea" is a competent treatment for genitourinary diseases, or will dissolve pus, gravel or stones in the kidneys or relieve bladder irritation; (g) that said preparation "Z. K. Herb Pearls" will reduce high blood pressure; (h) that said preparation "K-9 Herb Tabs" has antiseptic properties; (i) that said preparation "Flora Laxaid" is a cure or remedy for constipation; (2) or which advertisements concerning the preparations designated "Stamina Kel-Pep," "Spanish Passion Extract," "Double Strength Spanish Passion Extract," "African Jungle Tree," fail to reveal that these preparations are not wholly safe to be used by the lay public in self medication.

*It is further ordered,* That respondent do cease and desist from representing, through the use of the word "Federal" on seals or otherwise, that his products have been tested, inspected or approved by an agency or bureau of the United States Government; or representing through the use of the phrases "Laboratories" or "Research Laboratories" as part of his trade name, or in any other manner, that he maintains a laboratory for making scientific tests on products sold by him.

*It is further ordered,* That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

*It is further ordered,* That this proceeding be, and the same hereby is, closed as to the respondent, Federal Organization, Inc., without prejudice to the right of the Commission to reopen the same and resume prosecution thereof in accordance with the Commission's regular procedure should future facts so warrant.

## IN THE MATTER OF

## JULIUS M. FIRK, TRADING AS STRAUSS TAILORING COMPANY, FEDERAL TAILORING COMPANY, BELL TAILORING COMPANY AND ARLIN TAILORING COMPANY

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

*Docket 3788. Complaint, May 11, 1939—Decision, Aug. 2, 1939*

Where an individual engaged, under various trade names, in manufacture, sale, and distribution of suits and other clothing for men, and in selling his said products to purchasing public in various States directly and through merchant tailors who displayed samples of his cloth, took measurements of individual customers, and sent same to his place of business for making up into suits and other articles of clothing for men; in furtherance of practice of falsely representing constituent fiber or material of which his said clothing was made, and to induce purchase of his clothing, and in endeavor to aid such merchant tailors to procure customers' orders therefor—

- (a) Caused false statements and representations purporting to be descriptive of his said clothing and its constituent fibers or materials to be inserted on swatch cards, markers, price lists, and circulars distributed among purchasers and prospective purchasers, and thus represented, among other things, through placing on swatch cards and in various advertising circulars statements "Guaranteed All Wool," "Woolens of Quality," and "Super Quality Worsteds," that the fabrics so described were composed entirely of "Wool," definite and specific meaning of which word, unqualified, to purchasing or consuming public, is virgin or unused, as distinguished from reclaimed, wool;

Facts being they were not all wool, for purchase of which, by reason of established reputation for superior resistance to cold and wearing qualities, there is decided preference in suits and other clothing for men over fabrics composed in part of cotton, rayon or other fiber, but were composed only in part of wool, and in part of rayon or other materials; and

- (b) Represented that lining used in manufacture of his said clothing was composed predominantly of silk, product of cocoon of silkworm, and thus represented, through practice, among others, of placing on swatch cards or in various advertising circulars and other printed matter statements such as "Silk Celanese Sleeve and Body Lining," "Silk Celatate Sleeve and Body Lining," and "Silk Rayon Sleeve and Body Lining," that fabrics or linings thus described were composed predominantly of silk as aforesaid;

Facts being they were not composed of silk, as long understood by purchasing and consuming public from unqualified use of word as meaning unweighted silk, and were not suit linings composed of silk, held in great public esteem and confidence for its wearing qualities and decidedly preferred by purchasers and prospective purchasers over those linings composed of cotton, rayon, or other fibers, but were composed entirely of rayon, of presence of which, with appearance and feel of silk so as to be practically indistinguishable therefrom by purchasing public, said public was not advised through trade or coined names designating method of manufacture, used alone or in