

Syllabus

IN THE MATTER OF

AMERICAN DISTRIBUTORS, INC., UNITED ADVERTISING COMPANIES, INC., AND JOHN H. MORGAN, DOING BUSINESS AS CHAMPION PRODUCTS COMPANY

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

Docket 3918. Complaint, Oct. 7, 1939—Decision, Mar. 15, 1940

- Where an individual engaged in sale and distribution of medicinal preparation which he designated as "Vita-Perles" and which was claimed by him to contain Vitamins A, B-1, D, G, and E, and corporation which he caused to be organized and of which he was president, and which, following such organization, continued to carry on, as theretofore conducted by him, sale and distribution of said product, in commerce among the various States, to purchasers in other States and in the District of Columbia; and a concern which acted as their advertising agent and participated in preparation and dissemination of advertising matter as below set forth; in advertisements which they disseminated concerning said "Vita-Perles" through the mails, through newspapers and periodicals of general circulation and through circulars and other printed matter distributed in commerce among the various States and in other ways, and which were intended and likely to induce purchase of such medicinal preparation—
- (a) Represented that said product might be obtained and tested "without risking a single penny," facts being it could not be obtained and tested in fashion proposed by them without any risk of money;
 - (b) Represented that backache, headache, loss of appetite and energy, faulty vision, reduced resistance to infection, premature evidence of advancing age, and various other ailments and conditions, were caused by vitamin deficiency, and that such conditions would be relieved or corrected by use of preparation in question, and that those who were thin, pale and sickly would, by the use thereof, acquire additional weight, improved complexion, increased resistance to colds and infection, and improved appetite, and become less nervous, facts being ailments, conditions and symptoms specified and indicated were not positive or usual indications of deficiency in Vitamins A, B-1, D, G, or E, usual adult diet in United States furnishes supply of such vitamins adequate for ordinary health, energy, development and resistance to disease, and product in question, except in cases of actual deficiency in one or more of the vitamins contained by it, and existence of which can be determined only by physicians after consideration of many factors, including objective symptoms as one only, is of no therapeutic, preventive or tonic value;
 - (c) Represented that impairment or premature loss of sexual desire, vigor or potency in the male was due to a vitamin deficiency, and would be restored or improved by use of said preparation, and that its use would increase the general strength and energy, facts being such impairment, whether premature or otherwise, is not due to deficiency of Vitamin E or any other vitamin, and will not be restored, improved or remedied by use of said "Vita-Perles" or vitamin referred to; and

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- (d) Represented that said preparation would affect women's ability successfully to conceive or bear children, facts being such inability to conceive is not due to deficiency of vitamins as aforesaid set forth, and will not be restored, improved or remedied by use of "Vita-Perles" or of Vitamin E, and women's inability to bear children successfully after conception is usually due to pathological conditions and anatomical abnormalities and not to deficiency in vitamins generally or specific deficiency in vitamin E and will not be remedied or corrected by "Vita-Perles," except in cases of rare occurrence where such inability is due to deficiency of vitamin E of degree no greater than is susceptible of replacement by the vitamin E content of "Vita-Perles";

With effect of misleading and deceiving substantial portion of purchasing public, through use of such false, deceptive, and misleading statements, representations and claims disseminated as aforesaid with respect to product in question and causes of ailments and conditions of the body for which said preparation was recommended by them, into erroneous and mistaken belief that such false statements, representations, and claims were true and that said preparation possessed properties claimed and represented and would accomplish results indicated, and of causing substantial portion of such public, because of such belief, to purchase substantial quantities of preparation aforesaid:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Randolph W. Branch for the Commission.

Mr. Henry Junge, of Chicago, Ill., for United Advertising Cos., Inc.

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 American Distributors, Inc., a corporation, United Advertising Cos., Inc., a corporation, and John H. Morgan, an individual, doing business as Champion Products Co., hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Distributors, Inc., is a corporation organized under the laws of the State of Indiana and having an office and principal place of business at A Street, Linton, Ind.

Respondent, John H. Morgan, is an individual, who, prior to August 1938, traded and did business under the name of Champion Products Co. and maintained an office and place of business at A Street, Linton, Ind.; he caused the organization of and is the president of American Distributors, Inc.

Respondent, United Advertising Cos., Inc., is a corporation organized under the laws of the State of Illinois and having an office and principal place of business at 207 North Michigan Avenue, Chicago, Ill.

PAR. 2. Prior to August 1938, respondent, John H. Morgan, under the name of Champion Products Co., was engaged in the business of selling and distributing a certain medicinal preparation known as "Vita-Perles" and claimed by respondent to contain Vitamins A, B-1, D, G, and E. Respondent sold said preparation to members of the purchasing public situated in the various States of the United States and in the District of Columbia and caused said preparation when sold to be transported from his aforesaid place of business in the State of Indiana to purchasers thereof located in various other States of the United States and in the District of Columbia.

On August 28, 1938, the respondent, John H. Morgan, caused the American Distributors, Inc., an Indiana corporation, to be organized. Since that time said corporate respondent has been engaged in the sale and distribution of said medicinal preparation, "Vita-Perles," in commerce among and between the various States of the United States and has caused said preparation when sold to be transported from its aforesaid place of business in the State of Indiana to the 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 said medicinal preparation in commerce among and between the various States of the United States and in the District of Columbia.

Respondent, United Advertising Cos., Inc., is and has been the advertising agent for the respondents American Distributors, Inc., and John H. Morgan, trading as Champion Products Co., and has participated in the preparation and dissemination of the advertising matter to which reference is hereinafter made.

PAR. 3. In the course and conduct of the business of respondent Morgan and respondent American Distributors, Inc., the said respondents and respondent United Advertising Cos., Inc., have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said medicinal preparation, "Vita-Perles," by United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars and other printed 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

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likely to induce, directly or indirectly, the purchase of said medicinal preparation; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said "Vita-Perles" by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of the said preparation in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated, as aforesaid, are the following:

Test Vita-Perles Without Risking a Single Penny!

Vita-Perles are based on a scientific formula containing Vitamins A, B-1, D, G and E * * *.

Many medical men contend that the average diet is distressingly lacking in the proper proportion of vitamins.

A Special Message to Those Who Suffer From Such Symptoms As: Backache, Headache, Leg Pains, Loss of Appetite, Loss of Pep, Faulty Vision, Sluggishness, Feeling of Confusion, Lost Nature, Loss of Weight, Early Tooth Decay, Reduced Resistance to Infection, "Old" Before Your Time—*Act Now.*

* * * *Do everything in your power to correct them.*

Do you eat enough, yet stay *Skinny, Pale, Sickly* * * * The new formula, Vita-Perles, contains the vitamins which, when properly assimilated, help put on pounds of firm, healthy flesh, round out those alluring curves, clear complexion, build resistance to colds and infection, etc.

The vitamins contained in Vita-Perles make the difference between high and low resistance to colds, infections, etc., help to increase the appetite, clear skin, reduce nervousness, etc.

The two statements quoted immediately above are accompanied by depictions of well-rounded but lissom female figures.

Want to Gain Weight? 7 Pounds in 7 Days? * * * If you are skinny, weak, pale, run-down because of a lack of replaceable vitamins, we invite you to test the new *Vita-Perles* at Our Risk.

The statement last quoted is accompanied by a depiction of two female figures, one excessively emaciated, the other full and shapely.

To Men Only

We bring a message of hope to men who suffer from such symptoms as * * * Tired, Worn-Out Feeling, and that Growing "Old" Before Your Time. Many men when they reach middle age begin to feel and look "Old." This is a very distressing condition * * * Accept our liberal offer to test the Amazing Vita-Perles * * *

The statement last quoted is accompanied by a depiction of a male apparently in bad health, spirits, and reduced circumstances, observing with envy a well-dressed young man of abounding vitality accompanying a personable young woman, with the legend: "Don't be 'Worn out,' Take steps to Gain that 'He-Man' Feeling."

TO WOMEN ONLY

It is common knowledge that many happy homes are destroyed, many husbands and wives become restless and discontented because they have been denied the blessings of children * * * Unfortunately, some women find they are of a very nervous nature, in a run-down condition, and in many ways abnormal. These conditions may often be the reason they are not blessed with children. Many physicians contend that Vitamins can be of definite assistance in building up the system to the extent that normal childbirth may result * * *. Every woman was intended for Motherhood, but often some women suffer from functional female disorders which rob her of this normal desire. It is possible that Vitamins can assist you in solving your problems.

The statement last quoted is accompanied by a depiction of a woman holding an infant.

Vitamin "E" (wheat germ oil) is also believed to be of definite aid in correcting certain cases of sterile conditions in women.

Deprived of the joys of a Baby To Love Due To Lack of Replaceable Vitamins, At Last—science has found a reason why many men and women—apparently normal in every respect—have been unable to know the joy and happiness of parenthood. This great discovery brings a thrilling message of hope to many a childless woman * * * This recent scientific discovery * * * is now available to all. Ask Today for a 3 weeks treatment of Vita-Perles.

The statement last quoted is accompanied by a depiction of an infant.

A Message to Married Couples Who Want Children * * * The discovery of Vitamin E, the anti-sterility vitamin, is of great importance to men and women whose premature deterioration of the reproductive system is due to a lack of sufficient Vitamin E. Unless complete atrophy has already set in there is yet hope for many couples to find full expression of parental instincts * * * Get a three weeks supply of Vita-Perles Today! See what they will do for you!

PAR. 4. Through the use of the statements and representations hereinbefore set forth, and others similar thereto not herein set out, all of which purport to be descriptive of the manner in which the said preparation may be tested, the causes of the ailments and conditions of the human body for which respondents recommend and have recommended the said "Vita-Perles," the preparation itself and its effectiveness in the treatment of certain ailments and conditions, respondents directly and by implication among other things have represented: that one may test "Vita-Perles" without risking any money; that vitamin deficiency is, in both sexes, the cause of back-ache, headache, leg pains, loss of appetite and pep, faulty vision, sluggishness, loss of weight, early tooth decay, reduced resistance to infection, being prematurely "old," constipation, poor digestion, bad breath, and skin irritations; that these conditions will be relieved or corrected by "Vita-Perles"; that by the use of "Vita-Perles" one who is thin, pale, and sickly will gain in firm, healthy flesh, acquire a

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clear complexion, increased resistance to colds and infections and a better appetite, will become less nervous and will gain in weight as much as 7 pounds in 7 days; that in men premature loss or impairment of sexual desire, vigor or potency is due to a vitamin deficiency and that they will be restored or improved and the general strength and energy increased by the use of "Vita-Perles"; that the inability of women to conceive or bear children is frequently due to vitamin deficiency, and that this deficiency or disability may be removed and normal childbirth accomplished by the use of "Vita-Perles."

PAR. 5. The aforesaid representations used and disseminated by respondents in the manner above described are grossly exaggerated, misleading, and untrue and constitute false advertising. In truth and in fact "Vita-Perles" cannot be obtained and tested in the fashion proposed by the respondents without any risk on the tester's money. The ailments, conditions or symptoms, other than those relating to the sex function, represented by respondents to be due to deficiency in vitamins A, B-1, D, G, or E, are not positive or usual indications of such deficiency. The usual adult diet in the United States furnishes a supply of these vitamins adequate for ordinary health, energy, development, and resistance to disease. Vita-Perles, except in cases of actual deficiency in one or more of the vitamins which they contain, are of no therapeutic, preventative, or tonic value. The existence of a deficiency of vitamins A, B-1, D, G, or E cannot be determined by laymen solely from objective symptoms but only by physicians after a consideration of many factors, of which the objective symptoms are but one. Loss or impairment of sexual desire, vigor, or potency in the male, whether premature or otherwise, and inability of the female to conceive, are not due to a deficiency of vitamin E or any other vitamin and will not be restored, improved, or remedied by the use of Vita-Perles or of vitamin E. Women's inability to bear children successfully after conception is usually due to pathological conditions and anatomical abnormalities and not to a deficiency in vitamins generally or a specific deficiency in vitamin E and will not be remedied or corrected by Vita-Perles, except in cases of rare occurrence where such inability is due to a deficiency of vitamin E of a degree no greater than is susceptible of replacement by the vitamin E content of Vita-Perles.

PAR. 6. The use by respondents of the foregoing false, deceptive, and misleading statements, representations, and claims, disseminated as aforesaid, with respect to the said preparation, the manner in which it may be tested, and the causes of ailments and conditions of the human body for which respondents have recommended "Vita-Perles" 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 claims are true; that the said preparation possesses the properties claimed and represented, and will accomplish the results indicated, and causes and has caused a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of the said preparation.

PAR. 7. The aforesaid acts and practices of said 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 October 7, 1939, issued, and on October 9, 1939, served its complaint in this proceeding upon respondents American Distributors, Inc., a corporation, United Advertising Cos., Inc., a corporation, and John H. Morgan, an individual trading and doing business under the name of Champion Products Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 21, 1939, respondent, United Advertising Cos., Inc., filed its answer in which answer it admitted all the material allegations of fact set forth in said complaint, and waived all intervening procedure and further hearing as to said facts. After the filing of the answer of respondents American Distributors, Inc., and John H. Morgan, the Commission by order entered herein granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the answers 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, American Distributors, Inc., is a corporation organized under the laws of the State of Indiana and having an office and principal place of business at Linton, Ind.

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Respondent, John H. Morgan, is an individual, who, prior to August 1938, traded and did business under the name of Champion Products Co. and maintained an office and place of business at Linton, Ind.; he caused the organization of and is the president of respondent, American Distributors, Inc.

Respondent United Advertising Cos., Inc., is a corporation organized under the laws of the State of Illinois and having an office and principal place of business at 207 North Michigan Avenue, Chicago, Ill.

PAR. 2. Prior to August 1938, respondent, John H. Morgan, trading under the name of Champion Products Co., was engaged in the business of selling and distributing a certain medicinal preparation known as "Vita-Perles" and claimed by respondent to contain Vitamins A, B-1, D, G, and E. Respondent sold said preparation to members of the purchasing public situated in the various States of the United States and in the District of Columbia and caused said preparation when sold to be transported from his aforesaid place of business in the State of Indiana to purchasers thereof located in various States of the United States and in the District of Columbia.

On August 28, 1938, the respondent, John H. Morgan, caused the American Distributors, Inc., an Indiana corporation, to be organized. Since that time said corporate respondent has been engaged in the sale and distribution of said medicinal preparation, "Vita-Perles," in commerce among and between the various States of the United States and has caused said preparation when sold to be transported from its aforesaid place of business in the State of Indiana to the 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 said medicinal preparation in commerce among and between the various States of the United States and in the District of Columbia.

Respondent, United Advertising Cos., Inc., is and has been the advertising agent for the respondents American Distributors, Inc., and John H. Morgan, trading as Champion Products Co., and has participated in the preparation and dissemination of the advertising matter to which reference is herein after made.

PAR. 3. In the course and conduct of the business of respondent Morgan and respondent American Distributors, Inc., the said respondents and respondent United Advertising Companies, Inc., have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said medicinal preparation, "Vita-Perles," by United States Mails, by insertion in newspapers and periodicals having a general circula-

tion and also in circulars and other printed 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 said medicinal preparation; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning said "Vita-Perles" by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said preparation in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated, as aforesaid, are the following:

Test Vita-Perles Without Risking a Single Penny!

Vita-Perles are based on a scientific formula containing Vitamins A, B-1, D, G, and E * * *.

Many medical men contend that the average diet is distressingly lacking in the proper proportion of vitamins.

A Special Message to Those Who Suffer From Such Symptoms As: Backache, Headache, Leg Pains, Loss of Appetite, Loss of Pep, Faulty Vision, Sluggishness, Feeling of Confusion, Lost Nature, Loss of Weight, Early Tooth Decay, Reduced Resistance to Infection, "Old" Before Your Time—*Act Now.*

* * * *DO EVERYTHING* in your power to correct them.

Do you eat enough, yet stay Skinny, Pale, Sickly * * * The new formula, Vita-Perles, contains the vitamins which, when properly assimilated, help put on pounds of firm, healthy flesh, round out those alluring curves, clear complexion, build resistance to colds and infection, etc.

The vitamins contained in Vita-Perles make the difference between high and low resistance to colds, infections, etc., help to increase the appetite, clear skin, reduce nervousness, etc.

The two statements quoted immediately above are accompanied by depictions of well-rounded but lissom female figures.

Want to Gain Weight? 7 Pounds in 7 Days? * * * If you are skinny, weak, pale, run-down because of a lack of replaceable vitamins, we invite you to test the new *Vita-Perles* at Our Risk.

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To Men Only—We bring a message of hope to men who suffer from such symptoms as * * * Tired, Worn-Out Feeling, and that Growing "Old" Before Your Time. Many men when they reach middle age begin to feel and look "Old." This is a very distressing condition * * * Accept our liberal offer to test the Amazing Vita-Perles. * * *

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The statement last quoted is accompanied by a depiction of a male apparently in bad health, spirits, and reduced circumstances, observing with envy a well-dressed young man of abounding vitality accompanying a personable young woman, with the legend: "Don't be 'Worn Out,' Take steps to Gain that 'He-Man' Feeling."

TO WOMEN ONLY

It is common knowledge that many happy homes are destroyed, many husbands and wives become restless and discontented because they have been denied the blessings of children * * * Unfortunately, some women find they are of a very nervous nature, in a run-down condition, and in many ways abnormal. These conditions may often be the reason they are not blessed with children. Many physicians contend that Vitamins can be of definite assistance in building up the system to the extent that normal childbirth may result * * *. Every woman was intended for Motherhood, but often some women suffer from functional female disorders, which rob her of this normal desire. It is possible that Vitamins can assist you in solving your problems.

The statement last quoted is accompanied by a depiction of a woman holding an infant.

Vitamin "E" (wheat germ oil) is also believed to be of definite aid in correcting certain cases of sterile conditions in women.

Deprived of the joys of a Baby to Love Due To Lack of Replacable Vitamins, AT LAST—science has found a reason why many men and women—apparently normal in every respect—have been unable to know the joy and happiness of parenthood. This great discovery brings a thrilling message of hope to many a childless woman * * *. This recent scientific discovery * * * is now available to all. Ask Today for a 3 weeks treatment of Vita-Perles.

The statement last quoted is accompanied by a depiction of an infant.

A Message to Married Couples Who Want Children * * *. The discovery of Vitamin E, the anti-sterility vitamin, is of great importance to men and women whose premature deterioration of the reproductive system is due to a lack of sufficient Vitamin E. Unless complete atrophy has already set in there is yet hope for many couples to find full expression of parental instincts * * *. Get a three weeks supply of Vita-Perles Today! See what they will do for you!

PAR. 4. Through the use of the statements and representations hereinbefore set forth, and others similar thereto not herein set out, all of which purport to be descriptive of the causes of the ailments and conditions of the human body for which respondents recommend and have recommended the said "Vita-Perles," the preparation itself and its effectiveness in the treatment of certain ailments and conditions, respondents directly and by implication among other things have represented: that one may test "Vita-Perles" without risking any money; that vitamin deficiency is, in both sexes, the cause of back-

ache, headache, leg pains, loss of appetite and pep, faulty vision, sluggishness, loss of weight, early tooth decay, reduced resistance to infection, being prematurely "old," constipation, poor digestion, bad breath, and skin irritations and that these conditions will be relieved or corrected by "Vita-Perles"; that by the use of "Vita-Perles" one who is thin, pale, and sickly will gain firm and healthy flesh, will acquire a clear complexion and increased resistance to colds and infections and a better appetite, will become less nervous and will gain in weight as much as 7 pounds in 7 days; that in men premature loss or impairment of sexual desire, vigor, or potency is due to a vitamin deficiency and that they will be restored or improved and the general strength and energy increased by the use of "Vita-Perles"; that the inability of women to conceive or bear children is frequently due to vitamin deficiency, and that this deficiency or disability may be removed and normal childbirth accomplished by the use of "Vita-Perles."

PAR. 5. The aforesaid representations used and disseminated by respondents in the manner above described are grossly exaggerated, misleading, and untrue and constitute false advertising. In truth and in fact "Vita-Perles" cannot be obtained and tested in the fashion proposed by the respondents without any risk of money. The ailments, conditions or symptoms, other than those relating to the sex functions, represented by respondents to be due to deficiency in Vitamins A, B-1, D, G, or E, are not positive or usual indications of such deficiency. The usual adult diet in the United States furnishes a supply of these vitamins adequate for ordinary health, energy, development and resistance to disease. Vita-Perles, except in cases of actual deficiency in one or more of the vitamins which they contain, are of no therapeutic, preventative or tonic value. The existence of a deficiency of Vitamins A, B-1, D, G, or E cannot be determined by laymen solely from objective symptoms but only by physicians after a consideration of many factors, of which the objective symptoms are but one. Loss or impairment of sexual desire, vigor, or potency in the male, whether premature or otherwise, and inability of the female to conceive, are not due to a deficiency of vitamin E or any other vitamin and will not be restored, improved or remedied by the use of Vita-Perles or of vitamin E. Women's inability to bear children successfully after conceptions is usually due to pathological conditions and anatomical abnormalities and not to a deficiency in vitamins generally or a specific deficiency in vitamin E and will not be remedied or corrected by Vita-Perles, except in cases of rare occurrence where such inability is due to a deficiency

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of vitamin E of a degree no greater than is susceptible of replacement by the vitamin E content of Vita-Perles.

PAR. 6. The use by respondents of the foregoing false, deceptive and misleading statements, representations and claims, disseminated as aforesaid, with respect to the said preparation, and the causes of ailments and conditions of the human body for which respondents have recommended "Vita-Perles" 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 claims are true; that the said preparation possesses the properties claimed and represented, and will accomplish the results indicated, and causes and has caused a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of the said preparation.

CONCLUSION

The aforesaid acts and practices of said 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 complaint of the Commission and the answers of respondents, in which answers respondents admit all the material allegations of fact set forth in said complaint to be true, and state that they waive all intervening procedure and further hearing as to the said facts and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, American Distributors, Inc., a corporation, United Advertising Cos., Inc., a corporation, and John H. Morgan, an individual, trading and doing business under the name of Champion Products Co. or under any other name or names, their respective agents, officers, employees, and representatives, directly or through any corporate or other device, do forthwith cease and desist from disseminating, or causing to be disseminated, any advertisement 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 a certain medicinal preparation containing Vitamins

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A, B-1, D, G, and E, and now designated by the name of "Vita-Perles," or any other preparation composed of similar ingredients or possessing substantially similar therapeutic qualities, whether sold under that designation or any other designation, 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 medicinal preparation, which advertisements represent, directly or through implication, that:

1. Said preparation may be obtained and tested without risking the loss of any money.

2. Backache, headache, leg pains, loss of appetite and energy, faulty vision, sluggishness, loss of weight, early tooth decay, reduced resistance to infection, premature evidence of advancing age, constipation, poor digestion, bad breath, or skin irritations, are caused by a vitamin deficiency or that such conditions will be relieved or corrected by the use of the said preparation.

3. Those who are thin, pale, and sickly will by the use of said preparation acquire additional weight, an improved complexion, an increased resistance to colds and infections, an improved appetite or will become less nervous.

4. The impairment or premature loss of sexual desire, vigor, or potency in the male, is due to a vitamin deficiency, or will be restored or improved by the use of said preparation, or that its use will increase the general strength and energy.

5. Said preparation will affect women's ability to successfully conceive or bear children except in rare cases involving habitual involuntary abortion where inability to successfully bear children after conception may be due to a deficiency of Vitamin E of a degree susceptible of replacement by the Vitamin E content of said preparation.

It is further ordered, That each of the said 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.

IN THE MATTER OF
ANN W. CARTER, TRADING AS PROCESS ENGRAVING
COMPANY

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

Docket 3637. Complaint, Oct. 27, 1938—Decision, Mar. 19, 1940

Where an individual engaged in printing stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes, and similar products, and in sale of such various stationery to purchasers in State of California and in other States and in the District of Columbia, in substantial competition with others likewise engaged in printing and selling stationery for such purposes in commerce as aforesaid, and in competition particularly with those engaged in business of engraving and selling engraved stationery in commerce for purposes aforesaid, and including many who produce engraved stationery products designed and intended for such purposes and sell said products into and through other States as above set forth, and truthfully represent the same as produced by the engraving process, as known to trade and public generally, and others who sell stationery products for such purposes but do not sell engraved stationery products and do not in any means or manner represent themselves as manufacturers of or dealers in engraved stationery products, and among whom are many who produce stationery by same process as employed by individual aforesaid—

Featured trade name, including words "Process Engraving," in circulars, business cards, letterheads, blotters, stickers, memoranda pads, and other advertising literature circulated among purchasers and prospective purchasers, and in statements of account sent to purchasers in various States displayed trade name aforesaid and featured same in advertisements in newspapers and periodicals circulated among prospective purchasers, and referred in all her various circulars, pamphlets, etc., to process employed by her in producing her products as "engraving," and held herself and company out to public as "engraver" and "process engraver," and her product as "engraving" or "process engraving";

Facts being she did not own or operate an engraving company and was not engaged in business of engraving or producing engraved stationery, and letters, words or designs appearing upon her said products made and sold by her were not the result of engraving process and were not engraved stationery, as preferred by substantial portion of purchasing public over that produced by process such as employed by her, and were not, as aforesaid, result of such much more costly engraving process, as long understood by trade and consuming public as meaning, as applied to business or social stationery, products in which words, letters or designs have been raised from general plane of stationery surface and are in relief, through result of application to stationery, under pressure, of inked metal plates theretofore specially engraved, cut, or incised for and used in production of such stationery by process involving, among other things, the cutting or incising of the plates in various ways so that letters, etc., are below surface of