

Syllabus

IN THE MATTER OF

BLANCHE KAPLAN, TRADING AS PROGRESSIVE MEDICAL COMPANY AND LADIES AID COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4002. Complaint, Jan. 30, 1940—Decision, Apr. 15, 1940

Where an individual engaged, as Progressive Medical Co. and as Ladies Aid Co., in sale and distribution of her Ladies' Aid No. 2, Ordinary Strength and Ladies' Aid No. 3, Extra Strength medicinal preparations; in advertisements thereof which she disseminated and caused to be disseminated through the mails and through booklets, circulars, and other printed or written matter distributed in commerce among the various States, and by other means in commerce, and otherwise and which were intended and likely to induce purchase of her said products—

- (a) Represented that her said preparations were cures or remedies for delayed menstruation, and nonirritating, mild, efficient, and specific treatments thereof, and would quickly stimulate the menstrual flow, facts being they were not a cure or remedy for said condition and did not constitute nonirritating, mild, efficient, and specific treatments therefor, and would not accomplish results which she claimed, and were not safe and harmless, in that they contained powdered aloes, ergotin, and a number of other drugs in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in said advertisements or under such conditions as are customary or usual, and might result in gastrointestinal disturbances leading to excessive uterine hemorrhage in nonpregnant women, and in cases where said preparations were used to interfere with normal course of pregnancy, might result in uterine infection with extension to other pelvic and abdominal structures and to the blood stream, causing condition known as septicemia or blood poisoning, and lead to other serious conditions and serious or irreparable loss or injury to health; and
- (b) Failed to reveal, in said advertisements of such preparations, that use thereof under conditions prescribed therein or under such conditions as are customary or usual, might result in serious or irreparable injury to health;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false, deceptive, and misleading statements, representations and advertisements were true, and of inducing portion of such public, because of such erroneous and mistaken belief, to purchase said products:

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. R. P. Bellinger for the Commission.

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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 Blanche Kaplan, trading as the Progressive Medical Co. and as the Ladies Aid Co., hereinafter referred to as respondent, has 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:

PARAGRAPH 1. Respondent, Blanche Kaplan, is an individual trading as the Progressive Medical Co. and as the Ladies Aid Co., with her office and principal place of business at 3944 Pine Grove Avenue, Chicago, Ill., from which address she transacts business under the above trade names.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of certain medicinal preparations consisting of two formulae known as Ladies' Aid No. 2, Ordinary Strength and Ladies' Aid No. 3, Extra Strength.

In the course and conduct of her business the respondent causes said medicinal preparations when sold to be transported from her place of business in the State of Illinois to purchasers thereof located in other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said medicinal preparations sold and distributed by her 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 the aforesaid business, the respondent has disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning her said medicinal preparations by United States mails and by booklets or 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 her said medicinal preparations; and has disseminated and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning her said medicinal preparations, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of her said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false rep-

representations contained in the advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

Ladies Aid No. 2—Ordinary Strength—is a world famous remedy, compounded of standard drugs especially for the relief and regulation of that most important female function—the monthly menstruation. It is equally as efficient in the relief of menstrual pains, which in so many thousands of cases tend to make woman's life so miserable.

Delays, irregularities, scanty flow or distress indicate a condition requiring immediate correction. To hesitate is dangerous. Do not delay and risk a more serious condition.

Use **Ladies Aid No. 2** immediately and secure peace of mind, good health and freedom from worry. This remedy is used and recommended by physicians and thousands of women everywhere. While one box is usually sufficient, it is advisable to have an ample supply on hand at all times. They do not spoil. Order a supply today.

Ladies Aid No. 3—Extra Strength—is recommended for extremely stubborn, abnormal, discouraging and unyielding cases of menstrual delay or menstrual pain. It is compounded particularly for you women whose case is of long duration and who feel the need of a stronger and more powerful specific. It is non-irritating to the most delicate system yet it quickly stimulates the menstrual flow. Its action is so mild that it offers no interference with home or social duties. While all women are not alike in their response to medical treatment, the average woman usually finds that one or two boxes are sufficient when supplemented with hot mustard baths.

Persistent treatment succeeds in almost all cases. All that we ask is that our directions be followed out carefully. When you consider that a woman's very happiness as well as her health depends on the normal working of her female functions, it is certainly good advice when we urge you so strongly to use **Ladies Aid No. 3** immediately and regularly.

Often, even the continued love of a mate is at stake. So many thousands of women have been helped by us that it appears to be nothing but sheer nonsense for suffering or worried women to suffer or to worry any longer. Our advice is that you order an ample supply of **Ladies Aid No. 3** today.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondent represents that her medicinal preparations, known and designated as **Ladies Aid No. 2—Ordinary Strength**—and **Ladies Aid No. 3—Extra Strength**, are cures or remedies for delayed menstruation, and nonirritating, mild, efficient and specific treatments therefor and will quickly stimulate the menstrual flow.

PAR. 5. In truth and in fact, the medicinal preparations sold and distributed by the respondent as aforesaid known as **Ladies Aid No. 2, Ordinary Strength** and **Ladies Aid No. 3, Extra Strength**, are not a cure or remedy for delayed menstruation and do not constitute nonirritating, mild, efficient, and specific treatments therefor. Said preparations will not accomplish the results claimed by the respondent. Furthermore, said preparations are not safe and harmless in

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that said preparations contain powdered aloes, powdered extract cotton root bark, iron sulphate dried, powdered extract black hellebore, ergotin, and oil Savin.

The aforesaid drugs are present in said medicinal preparation in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

Such use of said medicinal preparations may result in gastrointestinal disturbances, such as catharsis, nausea and vomiting, with pelvic congestion, inflammation and congestion of the uterus and adnexa, leading to excessive uterine hemorrhage in nonpregnant women, and in those cases where said medicinal preparations are used to interfere with the normal course of pregnancy, their use may result in uterine infection with extension to other pelvic and abdominal structures and to the blood stream, causing the condition known as septicemia or blood poisoning.

The use of said preparations as aforesaid may also produce a very severe circulatory condition by the constriction of blood vessels and contraction of the involuntary muscles tending to produce abortion in some instances, often with violent poisonous effects upon the human system. Such use as aforesaid may also produce severe toxic conditions, such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs or other serious or irreparable injury to health.

In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth in that said advertisements so disseminated fail to reveal that the use of Ladies Aid No. 2, Ordinary Strength and Ladies Aid No. 3, Extra Strength, under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in serious or irreparable injury to health.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to her preparations, disseminated as aforesaid, 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 statements, representations and advertisements are true and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparations.

PAR. 7. The aforesaid acts and practices of the respondent, 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 January 30, 1940, issued, and on February 1, 1940, served, its complaint in this proceeding upon the respondent, Blanche Kaplan, an individual trading as Progressive Medical Co., and as Ladies Aid Co., charging her with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. The respondent filed her answer dated February 17, 1940, in which answer she 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, this proceeding regularly came on for final hearing before the Commission on the said complaint and answer, 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, Blanche Kaplan, is an individual trading as the Progressive Medical Co. and as the Ladies Aid Co., with her office and principal place of business at 3944 Pine Grove Avenue, Chicago, Ill., from which address she transacts business under the above trade names.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of certain medicinal preparations, consisting of two formulae known as Ladies' Aid No. 2, Ordinary Strength and Ladies' Aid No. 3, Extra Strength.

In the course and conduct of her business the respondent causes said medicinal preparations when sold to be transported from her place of business in the State of Illinois to purchasers thereof located in other States of the United States and in the District of Columbia.

At all times mentioned herein, respondent has maintained a course of trade in said medicinal preparations sold and distributed by her 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 the aforesaid business, the respondent has disseminated, and is now disseminating, and has

caused, and is now causing, the dissemination of false advertisements concerning her said medicinal preparations by United States mails and by booklets or 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 her said medicinal preparations; and has disseminated and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning her said medicinal preparations, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of her said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false representations contained in the advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

Ladies Aid No. 2—Ordinary Strength—is a world famous remedy, compounded of standard drugs especially for the relief and regulation of that most important female function—the monthly menstruation. It is equally as efficient in the relief of menstrual pains, which in so many thousands of cases tend to make woman's life so miserable.

Delays, irregularities, scanty flow or distress indicate a condition requiring immediate correction. To hesitate is dangerous. Do not delay and risk a more serious condition.

Use Ladies Aid No. 2 immediately and secure peace of mind, good health and freedom from worry. This remedy is used and recommended by physicians and thousands of women everywhere. While one box is usually sufficient, it is advisable to have an ample supply on hand at all times. They do not spoil. Order a supply today.

Ladies Aid No. 3—Extra Strength—is recommended for extremely stubborn, abnormal, discouraging and unyielding cases of menstrual delay or menstrual pain. It is compounded particularly for you women whose case is of long duration and who feel the need of a stronger and more powerful specific. It is non-irritating to the most delicate system yet it quickly stimulates the menstrual flow. Its action is so mild that it offers no interference with home or social duties. While all women are not alike in their response to medical treatment, the average woman usually finds that one or two boxes are sufficient when supplemented with hot mustard baths.

Persistent treatment succeeds in almost all cases. All we ask is that our directions be followed out carefully. When you consider that a woman's very happiness as well as her health depends on the normal working of her female functions, it is certainly good advice when we urge you so strongly to use Ladies Aid No. 3 immediately and regularly.

Often, even the continued love of a mate is at stake. So many thousands of women have been helped by us that it appears to be nothing but sheer nonsense for suffering or worried women to suffer or to worry any longer. Our advice is that you order an ample supply of Ladies Aid No. 3 today.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondent represents that her medicinal preparations, known and designated as Ladies Aid No. 2, Ordinary Strength, and Ladies Aid No. 3, Extra Strength, are cures or remedies for delayed menstruation, and nonirritating, mild, efficient, and specific treatments therefor and will quickly stimulate the menstrual flow.

PAR. 5. In truth and in fact, the medicinal preparations sold and distributed by the respondent as aforesaid known as Ladies Aid No. 2, Ordinary Strength, and Ladies Aid No. 3, Extra Strength, are not a cure or remedy for delayed menstruation and do not constitute nonirritating, mild, efficient, and specific treatments therefor. Said preparations will not accomplish the results claimed by the respondent. Furthermore, said preparations are not safe and harmless in that said preparations contain powdered aloes, powdered extract cotton root bark, iron sulphate dried, powdered extract black hellebore, ergotin, and oil Savin.

The aforesaid drugs are present in said medicinal preparations in quantities sufficient to cause serious and irreparable injury to health if used under the conditions prescribed in said advertisements or under such conditions as are customery or usual.

Such use of said medicinal preparations may result in gastrointestinal disturbances, such as catharsis, nausea and vomiting, with pelvic congestion, inflammation and congestion of the uterus and adnexa, leading to excessive uterine hemorrhage in nonpregnant women, and in those cases where said medicinal preparations are used to interfere with the normal course of pregnancy, their use may result in uterine infection with extension to other pelvic and abdominal structures and to the blood stream, causing the condition known as septicemia or blood poisoning.

The use of said preparations as aforesaid may also produce a very severe circulatory condition by the constriction of blood vessels and contraction of the involuntary muscles tending to produce abortion in some instances, often with violent poisonous effects upon the human system. Such use as aforesaid may also produce severe toxic conditions, such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs or other serious or irreparable injury to health.

In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth in that said advertisements so disseminated fail to reveal that the use of Ladies Aid No. 2, Ordinary Strength and Ladies Aid No. 3, Extra Strength, under

the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in serious or irreparable injury to health.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to her preparations, disseminated as aforesaid, has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparations.

CONCLUSION

The aforesaid acts and practices of the respondent, 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 answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that she waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Blanche Kaplan, an individual trading as Progressive Medical Co. and as Ladies Aid Co., or trading under any other name or names, her agents, servants, representatives, and employees, 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 medicinal preparations known as Ladies' Aid No. 2, Ordinary Strength, and Ladies' Aid No. 3, Extra Strength, or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name 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 of said medicinal preparations in commerce, as commerce is defined in the Federal Trade Commission Act, and which advertisements represent that said preparations constitute safe, competent, efficient, or specific treatments for delayed menstruation or that their use will have no ill effect upon the human body, and which advertisements fail to reveal that said preparations, when taken under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in serious or irreparable injury to health.

It is further ordered, That the respondent shall, within 10 days after the service upon her of this order, file with the Commission an interim report in writing, stating whether she intends to comply with this order, and if so, the manner and form in which she intends to comply; and that within 60 days after the service upon her of this order said respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which she has complied with this order.

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IN THE MATTER OF
JOHN B. CANEPA COMPANY

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

Docket 3744. Complaint, Mar. 24, 1939—Decision, Apr. 16, 1940

Where a corporation engaged in the manufacture, sale, and distribution of macaroni and spaghetti products which it packed, sold, and distributed in long containers—

Represented directly or by implication through advertisements, booklets, and labels attached to its products and disseminated in interstate commerce that its macaroni and spaghetti products were of the finest quality because they were made in long lengths and that such products of other manufacturers which were not made in such lengths were not genuine and not of finest quality and that true criterion of genuineness and quality of such products was length in which made, through such typical statements as "I hate to brag but only the finest macaroni (or spaghetti) is made long," or "I hate to brag but genuine macaroni (or spaghetti) is made long," and through depictions in booklets and other advertising matter containing such statements, and representations of the long containers in which the company sold and distributed its said products;

The facts being such statements and representations used and disseminated as aforesaid by it were misleading and unfair, genuine macaroni and spaghetti of finest quality are made both in long and short lengths and offered for sale in both forms, and said products of finest quality are in some instances first made in long lengths and then cut into short lengths and thus offered for sale and sold, and length in which products aforesaid are offered is no criterion of quality and genuineness thereof;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and advertisements were true, and into purchasing substantial quantities of its said products because of such mistaken and erroneous opinion or belief thus created:

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.

Before *Mr. Randolph Preston*, trial examiner.

Mr. L. E. Creel, Jr. and *Mr. Curtis C. Shears* for the Commission.

Mr. John Harrington of Fyffe & Clark, of Chicago, Ill., for respondent.

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 John B. Canepa Co., a corporation, hereinafter referred to as respondent, has 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,