

IN THE MATTER OF

LENARD GOTLIEB AND SARAH GOTLIEB, TRADING
AS REED'S CUT-RATE STORE AND FOUNTAIN CUT-
RATE STORESCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4211. Complaint, July 31, 1940—Decision, Oct. 16, 1940*

Where two individuals engaged in sale and distribution of various medicinal preparations and products, including drug preparation advertised as "Prescription Female Capsules" and "Lady Lydia Female Capsules," and also by such designations, together with words "Double Strength" or "Triple Strength," as case might be; in advertisements which they disseminated and caused to be disseminated through the mails, in newspapers, and by circulars and other advertising literature, and by various other means in commerce and otherwise, and which were intended and likely to induce purchase of their said preparation—

- (a) Represented that their said product constituted competent and efficient treatment for delayed menstruation, and was safe and harmless, facts being it was not such treatment and was not safe or harmless, in that it contained drugs apiol green, ergotin, oil of savin, and aloin, 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, use thereof might result in gastro-intestinal disturbances and other serious conditions, and, where used to interfere with normal course of pregnancy, might lead to blood poisoning and other serious conditions and irreparable injury; and
- (b) Failed to reveal in such advertisements facts material in the light of the above representations, and that use thereof under conditions prescribed therein, or under such conditions as are customary or usual, might result in injury to health;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous belief that such statements, representations, and advertisements were true, and that said preparation constituted a safe, competent, and effective treatment for aforesaid purpose, and to induce purchase by public thereof:

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

Mr. William L. Taggart, for the Commission.

Mr. J. C. McManaway, of Clarksburg, W. Va., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Lenard Gotlieb and

Sarah Gotlieb, individuals trading as Reed's Cut-Rate Store and Fountain Cut-Rate Stores, 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. Respondents, Lenard and Sarah Gotlieb, are individuals trading and doing business as Reed's Cut-Rate Store and as Fountain Cut-Rate Stores, with their principal office and place of business located at 127 South Fourth Street, Clarksburg, W. Va.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of various medicinal preparations. Among the various preparations sold and distributed by the respondents is a drug preparation advertised as "Prescription Female Capsules" and as "Lady Lydia Female Capsules," also designated as "Prescription Female Capsules—Double Strength," "Prescription Female Capsules—Triple Strength," and as "Lady Lydia Female Capsules—Double Strength," and "Lady Lydia Female Capsules—Triple Strength."

Respondents cause their said preparation, when sold, to be transported from their place of business in the State of West Virginia to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their 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 product, by United States mails, and by various 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 product, and respondents have also disseminated, and are now disseminating, and have caused, and are now causing the dissemination of false advertisements concerning their said product by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements

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in newspapers, and by circulars and other advertising literature are the following:

MODERN WOMEN !

DON'T WORRY OVER DELAYED PERIODS * * *

If your menstrual period is delayed because of worry, wet feet, colds or other like causes use the safe speedy **PRESCRIPTION FEMALE CAPSULES**. Hundreds of women have received excellent results.

Mail Orders Given Prompt Attention !

SOLD ONLY AT

REED'S CUT RATE

511 Market Street

Parkersburg, W. Va.

MODERN WOMEN !

Don't worry over delayed periods. If your menstrual period is delayed because of worry, wet feet, colds or other like causes, use the safe and speedy **LADY LYDIA CAPSULES**. Hundreds of women have received excellent results. **Mail Orders Given Prompt Attention.**

Sold Only at

FOUNTAIN CUT RATE

Clarksburg

Elkins

Weston

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, the respondents have represented, directly and by implication, that their preparation designated as "Prescription Female Capsules" and as "Lady Lydia Female Capsules," also designated as "Prescription Female Capsules—Double Strength," "Prescription Female Capsules—Triple Strength," and as "Lady Lydia Female Capsules—Double Strength," and "Lady Lydia Female Capsules—Triple Strength" is a competent and efficient treatment for delayed menstruation and that said preparation is safe and harmless.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondents as hereinabove set forth are grossly exaggerated, false, and misleading. In truth and in fact, respondents' preparation is not a competent or efficient treatment for delayed menstruation. Moreover, said preparation is not safe or harmless, in that it contains the drugs apiol green, ergotin, oil of savin, and aloin, in quantities sufficient to cause serious and irreparable injury to health if used under the conditions described in said advertisements or under such conditions as are customary or usual.

Such use of said preparation may result in gastro-intestinal disturbances, catharsis, nausea, and vomiting, with pelvic congestion, congestion of the uterus, leading to excessive uterine hemorrhage, and in

those cases where said preparation is used to interfere with the normal course of pregnancy, such use may result in uterine infection with extension to other pelvic and abdominal structures and even to the blood stream, causing the condition known as septicemia or blood poisoning.

Such use of said preparation may also produce a severe circulatory condition by the congestion of the blood vessels, contraction of the involuntary muscles, often with poisonous effect upon the human system, and tending to cause abortion in some instances, and may result in severe toxic conditions such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs, resulting either in possible loss of limbs or in other serious and irreparable injury to health.

PAR. 6. 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 facts material in the light of such representations and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in injury to health.

PAR. 7. The use by the respondents of the aforesaid false, misleading, and deceptive statements and representations with respect to their said preparation, disseminated as aforesaid, has had, and now has, the capacity and tendency to 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 that such preparation is a safe, competent, and effective treatment for delayed menstruation, and to induce directly or indirectly, the purchase by the public of the respondents' said preparation.

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 July 31, 1940 issued and on August 1, 1940 served its complaint in this proceeding upon respondents Lenard Gotlieb and Sarah Gotlieb, individuals trading as Reed's Cut-Rate Store and Fountain Cut-Rate Stores charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 20, 1940, the respond-

ents filed their answers, in which answers they 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. Respondents, Lenard and Sarah Gotlieb, are individuals trading and doing business as Reed's Cut-Rate Store and as Fountain Cut-Rate Stores, with their principal office and place of business located at 127 South Fourth Street, Clarksburg, W. Va.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the sale and distribution of various medicinal preparations. Among the various preparations sold and distributed by the respondents is a drug preparation advertised as "Prescription Female Capsules" and as "Lady Lydia Female Capsules," also designated as "Prescription Female Capsules—Double Strength," "Prescription Female Capsules—Triple Strength," and as "Lady Lydia Female Capsules—Double Strength," and "Lady Lydia Female Capsules—Triple Strength."

Respondents cause their said preparation, when sold, to be transported from their place of business in the State of West Virginia to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their 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 product, by United States mails, and by various 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 product, and respondents have also disseminated, and are now disseminating, and have caused, and are now causing the dissemination of false advertisements concerning their said product by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is de-

fined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth, by the United States mails, by advertisements in newspapers, and by circulars and other advertising literature are the following:

MODERN WOMEN !

DON'T WORRY OVER DELAYED PERIODS * * *

If your menstrual period is delayed because of worry, wet feet, colds or other like causes use the safe speedy PRESCRIPTION FEMALE CAPSULES. Hundreds of women have received excellent results.

Mail Orders Given Prompt Attention !

SOLD ONLY AT
REED'S CUT RATE
511 Market Street
Parkersburg, W. Va.

MODERN WOMEN !

Don't worry over delayed periods. If your menstrual period is delayed because of worry, wet feet, colds or other like causes, use the safe and speedy LADY LYDIA CAPSULES. Hundreds of women have received excellent results. Mail Orders Given Prompt Attention.

Sold Only At
FOUNTAIN CUT RATE
Clarksburg Elkins Weston

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, the respondents have represented, directly and by implication, that their preparation designated as "Prescription Female Capsules" and as "Lady Lydia Female Capsules," also designated as "Prescription Female Capsules—Double Strength," "Prescription Female Capsules—Triple Strength," and as "Lady Lydia Female Capsules—Double Strength," and "Lady Lydia Female Capsules—Triple Strength" is a competent and efficient treatment for delayed menstruation and that said preparation is safe and harmless.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondents as hereinabove set forth are grossly exaggerated, false, and misleading. In truth and in fact, respondents' preparation is not a competent or efficient treatment for delayed menstruation. Moreover, said preparation is not safe or harmless, in that it contains the drugs apiol green, ergotin, oil of savin, and aloin, in quantities sufficient to cause serious and irreparable injury to health if used under the conditions described in said advertisements or under such conditions as are customary or usual.

Such use of said preparation may result in gastro-intestinal disturbances, catharsis, nausea, and vomiting, with pelvic congestion, congestion of the uterus, leading to excessive uterine hemorrhage, and in those cases where said preparation is used to interfere with the normal course of pregnancy, such use may result in uterine infection with extension to other pelvic and abdominal structures and even to the blood stream, causing the condition known as septicemia or blood poisoning.

Such use of said preparation may also produce a severe circulatory condition by the congestion of the blood vessels, contraction of the involuntary muscles, often with poisonous effect upon the human system, and tending to cause abortion in some instances, and may result in severe toxic conditions such as hemorrhagic diarrhea and in some instances producing a gangrenous condition of the lower limbs, resulting either in possible loss of limbs or in other serious and irreparable injury to health.

PAR. 6. 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 facts material in the light of such representations and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual, may result in injury to health.

PAR. 7. The use by the respondents of the aforesaid false, misleading, and deceptive statements and representations with respect to their said preparation, disseminated as aforesaid, has had, and now has, the capacity and tendency to 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 that such preparation is a safe, competent, and effective treatment for delayed menstruation, and to induce, directly or indirectly, the purchase by the public of the respondents' said preparation.

CONCLUSION

The aforesaid acts and practices of the 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 answer of the respondents, in which answer respondents admit all the material

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allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Lenard Gotlieb and Sarah Gotlieb, individually and trading as Reed's Cut-Rate Store and as Fountain Cut-Rate Stores, or trading under any other name or names, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of their medicinal preparation designated as "Prescription Female Capsules" and as "Lady Lydia Female Capsules," or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or under any other name or names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that said preparation is a competent or effective treatment for delayed menstruation; that said preparation is safe or harmless; or which advertisement fails to reveal that the use of said preparation may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and, in the case of pregnancy, may cause uterine infection and blood poisoning.

2. 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 preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which fails to reveal that the use of said preparation may cause gastro-intestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and, in the case of pregnancy, may cause uterine infection and blood poisoning.

It is further ordered, That the respondent shall within 10 days after service upon them of this order, file with the Commission an interim report in writing, stating whether they intend to comply with this order and, if so, the manner and form in which they intend to comply; and that within 60 days after the service upon them of this order, said respondents shall 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
WAIN'S LABORATORY, INC.

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

Docket 4203. Complaint, July 30, 1940—Decision, Oct. 18, 1940

Where a corporation engaged in sale and distribution of its "Ama-Gon" or, as subsequently designated, "Wain's Compound," drug-containing preparation for bronchial asthma and coughs; in advertisements thereof which it disseminated and caused to be disseminated through the mails, newspapers, circulars, and other advertising matter, and in commerce and otherwise, and which were intended or likely to induce purchase of its said product—

- (a) Represented, directly and by implication, in its various statements and representations thus made, and which purported to be descriptive of the remedial, curative, and therapeutic properties of said preparation, that it was an effective and competent treatment for bronchial asthma and coughs, and that its use gave immediate or prompt relief from the paroxysms of asthma, and that it was entirely safe and harmless and might be used without danger of ill effects upon health of user;

Facts being such representations were grossly exaggerated, false and misleading, it was not an effective or competent treatment for bronchial asthma or coughs, and had no therapeutic value in treatment of such conditions in excess of furnishing temporary symptomatic relief from paroxysms of asthma and bronchial irritations, and, by virtue of potassium iodide content in quantity present, was not in all cases safe or harmless, but might, in some instances, cause injury to health if taken under conditions prescribed in said advertisements or under such conditions as are customary or usual, and, thus used, might be harmful to those having healed lesions of arrested tuberculosis or goitre; and

- (b) Failed to reveal, in its said advertisements disseminated as aforesaid, facts material in the light of its representations and that use thereof, under the conditions prescribed in such advertisements or under such conditions as are customary or usual, might result in injury to health;

With effect of misleading substantial portion of purchasing public into erroneous and mistaken belief that all of such false statements and representations were true, and of inducing substantial portion of such public to purchase its said preparation because of such erroneous and mistaken belief engendered as above set forth:

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. John M. Russell 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 Wain's Laboratory,