

Complaint

IN THE MATTER OF

JANE BLANCHARD GEARY, TRADING AS DR. JANE
BLANCHARDCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4449. Complaint, Jan. 24, 1941—Decision, Apr. 24, 1941*

Where an individual engaged in interstate sale and distribution of a medicinal preparation designated as "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator," and "Dr. Blanchard's Regulator"; by means of advertisements disseminated by mail and in newspapers and other advertising literature—

- (a) Represented that her said preparation was a competent and reliable regulator of conditions peculiar to women, was a competent and effective treatment for delayed or suppressed menstruation, constituted an effective tonic and blood purifier, and was safe and harmless;

Facts being therapeutic properties of said preparation were limited to those of an alcoholic stimulant and irritant laxative, and had no therapeutic value in treatment of the conditions claimed; it was not a tonic or blood purifier, and was not safe and harmless in that it contained the drug aloes in quantities sufficient to be harmful and might aggravate, rather than relieve, female troubles;

- (b) Failed to reveal facts material in the light of the representations contained in her said advertisements, and that use of said preparation, under conditions prescribed therein or under such conditions as are customary or usual, might cause colitis and produce pelvic congestion, with likelihood of inducing miscarriage in later stages of pregnancy; and

- (c) Falsely represented, through inclusion of prefix "Dr." in trade name employed by her, and through using in her said advertising material title "Dr." as prefix to her own name, and also setting forth therein specific statement "Prepared by Dr. Jane Blanchard," that she was a physician;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it, because of such mistaken belief, to purchase her said medicinal preparation:

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.

Before *Mr. William C. Reeves*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Mr. Kenneth N. Graham, of Pittsburgh, Pa., for respondent.

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Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal

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Trade Commission, having reason to believe that Jane Blanchard Geary, an individual, trading as Dr. Jane Blanchard, 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, Jane Blanchard Geary, is an individual trading as Dr. Jane Blanchard, with her principal place of business at 2817 East Street (N. S.), Pittsburgh, Pa., from which address she transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a medicinal preparation designated as "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator," and "Dr. Blanchard's Regulator."

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

Respondent maintains and at all times mentioned herein has maintained a course of trade in said medicinal 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 her aforesaid business, respondent has disseminated, and is now disseminating, and has caused, and is now causing the dissemination of false advertisements concerning her said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning her said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of her 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 and by insertions in newspapers and other advertising literature, are the following:

LADIES—When in need of a true medicine try Dr. Jane Blanchard's Compound Regulator, nothing to equal it.

LADIES—When you need true medicine try Dr. Blanchard's Regulator; used by best people in public and private life.

Dr. Blanchard's Female Compound and Regulator.

Recommended for Suppressed Menstruation
AND AS A TONIC INVIGORATOR AND BLOOD PURIFIER

Contains no injurious substance.

Prepared by Dr. Jane Blanchard.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, respondent represents that her preparation designated as Dr. Blanchard's Female Compound and Regulator, Dr. Jane Blanchard's Compound Regulator, and Dr. Blanchard's Regulator, is a competent and reliable regulator of conditions peculiar to women; that it is a competent and effective treatment for delayed or suppressed menstruation; that it constitutes an effective tonic and blood purifier; and that it is safe and harmless.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading, and untrue. The therapeutic properties of respondent's preparation designated as Dr. Blanchard's Female Compound and Regulator, Dr. Jane Blanchard's Compound Regulator, and Dr. Blanchard's Regulator are limited to those of an alcoholic stimulant and irritant laxative. Said preparation has no therapeutic value in the treatment of delayed or suppressed menstruation or the regulation of conditions peculiar to women. This preparation is not a tonic or blood purifier. Furthermore, said preparation is not safe and harmless, in that it contains the drug aloes in quantities sufficient to be harmful, and may cause colitis and produce pelvic congestions which might aggravate rather than relieve female troubles.

PAR. 6. The advertisements disseminated by the respondent constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained therein and fail to reveal that the use of said preparations under the conditions prescribed in said advertisements or under such conditions as are customary or usual may cause colitis and produce pelvic congestion with likelihood of inducing miscarriage in latter stages of pregnancy.

PAR. 7. In the course and operation of her business as aforesaid, the respondent, Jane Blanchard Geary uses the trade name "Dr. Jane Blanchard," and also in the designation of her said medicinal preparation makes use of the title "Dr." in close proximity to and as a prefix

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to the name Blanchard which appears in her advertising material disseminated as aforesaid, including the specific statement, "Prepared by Dr. Jane Blanchard." The use by respondent, Jane Blanchard Geary, of the abbreviation "Dr." in close proximity to and as a prefix to the name "Jane Blanchard," in the manner and by the means aforesaid, acts as a representation by respondent, Jane Blanchard Geary, to prospective purchasers of her said medicinal preparation, that respondent is a medical doctor. In truth and in fact, respondent, Jane Blanchard Geary, is not a medical doctor.

PAR. 8. The use by respondent of the foregoing false, deceptive, and misleading statements and representations with respect to her medicinal preparation, 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 induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said medicinal preparation.

PAR. 9. The aforesaid acts and practices of 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 the 24th day of January 1941, issued, and thereafter served, its complaint in this proceeding upon said respondent, Jane Blanchard Geary, an individual, trading as Dr. Jane Blanchard, charging her with use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On February 12, 1941, the respondent filed her answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent through her counsel, Kenneth N. Graham, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto and that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding

without the presentation of argument or the filing of briefs. Respondent also waived the filing of a report upon the evidence by a trial examiner. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved, accepted, and filed and the Commission having duly considered the same and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Jane Blanchard Geary, is an individual trading as Dr. Jane Blanchard, with her principal place of business at 2817 East Street (N. S.), Pittsburgh, Pa., from which address she transacts business under the above trade name.

PAR. 2. The respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of a medicinal preparation designated as "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator," and "Dr. Blanchard's Regulator."

PAR. 3. In the course and conduct of her aforesaid business, respondent has disseminated, and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning her said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, and respondent has also disseminated and is now disseminating, and has caused, and is now causing, the dissemination of false advertisements concerning her said product, by various means, for the purpose of inducing, and which are likely to induce, directly, or indirectly, the purchase of her 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 and by insertions in newspapers and other advertising literature, are the following:

LADIES—When in need of a true medicine try Dr. Jane Blanchard's Compound Regulator, nothing to equal it.

LADIES—When you need true medicine try Dr. Blanchard's Regulator; used by best people in public and private life.

Dr. Blanchard's Female Compound and Regulator

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Recommended for Suppressed Menstruation
AND AS A TONIC INVIGORATOR
AND BLOOD PURIFIER

Contains no injurious substance.

Prepared by Dr. Jane Blanchard.

PAR. 4. By the use of representations hereinabove set forth and other representations similar thereto not specifically set out herein, respondent represents that her preparation designated as Dr. Blanchard's Female Compound and Regulator, Dr. Jane Blanchard's Compound Regulator, and Dr. Blanchard's Regulator, is a competent and reliable regulator of conditions peculiar to women; that it is a competent and effective treatment for delayed or suppressed menstruation; that it constitutes an effective tonic and blood purifier; and that it is safe and harmless.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondent as hereinabove described are grossly exaggerated, misleading, and untrue. The therapeutic properties of respondent's preparation designated as Dr. Blanchard's Female Compound and Regulator, Dr. Jane Blanchard's Compound Regulator, and Dr. Blanchard's Regulator are limited to those of an alcoholic stimulant and irritant laxative. Said preparation has no therapeutic value in the treatment of delayed or suppressed menstruation or the regulation of conditions peculiar to women. This preparation is not a tonic or blood purifier. Furthermore, said preparation is not safe and harmless, in that it contains the drug aloes in quantities sufficient to be harmful, and may cause colitis and produce pelvic congestions which might aggravate rather than relieve female troubles.

PAR. 6. The advertisements disseminated by the respondent constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained therein 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 cause colitis and produce pelvic congestion with likelihood of inducing miscarriage in latter stages of pregnancy.

PAR. 7. In the course and operation of her business as aforesaid, the respondent, Jane Blanchard Geary, uses the trade name "Dr. Jane Blanchard," and also in the designation of her said medicinal preparation makes use of the title "Dr." in close proximity to and as a prefix to the name Blanchard, which appears in her advertising material disseminated as aforesaid, including the specific statement,

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"Prepared by Dr. Jane Blanchard." The use by respondent, Jane Blanchard Geary, of the abbreviation "Dr." in close proximity to and as a prefix to the name "Jane Blanchard," in the manner and by the means aforesaid, acts as a representation by respondent, Jane Blanchard Geary, to prospective purchasers of her said medicinal preparation, that respondent is a medical doctor. In truth and in fact, respondent, Jane Blanchard Geary, is not a medical doctor.

PAR. 8. The use by respondent of the foregoing false, deceptive, and misleading statements and representations with respect to her medicinal preparation, 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 induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's said medicinal preparation.

CONCLUSION

The aforesaid acts and practices of 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, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, 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, Jane Blanchard Geary, an individual, trading as Dr. Jane Blanchard, or trading under any other name, her agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of her medicinal preparation designated

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as "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator," and "Dr. Blanchard's Regulator," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other names, do herewith 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 respondent's preparation is a competent or reliable regulator of conditions peculiar to women, or possesses any therapeutic value in the treatment of delayed or suppressed menstruation; that said preparation is a tonic or blood purifier; that said preparation is safe or harmless; or which advertisement uses the term "Dr." or "Doctor" as a part of respondent's trade name or as a part of the name of said preparation, or which advertisement otherwise represents that respondent is a medical doctor; or which advertisement fails to reveal that the use of said preparation may cause colitis and produce pelvic congestion with likelihood of inducing miscarriage in latter stages of pregnancy.

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 colitis and produce pelvic congestion with likelihood of inducing miscarriage in latter stages of pregnancy.

It is further ordered, That the respondent shall within 10 days after 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

MEDORA WHINREY, TRADING UNDER THE STYLE AND
FIRM NAME OF GLY-CAS MEDICINE COMPANY, AND
ROBERT B. WHINREYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4432. Complaint, Dec. 21, 1940—Decision, Apr. 25, 1941*

Where two individuals respectively engaged as proprietress and manager and. in their individual capacities also, in interstate sale and distribution of their Gly-Cas medicinal product or preparation; by means of advertisements disseminated by various means and including quotations at length from testimonial or purported testimonial endorsements—

- (a) Represented, directly and by implication, that their preparation was a cure or remedy and competent and effective treatment for constipation, indigestion, gas, bloated and sour stomach, rheumatic and neuritis pains, sore and aching muscles, limbs, and joints; backaches, dizziness, nervousness, kidney trouble, sleeplessness, biliousness, and headaches; and
- (b) Represented that such disorders and conditions are typical symptoms of constipation or faulty elimination, and that use of their preparation will completely cleanse the system, remove toxic impurities, and prevent invasion of intestinal glands by bacteria, and that it is a body conditioner and purifier which will restore one to normal health;

Facts being product in question is not a cure or remedy for constipation, has no therapeutic value in the treatment thereof in excess of temporary relief afforded by causing a partial evacuation of the intestinal tract, and will not accomplish the results above claimed; and conditions above set forth are often caused by other systemic disorders than constipation, in which event their said product would have no therapeutic effect;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such false representations were true and of thereby inducing it to purchase their said product:

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 W. Carter, 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 Medora Whinrey,