

IN THE MATTER OF

HARTIG DRUG COMPANY, ALSO TRADING AS H. K. PHARMACEUTICAL LABORATORIES, AND A. J. HARTIG, AS PRESIDENT OF HARTIG DRUG COMPANY, INDIVIDUALLY AND TRADING AS H. K. PHARMACEUTICAL LABORATORIES

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

Docket 4406. Complaint, Mar. 4, 1941—Decision, Apr. 26, 1941¹

Where a corporation and an individual, who, as its president, controlled and directed its policies and activities as a family business, engaged in interstate sale and distribution of various medicinal preparations, including certain products purportedly for the relief of delayed menstruation, consisting of five treatments designated as "Menstruaid Nos. 1, 2, 3, 4, and 5"; by means of advertisements disseminated through the mails and by circulars and other printed or written matter—

- (a) Represented that said preparations constituted a competent, effective and positive remedy for delayed menstruation, were harmless, and would normalize the most stubborn menstrual troubles speedily, conveniently, and painlessly; which claims were false, and said preparations were not safe or harmless, in that they contained the drugs ergot, aloes, and cottonroot bark, and use thereof might result in gastrointestinal disturbances and excessive congestion and hemorrhage of the pelvic organs and, in case of pregnancy, might cause uterine infection and blood poisoning;
 - (b) Represented that said preparations constituted a scientific remedy which was fully guaranteed; facts being they did not constitute a scientific remedy for said conditions, were not fully guaranteed in that all said corporation and individual would do in connection with such guarantee was to furnish an additional supply designated as "Super Strength" at reduced price of \$5 upon failure of purchaser to obtain desired results; and
 - (c) Failed to reveal facts material in the light of said representations, and that use of such preparations under the conditions prescribed therein or under such as are customary or usual, might cause gastrointestinal disturbances, pelvic hemorrhage, uterine infection and blood poisoning, as noted above;
- With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false advertisements were true, and of inducing it, because of such belief, to purchase their medical preparations containing injurious drugs:

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. Eldon P. Schrup for the Commission.

¹ Amended.

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AMENDED 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 Hartig Drug Company, a corporation, also trading as H. K. Pharmaceutical Laboratories, and A. J. Hartig, individually, as president of the Hartig Drug Company, and trading as H. K. Pharmaceutical Laboratories, 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 amended complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Hartig Drug Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, trading as H. K. Pharmaceutical Laboratories, with its office and principal place of business located at 756 Main Street, Dubuque, Iowa. Respondent A. J. Hartig and family are the principal officers and stockholders of said corporation and respondent A. J. Hartig as its president controls and directs the policies and activities of said corporate respondent.

Respondent A. J. Hartig is an individual trading and doing business as H. K. Pharmaceutical Laboratories with his office and principal place of business occupying the same premises as that of the Hartig Drug Company located at 756 Main Street, Dubuque, Iowa.

PAR. 2. The respondents are now, and for more than two years last past have been, engaged in the sale and distribution of various medicinal preparations in commerce between and among the various States of the United States and in the District of Columbia. Among the preparations so sold and distributed by the respondents are certain medicinal preparations purportedly for the relief of delayed menstruation which consist of five treatments designated as "Menstruaid Nos. 1, 2, 3, 4, and 5."

Respondents cause said preparations when sold to be transported from their place of business in the State of Iowa 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 said products 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 business, as aforesaid, the respondents have disseminated and have caused the dissemination of false advertisements concerning their said preparations by United

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States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and have disseminated and have caused the dissemination of false advertisements concerning their said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said preparations 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 herein set forth by United States mails and by circulars and other printed or written matter, are the following:

I Wonder if I'll BE DELAYED This Month?

Happy Days are Here for MARRIED WOMEN.

At last science offers married women relief when nature fails. "Menstruaid" will speedily relieve and normalize the most stubborn overdue and discouraging delayed female condition. The action is reported to be quick, painless, harmless and convenient . . . Easy to use . . . speedy, positive results without interference with your work.

CROSS OUT YOUR WORRY DAYS

Every woman has a right to live and enjoy her life. Now banish worry and marked calendar days forever. "Menstruaid" is a scientific remedy, consisting of 5 different treatments—

No. 1. A liquid taken 4 times a day.

No. 2. Tablets taken each night.

No. 3. A powder used in hot bath each night.

No. 4. A powder taken in hot water each night.

No. 5. A suppository to be used each night.

All in one kit, with simple directions.

COMPLETE GUARANTEE

of the manufacturers—H. K. Pharmaceutical
Laboratories, Dubuque, Iowa, in each package.

Naturally a scientific compound that will do the work effectively is worth its cost—Price of "Menstruaid" complete treatment \$10.00.

"Menstruaid" is registered in United States Patent Office, No. 315,537—Get the genuine from your Druggist today.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondents have represented that their medicinal preparations, known as "Menstruaid Nos. 1, 2, 3, 4, and 5" constitute a competent and effective remedy for delayed menstruation; that said preparations are harmless, and will positively bring about a return of normal menstruation and normalize the most stubborn cases of menstrual

troubles speedily, conveniently and painlessly; and that said preparations constitute a scientific remedy which is fully guaranteed.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondents as hereinbefore set forth are grossly exaggerated, false and misleading. In truth and in fact, respondents' preparations do not constitute a competent or effective treatment for delayed menstruation. Said preparations do not constitute a scientific remedy for delayed menstruation and are not fully guaranteed. All that the respondents will do in connection with such guarantee is to furnish an additional supply designated as "Super Strength" at a reduced price of \$5.00 upon the failure of the purchaser to obtain the desired results. This form of compliance with the so-called guarantee is not made known to the purchaser until after the purchase is completed and the package opened. Respondents' preparations will not normalize the most stubborn cases of menstrual trouble speedily, conveniently or painlessly. Moreover, said preparations are not safe or harmless as they contain the drugs ergot, aloes and cotton root bark 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 preparations may result in gastrointestinal disturbances, catharsis, nausea and vomiting with pelvic congestion, congestion of the uterus leading to excessive uterine hemorrhage, and in those cases where said preparations are 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.

The use of said preparations may also produce a severe circulatory condition by the congestion of the blood vessels and 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 or irreparable injury to health.

PAR. 6. The advertisements disseminated by the respondents 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 gastrointestinal dis-

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turbances and excessive congestion and hemorrhage of the pelvic organs, and in the case of pregnancy may cause uterine infection and blood poisoning.

PAR. 7. The use by the respondents of the foregoing false, deceptive and misleading statements and representations, 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 false statements, representations and advertisements are true, and to induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparations containing injurious drugs.

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

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on March 4, 1941, issued and thereafter served its amended complaint in this proceeding upon the respondents, Hartig Drug Co., a corporation, also trading as H. K. Pharmaceutical Laboratories, and A. J. Hartig, as president of the Hartig Drug Co., individually and trading as H. K. Pharmaceutical Laboratories, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 24, 1941, the respondents filed their answer, in which answer they admitted all the material allegations of fact set forth in said amended 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 amended complaint and the answer thereto, and the Commission having duty 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 Hartig Drug Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, trading as H. K. Pharmaceutical Laboratories, with its office and principal place of business located at 756 Main Street,

Dubuque, Iowa. Respondent A. J. Hartig and family are the principal officers and stockholders of said corporation and respondent A. J. Hartig as its president controls and directs the policies and activities of said corporate respondent.

Respondent A. J. Hartig is an individual trading and doing business as H. K. Pharmaceutical Laboratories with his office and principal place of business occupying the same premises as that of the Hartig Drug Co. located at 756 Main Street, Dubuque, Iowa.

PAR. 2. The respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of various medicinal preparations in commerce between and among the various States of the United States and in the District of Columbia. Among the preparations so sold and distributed by the respondents are certain medicinal preparations purportedly for the relief of delayed menstruation which consist of five treatments designated as "Menstruaid Nos. 1, 2, 3, 4, and 5."

Respondents cause said preparations when sold to be transported from their place of business in the State of Iowa 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 said products 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 business, as aforesaid, the respondents have disseminated and have caused the dissemination of false advertisements concerning their said preparations by United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and have disseminated and have caused the dissemination of false advertisements concerning their said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said preparations 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 herein set forth by United States mails and by circulars and other printed or written matter are the following:

I Wonder If I'll BE DELAYED This Month?

Happy Days are Here for MARRIED WOMEN

At last science offers married women relief when nature fails. "Menstruaid" will speedily relieve and normalize the most stubborn overdue and discouraging

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delayed female condition. The action is reported to be quick, painless, harmless and convenient . . . Easy to use . . . speedy, positive results without interference with your work.

CROSS OUT YOUR WORRY DAYS

Every woman has a right to live and enjoy her life. Now banish worry and marked calendar days forever. "Menstruaid" is a scientific remedy, consisting of 5 different treatments—

No. 1. A liquid taken 4 times a day.

No. 2. Tablets taken each night.

No. 3. A powder used in hot bath each night.

No. 4. A powder taken in hot water each night.

No. 5. A suppository to be used each night.

All in one kit, with simple directions.

COMPLETE GUARANTEE

of the manufacturers—H. K. Pharmaceutical Laboratories, Dubuque, Iowa, in each package.

Naturally a scientific compound that will do the work effectively is worth its cost—Price of "Menstruaid" complete treatment \$10.00.

"Menstruaid" is registered in United States Patent Office, No. 315,537—Get the genuine from your Druggist today.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, respondents have represented that their medicinal preparations, known as "Menstruaid Nos. 1, 2, 3, 4, and 5" constitute a competent and effective remedy for delayed menstruation; that said preparations are harmless, and will positively bring about a return of normal menstruation and normalize the most stubborn cases of menstrual troubles speedily, conveniently and painlessly; and that said preparations constitute a scientific remedy which is fully guaranteed.

PAR. 5. The aforesaid statements and representations used and disseminated by the respondents as hereinbefore set forth are grossly exaggerated, false and misleading. In truth and in fact, respondents' preparations do not constitute a competent or effective treatment for delayed menstruation. Said preparations do not constitute a scientific remedy for delayed menstruation and are not fully guaranteed. All that the respondents will do in connection with such guarantee is to furnish an additional supply designated as "Super Strength" at a reduced price of \$5 upon the failure of the purchaser to obtain the desired results. This form of compliance with the so-called guarantee is not made known to the purchaser until after the purchase is completed and the package opened. Respondents' preparations will not

normalize the most stubborn cases of menstrual trouble speedily, conveniently or painlessly. Moreover, said preparations are not safe or harmless as they contain the drugs ergot, aloes and cotton root bark 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 preparations may result in gastrointestinal disturbances, catharsis, nausea and vomiting with pelvic congestion, congestion of the uterus leading to excessive uterine hemorrhage, and in those cases where said preparations are 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.

The use of said preparations may also produce a severe circulatory condition by the congestion of the blood vessels and 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 or irreparable injury to health.

PAR. 6. The advertisements disseminated by the respondents 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 gastrointestinal disturbances and excessive congestion and hemorrhage of the pelvic organs, and in the case of pregnancy may cause uterine infection and blood poisoning.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations, 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 false statements, representations and advertisements are true, and to induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' medicinal preparations containing injurious drugs.

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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 amended complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said amended 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, Hartig Drug Co., a corporation, also trading as H. K. Pharmaceutical Laboratories, or trading under any other name, and its officers, and A. J. Hartig, as president of the Hartig Drug Co., individually and trading as H. K. Pharmaceutical Laboratories, or trading under any other name, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their medicinal preparations known as "Menstruaid Nos. 1, 2, 3, 4, and 5," or any product of substantially similar composition or possessing substantially similar properties, whether sold under the same names or under any other name, do forthwith cease and desist from, directly or indirectly:

1. Disseminating, or causing to be disseminated, any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference:

- (a) That said preparations constitute a competent or effective treatment for delayed, unnatural or suppressed menstruation; that said preparations are scientific, safe or harmless; that said preparations are guaranteed; or which advertisement fails to reveal that the use of said preparations may cause gastrointestinal 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,

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directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparations, which advertisements contain any of the representations prohibited in paragraph 1 hereof, or which fail to reveal that the use of said preparations may cause gastrointestinal 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 respondents 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 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
**ALBERT LANE, TRADING AS CONSUMERS BUREAU OF
STANDARDS**

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

Docket 3718. Complaint, Feb. 18, 1939—Decision, Apr. 28, 1941

Where an individual engaged in interstate sale and distribution of publications purporting to list and grade consumers' merchandise and services sold and distributed throughout the United States, including, at different periods, his "Consumers' Preference" with Chicago address, his "Consumers' Bureau Reports" with New York address—of each of which only one number issued—and finally, his "Consumers Bureau Guide"; selling his said publications through personal interviews or correspondence principally to manufacturers or distributors whose products were listed favorably, to induce them to finance the printing or distribution of a great number of said publications, or to purchase a large number of copies thereof for their own use, and to pay from \$50 to \$150 for each favorable listing of their respective products, he representing that he would use the money thus received to distribute free copies; and in substantial competition with organizations similarly engaged which did not make use of such acts and practices as employed by him, as below set forth—

- (a) Represented and implied, through use of trade name "Consumers Bureau of Standards," that he was engaged in making comparative tests of various products for the benefit of consumers, when in fact there was no such organization as "Consumers Bureau of Standards" or "Consumers Bureau" which trade names were used merely to further sale of his publications;
- (b) Represented, as aforesaid, and in statements in his publications that so-called "Bureau" was a "national non-profit consumers' research and educational organization which investigates, tests and reports on goods and services for the benefit of the ultimate consumer," and "to aid consumers in making wise and economical purchases";
- (c) Represented that a manufacturer or distributor had only to prove his products best by tests under supervision of so-called "Bureau," to secure free listing, and that in the event of a final difference of opinion between the manufacturer and Bureau on technical matters on such a test, the Bureau would "be glad to have the question at issue submitted to the Mellon Institute of Industrial Research or the Massachusetts Institute of Technology for decision";
- (d) Represented that the Bureau had a staff which collected and tested samples of merchandise as a basis for their reports, and that he, personally had a high professional standing and had been in the research business for years;
- (e) Represented that laboratory tests would be made to select the merchandise which gave the consumers the most for their money, and that the Bureau was a going concern with an established organization, representing a large