

## Syllabus

IN THE MATTER OF  
COLONIAL DRUG COMPANY, AND M. A. YOUNKMANCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 4260. Complaint, Jan. 24, 1941<sup>1</sup>—Decision, May 16, 1941*

Where a corporation and its president, who managed and controlled its activities with reference to the practices below set forth, engaged in interstate sale and distribution of their "Natural Mineral Extract" medicinal preparation, as an external and internal treatment for various diseases, ailments, and disorders; by means of advertisements disseminated through the mails and otherwise—

- (a) Represented, directly and by implication, that external application of said Extract constituted a cure or remedy and competent and effective treatment for eczema, acne, athlete's foot and other skin conditions, burns, colds, cuts, scratches, old sores, cold sores, sore swollen feet, infections, sore throat, tonsillitis, bleeding gums, fever blisters, enlarged prostate glands, hemorrhoids, and insect bites or stings;
- (b) Represented that internal use thereof would purify the blood, constituted a tonic for rundown anemic conditions, supplied minerals essential to bodily health or vigor, and constituted a cure or remedy for indigestion, stomach and intestinal disorders, ulceration of the stomach, kidney and bladder disorders, high and low blood pressure, rheumatism, liver trouble, coughs, emaciation, boils, carbuncles, and other rundown conditions of the blood, and a competent and effective treatment therefor; and
- (c) Represented that said preparation had germicidal, antiseptic and astringent properties, was beneficial in treatment of female disorders, and was a competent and effective treatment for ill-nourished, backward, and defective children;

Facts being it had no therapeutic value other than that of a mild laxative and mild diuretic, had no germicidal, antiseptic, or astringent properties, used externally or internally it was of no value in the treatment of the diseases and ailments listed, and it was not a tonic or blood purifier;

With the effect of misleading and deceiving substantial portion of purchasing public into the erroneous belief that such advertisements were true, and of inducing it, because of such belief, to purchase said medicinal 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. Donovan R. Divet* for the Commission.

*Mr. E. D. Brewer*, of Tulsa, Okla., for respondents.

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<sup>1</sup> Amended.

## Complaint

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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 Colonial Drug Co., a corporation, and M. A. Younkman, individually, as President of Colonial Drug Co., and trading as Colonial Sales Co., hereinafter referred to as respondents, have violated the provisions of said act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent Colonial Drug Co. is a corporation organized and existing under and by virtue of the laws of the State of Oklahoma and having its office and principal place of business at Boston Avenue and First Street in the city of Tulsa, State of Oklahoma. Respondent M. A. Younkman is an individual trading and doing business as Colonial Sales Co. and having his office and principal place of business at 21 East First Street in the city of Tulsa, State of Oklahoma, and is and at all times mentioned in this amended complaint has been the president of said respondent corporation, Colonial Drug Co., and as such president manages, controls, and directs and at all times herein mentioned has managed, controlled, and directed the corporate affairs and activities of said respondent corporation Colonial Drug Co. with reference to the acts and practices herein alleged.

PAR. 2. The respondent M. A. Younkman, individually and trading as Colonial Sales Co. and acting in cooperation and conjunction with, and through the medium of said Colonial Drug Co., a corporation, is now and for more than two years last past has been engaged in the preparation and in the sale and distribution of a certain medicinal product containing drugs, known as National Mineral Extract. The said respondent Colonial Drug Co., a corporation, is now and for more than 2 years last past has been engaged in the business of offering for sale and selling the said medicinal product, Natural Mineral Extract, to individual members of the purchasing public. Said medicinal product is sold and offered for sale by both respondents as an internal and external treatment for various diseases, ailments, and disorders of the human body.

In the course and conduct of their business, the respondents cause the said medicinal product, when sold, to be transported from their places of business in the State of Oklahoma to purchasers thereof located in various other States of the United States. Respondents

maintain and at all times mentioned herein have maintained a course of trade in said medicinal product in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid businesses respondents have disseminated and have caused the dissemination of false advertisements concerning the said product by United States mails and by various other means in commerce as commerce is defined in the Federal Trade Commission Act; and the respondents have also disseminated and have caused the dissemination of false advertisements concerning the said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of the 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 other means are the following:

Natural Mineral Extract has been used by thousands and found highly beneficial when taken internally as a tonic for run-down anemic conditions wherein the blood needs enrichment, and the system needs toning up to renew strength and vigor. It has been found highly beneficial when taken internally for indigestion, stomach and intestinal disorders, ulceration of the stomach, kidney and bladder disorders, high-blood pressure, rheumatism, and many other run-down conditions of the blood.

Natural Mineral Extract has been found highly beneficial when used externally for superficial burns, scalds, small cuts and scratches, eczema, and other skin conditions, sore throat, tonsillitis, bleeding gums, fever blisters, athlete's foot, enlarged prostate glands of old and middle-aged men, internal hemorrhoids, bleeding piles or hemorrhoids, insect bites or stings, and many other external uses, wherein a healing astringent is needed.

Female Trouble—Many women are high in their praise of Natural Mineral Extract when used as directed in a douche, when an astringent is needed. For female troubles, use one tablespoon to one quart lukewarm water, once daily.

An effective, non-poisonous germicide.

Natural Mineral Extract contains most of the sixteen minerals that are necessary in repairing and rebuilding body cells and giving new life to weakened and general run-down conditions of the system.

Diseased conditions in which Natural Mineral Extracts have been found useful: anemia, run-down condition, acne, eczema, bed-wetting, getting up nights, bleeding, blood pressure, high and low, blood poor, impoverished thin, boils, burns, carbuncles, chilblains, children defective—ill nourished—backward, cold sores, fever blisters, convalescence, cough, sore swollen feet, hemorrhoids (commonly called piles), infections, old sores, insect bites, kidneys, liver, female trouble, stomach trouble, indigestion, alkaline stomach, ulcers, worms, wound cuts, bruises and rheumatism.

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PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative and therapeutic properties of the said product, respondents have represented, directly and by implication, that the external application of the said preparation Natural Mineral Extract constitutes a cure or remedy for eczema, acne, athlete's foot, and other skin conditions, burns, scalds, cuts, scratches, old sores, cold sores, sore swollen feet, infections, sore throat, tonsillitis, bleeding gums, fever blisters, enlarged prostate glands, hemorrhoids and insect bites or stings, and constitutes a competent and effective treatment for such conditions. In like manner the respondents have represented that the internal use of said preparation will purify the blood and constitutes a tonic for run-down anemic conditions and supplies minerals essential to bodily health, vigor, or energy, and constitutes a cure or remedy for indigestion, stomach and intestinal disorders, ulceration of the stomach, kidney and bladder disorders, high and low blood pressure, rheumatism, liver trouble, coughs, emaciation, boils, carbuncles and other run-down conditions of the blood, and is a competent and effective treatment for such disorders. In like manner the respondents have also represented that said preparation has germicidal, antiseptic, and astringent properties and is beneficial in the treatment of female disorders, and that said preparation is a competent and effective treatment for ill-nourished, backward and defective children.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondents as hereinabove described are grossly exaggerated, misleading, and untrue. In truth and in fact the said preparation has no therapeutic value other than that of a mild laxative or mild diuretic. Said preparation has no germicidal, antiseptic, or astringent properties and the external application of such preparation is of no value in the treatment of eczema, acne, athlete's foot, skin diseases, burns, scalds, cuts, scratches, old sores, cold sores, swollen feet, infection, sore throat, tonsillitis, bleeding gums, fever blisters, enlarged prostate glands or hemorrhoids, either external or internal. Respondents' preparation has no therapeutic value in the treatment of indigestion, stomach or intestinal disorders, ulceration of the stomach, kidney or bladder disorders, rheumatism, liver trouble, coughs, emaciation, boils, carbuncles, or other run-down conditions of the blood, and does not constitute a cure or remedy for or a competent treatment of such diseases and disorders. Said preparation is not a tonic or blood purifier and will have no therapeutic effect

upon run-down conditions of the blood. The said preparation has no therapeutic value in the treatment of female disorders and has no therapeutic properties which would constitute a competent or effective treatment of ill-nourished, backward, or defective children.

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to the said product 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 the said medicinal product.

PAR. 7. 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 January 24, 1941, issued and thereafter served its amended complaint on the respondents, Colonial Drug Co., a corporation, and M. A. Younkman, individually, and as President of Colonial Drug Co., and trading as Colonial Sales Co., charging them with the use of unfair and deceptive acts and practices in commerce, in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, the Commission, by order entered herein, granted respondents' motion for permission to withdraw their said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said amended complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said amended complaint and substitute 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. The respondent Colonial Drug Co. is a corporation organized and existing under and by virtue of the laws of the State of

## Findings

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Oklahoma, and having its office and principal place of business at Boston Avenue and First Street in the city of Tulsa, State of Oklahoma. Respondent M. A. Younkman is an individual trading and doing business as Colonial Sales Co. and having his office and principal place of business at 21 East First Street in the city of Tulsa, State of Oklahoma, and is now and at all times mentioned herein has been the president of said respondent corporation, Colonial Drug Co., and as such president he manages, controls, and directs, and at all times herein mentioned has managed, controlled, and directed, the corporate affairs and activities of said respondent corporation Colonial Drug Co. with reference to the acts and practices herein found.

PAR. 2. The respondent M. A. Younkman, individually and trading as Colonial Sales Co. and acting in cooperation and conjunction with, and through the medium of said Colonial Drug Co., a corporation, is now and for more than 2 years last past has been engaged in the preparation and in the sale and distribution of a certain medicinal product containing drugs, known as Natural Mineral Extract. The said respondent Colonial Drug Co., a corporation, is now and for more than 2 years last past has been engaged in the business of offering for sale and selling the said medicinal product, Natural Mineral Extract, to individual members of the purchasing public. Said medicinal product is sold and offered for sale by both respondents as an internal and external treatment for various diseases, ailments, and disorders of the human body.

In the course and conduct of their business, the respondents cause the said medicinal product, when sold, to be transported from their places of business in the State of Oklahoma to purchasers thereof located in various other States of the United States. Respondents maintain and at all times mentioned herein have maintained a course of trade in said medicinal product in commerce among and between various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid businesses respondents have disseminated and have caused the dissemination of false advertisements concerning the said product by United States mails and by various other means in commerce as commerce is defined in the Federal Trade Commission Act; and the respondents have also disseminated and have caused the dissemination of false advertisements concerning the said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of the 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

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## Findings

said false advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails and by other means are the following:

Natural Mineral Extract has been used by thousands and found highly beneficial when taken internally as a tonic for run-down anemic conditions wherein the blood needs enrichment, and the system needs toning up to renew strength and vigor. It has been found highly beneficial when taken internally for indigestion, stomach and intestinal disorders, ulceration of the stomach, kidney and bladder disorders, high blood pressure, rheumatism, and many other run-down conditions of the blood.

Natural Mineral Extract has been found highly beneficial when used externally for superficial burns, scalds, small cuts and scratches, eczema, and other skin conditions, sore throat, tonsillitis, bleeding gums, fever blisters, athlete's foot, enlarged prostate glands of old and middle aged men, internal hemorrhoids, bleeding piles or hemorrhoids, insect bites or stings, and many other external uses, wherein a healing astringent is needed.

Female Trouble—Many women are high in their praise of Natural Mineral Extract when used as directed in a douche, when an astringent is needed. For female troubles, use one tablespoon to one quart lukewarm water, once daily.

An effective, non-poisonous germicide.

Natural Mineral Extract contains most of the sixteen minerals that are necessary in repairing and rebuilding body cells and giving new life to weakened and general run-down conditions of the system.

Diseased conditions in which Natural Mineral Extracts have been found useful: anemia, rundown condition, acne, eczema, bed-wetting, getting up nights, bleeding, blood pressure, high and low, blood poor, impoverished thin, boils, burns, carbuncles, chilblains, children defective—ill nourished—backward, cold sores, fever blisters, convalescence, cough, sore swollen feet, hemorrhoids (commonly called piles), infections, old sores, insect bites, kidneys, liver, female trouble, stomach trouble, indigestion, alkaline stomach, ulcers, worms, wound cuts, bruises and rheumatism.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, all of which purport to be descriptive of the remedial, curative, and therapeutic properties of the said product, respondents have represented, directly and by implication, that the external application of the said preparation Natural Mineral Extract constitutes a cure or remedy for eczema, acne, athlete's foot, and other skin conditions, burns, scalds, cuts, scratches, old sores, cold sores, sore swollen feet, infections, sore throat, tonsillitis, bleeding gums, fever blisters, enlarged prostate glands, hemorrhoids and insect bites or stings, and constitutes a competent and effective treatment for such conditions. In like manner the respondents have represented that the internal use

of said preparation will purify the blood and constitutes a tonic for rundown anemic conditions and supplies minerals essential to bodily health, vigor, or energy, and constitutes a cure or remedy for indigestion, stomach and intestinal disorders, ulceration of the stomach, kidney and bladder disorders, high and low blood pressure, rheumatism, liver trouble, coughs, emaciation, boils, carbuncles, and other rundown conditions of the blood, and is a competent and effective treatment for such disorders. In like manner the respondents have further represented that said preparation has germicidal, antiseptic, and astringent properties and is beneficial in the treatment of female disorders, and is a competent and effective treatment for ill nourished, backward, and defective children.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondents as hereinabove described are grossly exaggerated, misleading, and untrue. In truth and in fact the said preparation has no therapeutic value other than that of a mild laxative or mild diuretic. Said preparation has no germicidal, antiseptic, or astringent properties and the external application of such preparation is of no value in the treatment of eczema, acne, athlete's foot, skin diseases, burns, scalds, cuts, scratches, old sores, cold sores, swollen feet, infection, sore throat, tonsillitis, bleeding gums, fever blisters, enlarged prostate glands or hemorrhoids, either external or internal. Respondents' preparation has no therapeutic value in the treatment of indigestion, stomach or intestinal disorders, ulceration of the stomach, kidney or bladder disorders, rheumatism, liver trouble, coughs, emaciation, boils, carbuncles, or other rundown conditions of the blood, and does not constitute a cure or remedy for or a competent treatment of such diseases and disorders. Said preparation is not a tonic or blood purifier and will have no therapeutic effect upon rundown conditions of the blood. The said preparation has no therapeutic value in the treatment of female disorders and has no therapeutic properties which would constitute a competent or effective treatment of ill nourished, backward, or defective children.

PAR. 6. The use by the respondents of the foregoing false, deceptive and misleading statements and representations with respect to the said product 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 substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase the said medicinal product.

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Order

## 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 the respondents, in which answer respondents admit all the material 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 respondents, Colonial Drug Co., a corporation, its officers, and M. A. Younkman, individually, and as president of Colonial Drug Co., and trading as Colonial Sales Co., or trading under any other name, respondents' 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 preparation designated "Natural Mineral Extract," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name 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 preparation constitutes a cure or remedy for, or possesses any therapeutic value in the treatment of eczema, acne, athlete's foot, burns, scalds, cuts, scratches, old sores, cold sores, sore swollen feet, infections, sore throat, tonsilitis, bleeding gums, fever blisters, enlarged prostate gland, hemorrhoids, insect bites or stings, indigestion, stomach or intestinal disorders, ulceration of the stomach, kidney or bladder disorders, high or low blood pressure, rheumatism, liver trouble, coughs, emaciation, boils, or carbuncles.

(b) that said preparation possesses any germicidal, antiseptic, or astringent properties.

(c) that said preparation has any therapeutic value as a tonic or blood purifier, or that it has any therapeutic effect upon rundown conditions of the blood.

(d) that said preparation has any therapeutic value in the treatment of female disorders.

(e) that said preparation constitutes a competent or effective treatment for ill-nourished, backward, or defective children.

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.

*It is further ordered*, That the respondents shall within 60 days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

## Complaint

## IN THE MATTER OF

MAX CAPLAN, DOING BUSINESS AS CAPITAL DRUG  
COMPANY

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

*Docket 4343. Complaint, Oct. 10, 1940—Decision, May 16, 1941*

Where an individual engaged in interstate sale and distribution of a medicinal preparation designated "Mrs. Bee Femo Caps"; by means of advertisements disseminated through the mails and in newspapers and other advertising literature—

- (a) Represented, directly and by implication, that his said preparation constituted a safe, competent, and effective treatment for delayed menstruation, that there was no risk in its use, and that it did not cause discomfort or inconvenience;

Facts being it was not a competent or effective treatment for said condition, was not safe or harmless in that it contained the drugs ergot, oil of tansy and aloin in quantities sufficient to cause gastro-intestinal disturbances, with pelvic congestion and hemorrhage, and in cases of pregnancy might result in uterine infection, blood poisoning, and other serious conditions, if used under the conditions prescribed in said advertisements or under such as are customary or usual; and

- (b) Failed to reveal facts material in the light of such representations, and that use of said preparation might, as aforesaid, result in serious injury to health;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that said representations were true, and, because of such mistaken belief, of inducing purchase by the public of his said 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.

*Mr. William L. Taggart* for the Commission.

*Mr. A. J. Lubliner*, of Bluefield, W. Va., 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 Max Caplan, an individual, trading and doing business as Capital Drug Co., 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, hereby issues its complaint, stating its charges in that respect as follows: