

IN THE MATTER OF

FERD T. HOPKINS, TRADING AS D. WATSON & COMPANY
AND AS COLONNADE ADVERTISING AGENCY.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4527. Complaint, June 30, 1941—Decision, Nov. 13, 1941*

Where an individual engaged in the interstate sale and distribution of "Dr. J. Lariviere's Vegetable Compound," by means of advertisements in newspapers and other advertising literature, directly and by implication—

Represented that his said product constituted a treatment for painful and irregular menstruation; use of which would strengthen the system and organs and build up physical resistance to restlessness, nervousness, cramps, headaches, fainting spells, and other distressing symptoms or ailments accompanying the menstruation period or which might be due to female "functional disorders"; and that restlessness, nervousness, and moody spells in young women are indicative of or symptoms of "dangerous periods" imperiling health;

The facts being that it did not constitute such a treatment and use thereof would not accomplish results as above claimed, and restlessness, nervousness, and moody spells in young women are not indicative of, nor symptoms of "dangerous periods" imperiling "health";

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

Held, That such acts and practices, as above 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.

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 Ferd T. Hopkins, an individual, trading as D. Watson & Co. and as Colonnade Advertising Agency, 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, Ferd T. Hopkins, is an individual trading as D. Watson & Company and as Colonnade Advertising Agency, with his office and principal place of business at 430 Lafay-

ette Street, New York, N. Y., from which address he transacts business under the above trade names.

PAR. 2. The respondent is now, and for more than one year last past, has been, engaged in the sale and distribution of a certain medicinal preparation advertised as DR. J. LARIVIERE'S VEGETABLE COMPOUND.

In the course and conduct of his business the respondent causes said medicinal preparation, when sold, to be transported from his place of business in the State of New York to purchasers thereof located in 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, sold and distributed by him 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 his aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his 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 his said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his 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 advertisements in newspapers and other advertising literature are the following:

Danger Periods

Your mother knew the secret when she was a girl because her mother told her what great relief could be obtained from the use of *Dr. J. Lariviere's Vegetable Compound* at certain periods of womanhood. It is not intended that women should suffer every month. For over half a century Dr. J. Lariviere's Vegetable Compound has been the women's remedy as an aid in preventing restless, nervous and moody periods, cramps, headaches and embarrassing fainting spells, due to female functional irregularities. Start today—take Dr. J. Lariviere's Vegetable Compound and be convinced that you can be a normal woman. It strengthens and builds up your system so you do not have to take time-out periods. At your druggist.

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Caution

Every woman needs a special tonic at certain periods to relieve the distress from female functional disorders—that is why over half a century ago Dr. J. Lariviere, a female specialist, perfected his famous formula, *Dr. J. Lariviere's Vegetable Compound*, to aid women to go through their periods of distress with the least possible discomfort. Dr. J. Lariviere's Vegetable Compound helps nature build up physical resistance so women can enjoy life the way it was intended—free from jittery nerves and disturbing symptoms that women are subjected to at certain intervals. They find Dr. J. Lariviere's Vegetable Compound builds up their systems and strengthens their organs so they feel good and full of pep. For sale at your drug store.

D. WATSON & COMPANY, New York.

Women

You and your daughters are in need of a good, effective tonic at certain monthly periods. For over half a century *Dr. J. Lariviere's Vegetable Compound* has helped women during these run-down periods when bothered by cramps, nervousness and fainting spells due to female functional conditions. Take Dr. J. Lariviere's Vegetable Compound faithfully, according to directions, the same as your mothers did before you, and note the effective results. You will find it will build up and strengthen your organs. Take it regularly and be convinced there is relief in Dr. J. Lariviere's Vegetable Comp. At druggists.

D. WATSON & COMPANY, New York.

Your Daughter's Health

When she is entering womanhood watch carefully for symptoms of restless, nervous and moody spells. Have her take *Dr. J. Lariviere's Vegetable Compound* that has been serving women so faithfully for over half a century as an aid in relieving those embarrassing and dangerous periods. Dr. J. Lariviere's Vegetable Compound was originally prepared by Dr. J. Lariviere, a prominent New England physician, who made a life study of female complaints. He prescribed this medicine to his female patients with such successful results that today the sale is universal. With Dr. J. Lariviere's Vegetable Compound it is not necessary for your daughter to beg to be excused from school and dates—no laying around the house for three or four days every month. At drug stores.

D. WATSON & COMPANY, New York.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set forth herein, the respondent represents and has represented, directly and by implication, that his medicinal preparation, designated as Dr. J. Lariviere's Vegetable Compound, constitutes, within itself, a treatment for painful and irregular menstruation; that its use will strengthen the system and organs and build up physical resistance to restlessness, nervousness, cramps, headaches, fainting spells, and other distressing symptoms or ailments accompanying the menstruation period or such symptoms or ailments which may be due to female disorders or so-called "functional disorders"; and that restlessness, nervousness, and

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moody spells in young women are indicative of or symptoms of "dangerous periods" imperiling health.

PAR. 5. The foregoing advertisements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondent's preparation does not constitute, within itself, a treatment for painful and irregular menstruation. The use of said preparation will not strengthen the system or organs and will not build up physical resistance to restlessness, nervousness, cramps, headaches, fainting spells, or other distressing symptoms or ailments accompanying the menstruation periods or such symptoms or ailments which may be due to female disorders or "functional disorders." Restlessness, nervousness, and moody spells in young women are not indicative of, nor symptoms of "dangerous periods" imperiling "health." Furthermore, on the basis of established scientific facts and generally held scientific opinion, said preparation is not a competent treatment for any of the ailments, symptoms or conditions set forth in respondent's advertisements.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading advertising statements and representations with respect to his 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 induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparation.

PAR. 7. The foregoing acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 30, 1941, issued and on July 1, 1941, served its complaint in this proceeding upon respondent Ferd T. Hopkins, an individual, trading as D. Watson & Co. and as Colonnade Advertising Agency, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance and service of said complaint, the respondent filed an answer admitting all the material allegations of fact set forth in said complaint, and waiving all intervening procedure and further hearings as to said facts, which answer was duly

filed in the office of the Commission on October 3, 1941. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and 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 conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Ferd T. Hopkins, is an individual trading as D. Watson & Co. and as Colonnade Advertising Agency, with his office and principal place of business at 430 Lafayette Street, New York, N. Y., from which address he transacts business under the above trade names.

PAR. 2. The respondent is now, and for more than one year last past has been, engaged in the sale and distribution of a certain medicinal preparation advertised as Dr. J. LARIVIERE'S VEGETABLE COMPOUND.

In the course and conduct of his business the respondent causes said medicinal preparation, when sold, to be transported from his place of business in the State of New York to purchasers thereof located in 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, sold and distributed by him 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 his aforesaid business, the respondent has disseminated, and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his 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 his said product, by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his 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 advertisements in newspapers and other advertising literature are the following:

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Danger Periods

Your mother knew the secret when she was a girl because her mother told her what great relief could be obtained from the use of *Dr. J. Lariviere's Vegetable Compound* at certain periods of womanhood. It is not intended that women should suffer every month. For over half a century Dr. J. Pariviere's Vegetable Compound has been the women's remedy as an aid in preventing restless, nervous and moody periods, cramps, headaches and embarrassing fainting spells, due to female functional irregularities. Start today—take Dr. J. Lariviere's Vegetable Compound and be convinced that you can be a normal woman. It strengthens and builds up your system so you do not have to take time-out periods. At your druggist.

D. WATSON & COMPANY, New York.

Caution

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D. WATSON & COMPANY, New York.

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PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set forth herein, the respondent represents and has represented, directly and by implication, that his medicinal preparation, designated as Dr. J. Lariviere's Vegetable Compound, constitutes, within itself, a treatment for painful and irregular menstruation; that its use will strengthen the system and organs and build up physical resistance to restlessness, nervousness, cramps, headaches, fainting spells, and other distressing symptoms or ailments accompanying the menstruation period or such symptoms or ailments which may be due to female disorders or so-called "functional disorders"; and that restlessness, nervousness and moody spells in young women are indicative of or symptoms of "dangerous periods" imperiling health.

PAR. 5. The foregoing advertisements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondent's preparation does not constitute, within itself, a treatment for painful and irregular menstruation. The use of said preparation will not strengthen the system or organs and will not build up physical resistance to restlessness, nervousness, cramps, headaches, fainting spells, or other distressing symptoms or ailments accompanying the menstruation periods or such symptoms or ailments which may be due to female disorders or "functional disorders." Restlessness, nervousness, and moody spells in young women are not indicative of, nor symptoms of "dangerous periods" imperiling "health." Furthermore, said preparation is not a competent treatment for any of the ailments, symptoms, or conditions set forth in respondent's advertisements.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading advertising statements and representations with respect to his 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 medicinal preparation.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public, and constitutes 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 answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he waives 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 respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Ferd T. Hopkins, an individual, trading as D. Watson & Co., and as Colonnade Advertising Agency, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation known as Dr. J. Lariviere's Vegetable Compound, 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 (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 constitutes a competent or effective treatment for painful or irregular menstruation; that its use will strengthen the system or organs, or build up physical resistance to restlessness, nervousness, cramps, headaches, or fainting spells, or to other symptoms which may be due to female disorders; or that restlessness, nervousness, or moody spells in young women are indicative of or symptoms of dangerous periods imperiling health;

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 respondent shall within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF
JOHN SHAPIRO, TRADING AS FEDERAL SALES
COMPANY

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

Docket 4270. Complaint, Aug. 27, 1940—Decision, Nov. 14, 1941

Where an individual engaged in competitive interstate sale and distribution of candy as a middleman representing manufacturers on a commission basis, soliciting orders personally and through a number of employee salesmen, selling certain assortments of candy and other merchandise so packed and assembled as to involve the use of games of chance, gift enterprises or lottery schemes when sold and distributed to the consuming public; a typical assortment consisting of 150 individually wrapped penny caramels of uniform size and shape, together with 12 lead pencils and 8 pencil sets, for sale and distribution under a plan by which purchasers securing by chance the 12 chocolate caramels received such lead pencils, without charge, the 7 purchasers obtaining the red caramels similarly received the pencil sets, and purchaser of last caramel also received one of said sets—

Sold such assortments to wholesalers and jobbers, retail purchasers from whom exposed and sold them to the purchasing public in accordance with sales plan above described, and thereby supplied to and placed in the hands of others the means of conducting lotteries in the sale of his products, contrary to an established public policy of the United States Government, and in competition with many who, unwilling to use any such plan, refrain therefrom;

With tendency and capacity unfairly to divert substantial trade in commerce to him from his said competitors:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public and competitors, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Before *Mr. Andrew B. Duvall*, trial examiner.

Mr. J. V. Mishou 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 John Shapiro, individually and trading as Federal Sales Company, 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 interest of the public, hereby issues its complaint stating its charges in that respect as follows: