

Complaint

IN THE MATTER OF

CHARLES CAMPBELL BUTTENFIELD, SR., TRADING AS
DEAN CABOT

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

Docket 4494. Complaint, Apr. 26, 1941—Decision, Nov. 17, 1941

Where an individual engaged in interstate sale and distribution of its "Caboteks" medicinal preparation for women; in advertisements disseminated through the mails, newspapers and other advertising literature—

- (a) Represented, directly and by implication, that its said "Caboteks" was a cure or remedy for delayed menstruation and a competent and effective treatment therefor, and was safe for use, the facts being that it was not such a cure or treatment; it contained certain drugs in sufficient quantity to cause serious and irreparable injury to health if used under prescribed or usual conditions; might result in serious gastrointestinal disturbances and, where used to interfere with the normal course of pregnancy, in infection of the uterus and blood poisoning, and might also produce a severe circulatory condition tending to produce abortion; and severe toxic effects and even a gangrenous condition in the limbs, or other serious or irreparable injury to health; and
- (b) Failed to reveal facts material in the light of the aforesaid representations and that the use of said preparation under prescribed or usual conditions, might have aforesaid dangerous results;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby to induce purchase thereof by it:

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.

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 Charles Campbell Buttenfield, Sr., an individual, trading as Dean Cabot, 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, Charles Campbell Buttenfield, Sr., is an individual trading as Dean Cabot, with his office and principal place

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of business at 227 North Homewood Avenue, Pittsburgh, Pa., from which address he transacts business under the above trade name.

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 designated as Caboteks.

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 Pennsylvania 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 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 the United States mails and by advertisements in newspapers and other advertising literature, are the following:

Women—Use my medicine containing that exclusive, necessary, additional ingredient, making it the most reliable. Churchill 2219. Dean Cabot, Homewood, Pittsburgh.

Women—Prove to yourselves which medicine is reliable by trying other medicines first, then trying Caboteks. Dean Cabot, Churchill 2219.

Medicine for Women, Dean Cabot, Churchill 2219.

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 Caboteks, is a cure or remedy for delayed menstruation and is a competent and effective treatment therefor, and that said preparation is safe for use.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, the medicinal preparation sold and distributed by the respondent as aforesaid, designated as Caboteks, is not a cure or remedy for delayed menstruation and is not a competent or effective treatment therefor. Moreover, said preparation is not safe for use, as it contains the drugs ergotin, apiol green, oil savin, and quinine sulphate.

The aforesaid drugs are present in the said medicinal preparation in quantities sufficient to cause serious and irreparable injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

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

The use of said preparation as aforesaid may also produce a severe circulatory condition by the constriction of the blood vessels and contraction of the involuntary muscles, tending to produce abortion in some instances, often with violent poisonous effects upon the human system. Such use as aforesaid may also produce severe toxic conditions such as hemorrhagic diarrhea, and in some instances producing a gangrenous condition in the lower limbs or other serious or irreparable injury to health.

PAR. 6. The advertisements disseminated by the respondent as aforesaid 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 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 respondent of the foregoing false, deceptive, and misleading 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 to induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's medicinal preparation.

PAR. 8. The aforesaid 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 April 26, 1941, issued, and on April 28, 1941, served, its complaint in this proceeding upon respondent Charles Campbell Battenfield, Sr., an individual trading as Dean Cabot, 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 and filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said 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 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 finding as to the facts and conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Charles Campbell Battenfield, Sr., is an individual trading as Dean Cabot, with his office and principal place of business at 227 North Homewood Avenue, Pittsburgh, Pa., from which address he 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 certain medicinal preparation designated as Caboteks, which is intended for use in the treatment of disease in women and intended to affect a function of the female body, and thus constitutes a "drug" as that term is defined in the Federal Trade Commission Act.

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 Pennsylvania 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 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 the United States mails and by advertisements in newspapers and other advertising literature, are the following:

Women—Use my medicine containing that exclusive, necessary, additional ingredient, making it the most reliable. Churchill 2219. Dean Cabot, Homewood, Pittsburgh.

Women—Prove to yourselves which medicine is reliable by trying other medicines first, then trying Caboteks. Dean Cabot, Churchill 2219. Medicine for Women, Dean Cabot, Churchill 2219.

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 Caboteks, is a cure or remedy for delayed menstruation and is a competent and effective treatment therefor, and that said preparation is safe for use.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, the medicinal preparation sold and distributed by the respondent as aforesaid, designated as Caboteks, is not a cure or remedy for delayed menstruation and is not a competent or effective treatment therefor. Moreover, said prepara-

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tion is not safe for use, as it contains the drugs ergotin, apiol green, oil savin, and quinine sulphate.

The aforesaid drugs are present in the said medicinal preparation in quantities sufficient to cause serious and irreparable injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

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

The use of said preparation as aforesaid may also produce a severe circulatory condition by the constriction of the blood vessels and the contraction of the involuntary muscles, tending to produce abortion in some instances, often with violent poisonous effects upon the human system. Such use as aforesaid may also produce severe toxic conditions such as hemorrhagic diarrhea, and in some instances producing a gangrenous condition in the lower limbs or other serious or irreparable injury to health.

PAR. 6. The advertisements disseminated by the respondent as aforesaid 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 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 respondent of the foregoing false, deceptive and misleading 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 to induce 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 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 on the complaint of the Commission and the 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 Charles Campbell Buttenfield, Sr., an individual trading as Dean Cabot, 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 "Caboteks," or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or in 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 mail, 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, cure, or remedy for delayed menstruation, or is a competent or effective treatment therefor, or that said preparation is safe for use; or which advertisement fails to reveal that the use of such preparation may cause gastrointestinal disturbances and congestion and hemorrhage of the pelvic organs, and in a case of pregnancy may cause uterine infection and blood poisoning, and other dangerous effects.

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 representa-

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tions prohibited in paragraph 1 hereof, or which advertisement fails to reveal the dangerous consequences which may result from the use of said preparation as required in said paragraph 1 hereof.

It is further ordered, That the respondent shall, within ten days after service upon him of this order, file with the Commission an interim report in writing stating whether he intends to comply with this order, and, if so, the manner and form in which he intends to comply; and that within sixty days after service upon him of this order, respondent shall 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

TITUS BLATTER & COMPANY

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

Docket 4306. Complaint, Sept. 6, 1940—Decision, Nov. 18, 1941

Wherein a corporation engaged in the competitive interstate sale and distribution of various textile fabrics trade named and marked "Pearlglow,"—

Falsely represented, through use of word "sunfast" in advertisements and on labels and otherwise, that its said fabrics would not change color, lose color, or otherwise deviate from the original color, when exposed to the light of the sun;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said claim was true, with result that a number thereof bought a substantial volume of its said "Pearlglow" fabrics:

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

Mr. Robert Mathis, Jr. for the Commission.

Mr. Solomon Silverstein, of New York City, 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 Titus Blatter & Co., a corporation, 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:

PARAGRAPH 1. Respondent, Titus Blatter & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 164 Fifth Avenue, in the city of New York, and State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing various grades and types of textile fabrics trade named and marked "Pearlglow." Respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said products, when sold, to be