

Complaint

IN THE MATTER OF

CHARLES SHRADER, TRADING AS QUEEN CHEMICAL COMPANY

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

Docket 4570. Complaint, Aug. 15, 1941—Decision, Nov. 26, 1941

Where an individual engaged in interstate sale and distribution of his "Shrader's Queen Brand Capsules" and "Queen Brand Capsules"; by advertisements sent through the mails, in newspapers, circulars and other advertising literature—

- (a) Represented, directly and by implication, that his said preparation was a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, and scanty menstruation, or other derangements of the menstrual function, facts being use of the preparation in question as prescribed in said advertisements as a treatment for delayed menstruation might result in gastrointestinal disturbances and excessive uterine hemorrhages; and use thereof by pregnant women might result in abortion or miscarriage and possible infection, remaining local to pelvic organs, or becoming systemic, as in septicemia or blood poisoning; and
- (b) Failed to reveal facts material in the light of such representations, or with respect to aforesaid consequences which might result from use of preparation in question under usual or prescribed conditions;

With effect of misleading and deceiving a substantial portion of the purchasing public into the false belief that his said preparation possessed certain therapeutic properties and values, and was harmless when such was not the fact, and with further effect of thereby inducing purchasing public to buy substantial quantities thereof:

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. J. V. Buffington 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 Shrader, individually and trading under the name Queen Chemical 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:

PARAGRAPH 1. Respondent, Charles Shrader, is an individual trading under the name Queen Chemical Co., with his principal place of

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business located at 126 Arden Road, Mount Lebanon, in the city of Pittsburgh and State of Pennsylvania. Said respondent is now, and for more than one year last past has been, engaged in the sale and distribution of various medicinal preparations. Among such preparations sold and distributed by the respondent is a drug preparation, known as "Shrader's Queen Brand Capsules" and as "Queen Brand Capsules."

PAR. 2. Respondent causes said preparation, when sold, to be transported from his place of business in the State of Pennsylvania to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in his said preparation in commerce among and between 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 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, by advertisements in newspapers and by circulars and other advertising literature, are the following:

LADIES—Use Queen Brand Capsules; best medicine for women; safe, dependable; price \$3. Literature free.

Women whose menstruation is delayed or suppressed or whose periods are irregular, painful or scanty should use Queen Brand Capsules. They are intended especially for the relief of such disturbances of the menstrual function with consequent suffering; their prime recommendation is their safety and certainty.

Queen Brand Capsules are in "soluble capsule" form and act soon after being taken. They act locally and effectually and at the same time safely and promptly on the pelvic organs. In this way they speedily relieve suppressions and restore the menstrual period or normal monthly flow.

* * * It matters not how many disappointments you may have had with other medicines or how long standing the case may be, Queen Brand Capsules

give relief promptly and safely without interfering with the daily routine of life.

In Queen Brand Capsules we offer a remedy which is safe under all conditions and one that is effective and reliable in the most stubborn cases of prolonged suppression, painful menstruation and other derangements of the menstrual function.

GUARANTEED SAFE Queen Brand Capsules contain nothing that will injure health. Their use produces no unpleasant after effects. They may be employed with perfect safety by nursing mothers without injury to herself and child.

OUR GUARANTEE. We guarantee our remedy to be exactly as we represent it and warrant same to be absolutely harmless if taken in accordance with our directions.

Ladies! Do as other women do! Take Queen Brand Capsules when troubled with over-due (**DELAYED**) painful or suppressed menstruations arising from the usual abnormal causes.

Guaranteed SAFE—QUEEN BRAND CAPSULES contain nothing that will injure the health.

PAR. 4. Through the use of the foregoing statements and representations, and others similar thereto not specifically set out herein, the respondent represents and has represented, directly and by implication, that his said preparation is a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, and scanty menstruation, or other derangement of the menstrual function.

PAR. 5. The foregoing statements, representations and advertisements are grossly exaggerated, false, and misleading. In truth and in fact, respondent's said preparation is not a safe, harmless, or effective treatment for delayed, suppressed, irregular, painful, and scanty menstruation, or other derangements of the menstrual function.

PAR. 6. The aforesaid representations and advertisements of respondent's said preparation constitute false advertisements for the further reason that they fail to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the preparation to which the advertisement relates under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

Said preparation is not a safe, harmless preparation because it contains the drugs apiol, ergot, oil of savin, aloin and oil of pennyroyal in quantities sufficient to cause serious and irreparable injury to health if taken under the conditions prescribed in said advertisements or under such conditions are customary or usual.

The use of the aforesaid preparation by nonpregnant women as a treatment for delayed menstruation, as prescribed in the aforesaid advertisements, or its use under such conditions as are customary or usual, may result in gastrointestinal disturbances such as catharsis,

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enteritis, nausea, and vomiting, with pelvic congestion, and may lead to excessive uterine hemorrhages.

The use of the aforesaid preparation by pregnant women may result in abortion or miscarriage which may be followed by infection which may remain local to the pelvic organs or become systemic as in septicemia or blood poisoning.

PAR. 7. The use by the respondent of the aforesaid false advertisements with respect to his said 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 respondent's preparation possesses therapeutic properties and values which it does not in fact possess, and that said preparation is safe and harmless to take, when such is not the fact, and has the tendency and capacity to, and does, induce the purchasing public to purchase substantial quantities of respondent's said preparation as a result of such mistaken and erroneous belief.

PAR. 8. The 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 August 15, 1941, issued and thereafter served its complaint in this proceeding upon respondent, Charles Shrader, individually and trading under the name Queen Chemical Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Respondent in his answer, admits all the material allegations of fact contained in the complaint and waives 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 the 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 its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Charles Shrader, is an individual trading under the name Queen Chemical Co., with his principal place of busi-

ness located at 126 Arden Road, Mount Lebanon, in the city of Pittsburgh and State of Pennsylvania. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of various medicinal preparations. Among such preparations sold and distributed by respondent is a drug preparation, known as "Shrader's Queen Brand Capsules" and as "Queen Brand Capsules."

PAR. 2. Respondent causes said preparation, when sold, to be transported from his place of business in the State of Pennsylvania to the purchasers thereof located in various 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 his said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product by means of 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 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 means of the United States mails, by advertisements in newspapers and by circulars and other advertising literature, are the following:

LADIES—Use Queen Brand Capsules; best medicine for women; safe, dependable; price \$3. Literature free.

Women whose menstruation is delayed or suppressed or whose periods are irregular, painful or scanty should use Queen Brand Capsules. They are intended especially for the relief of such disturbances of the menstrual function with consequent suffering; their prime recommendation is their safety and certainty.

Queen Brand Capsules are in "soluble capsule" form and act soon after being taken. They act locally and effectually and at the same time safely and promptly on the pelvic organs. In this way they speedily relieve suppressions and restore the menstrual period or normal monthly flow.

* * * It matters not how many disappointments you may have had with other medicines or how long standing the case may be, Queen Brand Capsules give relief promptly and safely without interfering with the daily routine of life.

In Queen Brand Capsules we offer a remedy which is safe under all conditions and one that is effective and reliable in the most stubborn cases of prolonged

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suppression, painful menstruation and other derangements of the menstrual function.

GUARANTEED SAFE—Queen Brand Capsules contain nothing that will injure health. Their use produces no unpleasant after effects. They may be employed with perfect safety by nursing mothers without injury to herself and child.

OUR GUARANTEE. We guarantee our remedy to be exactly as we represent it and warrant same to be absolutely harmless if taken in accordance with our directions.

Ladies! Do as other women do! Take Queen Brand Capsules when troubled with overdue (**DELAYED**) painful or suppressed menstruations arising from the usual abnormal causes.

Guaranteed SAFE—**QUEEN BRAND CAPSULES** contain nothing that will injure the health.

PAR. 4. Through the use of the foregoing statements and representations, and others similar thereto not specifically set out herein, the respondent represents and has represented, directly and by implication, that his said preparation is a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, and scanty menstruation, or other derangements of the menstrual function.

PAR. 5. The foregoing statements, representations, and advertisements are grossly exaggerated, false, and misleading. In truth and in fact, respondent's preparation is not a safe, harmless, or effective treatment for delayed, suppressed, irregular, painful, and scanty menstruation, or other derangements of the menstrual function.

PAR. 6. The aforesaid representations and advertisements of respondent's preparation constitute false advertisements for the further reason, that they fail to reveal facts material in the light of such representations, or, material with respect to consequences which may result from the use of the preparation to which the advertisement relates under the conditions prescribed in said advertisements, or under such conditions as are customary or usual.

Respondent's preparation is not a safe, harmless preparation because it contains the drugs apiol, ergot, oil of savin, aloin and oil of pennyroyal in quantities sufficient to cause serious and irreparable injury to health if taken under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

The use of respondent's preparation by non-pregnant women as a treatment for delayed menstruation, as prescribed in the aforesaid advertisements, or its use under such conditions as are customary or usual, may result in gastrointestinal disturbances, such as catharsis, enteritis, nausea, and vomiting, with pelvic congestion, and may lead to excessive uterine hemorrhages.

The use of the aforesaid preparation by pregnant women may result in abortion or miscarriage which may be followed by infection which

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may remain local to the pelvic organs or become systemic as in septicemia or blood poisoning.

PAR. 7. The use by the respondent of the aforesaid false advertisements with respect to his said 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 respondent's preparation possesses therapeutic properties and values which it does not in fact possess, and that said preparation is safe and harmless to take, when such is not the fact, and has the tendency and capacity to, and does, induce the purchasing public to purchase substantial quantities of respondent's said preparation as a result of such mistaken and erroneous belief.

CONCLUSION

The 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 upon the complaint of the Commission and respondent's answer thereto, 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 Shrader, individually and trading under the name Queen Chemical Co., or trading under any other name or names, his agents, representatives, 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 Shrader's Queen Brand Capsules and as Queen Brand Capsules, or of any other medicinal 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 advertisements represent, directly or by implication, that said preparation is a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, or scanty menstruation, or other derange-

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ments of the menstrual function; or which advertisement fails to reveal that the use of said preparation may cause gastrointestinal disturbances, pelvic congestion, and excessive uterine hemorrhages, and in cases of pregnancy may cause infection of the pelvic organs 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, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal the dangerous consequences which may result from the use of said preparation, as required in paragraph 1 hereof.

It is further ordered, That the respondent shall, within 10 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 60 days after the 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.

Syllabus

IN THE MATTER OF

CHICAGO MEDICAL BOOK COMPANY, W. B. SAUNDERS
COMPANY, J. B. LIPPINCOTT COMPANY, C. V. MOSBY
COMPANY, AND VAN ANTWERP LEA AND CHRISTIAN
FEBIGER, TRADING AS LEA & FEBIGER

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

Docket 3557. Complaint, Aug. 26, 1938—Decision, Nov. 28, 1941

Where a corporation dealing exclusively in medical books at wholesale and retail in Chicago and throughout the United States, together with the four publishers from whom it purchased about 60 percent of such books; having in mind the price cutting or allowance of discounts by one W. & F. Co., a Chicago jobbing concern dealing in books of all types and doing a Nation-wide business;

- (a) Entered into agreements and conspiracies among themselves which were intended to and did prevent said W. & F. Co., competitor of aforesaid distributor, from securing medical books at the regular dealer's discount; and
- (b) Refused, pursuant to such agreements, etc., to sell the medical books of the publishers in question at the regular dealer's discount; with purpose and effect of cutting off the supply of such books to said company, and with result that said company, which had received requisitions from the Government for medical books for more than 30 years, was unable to submit bids in response to such requisitions because of its inability to secure most of the books thus called for at the regular dealer's discount; and

Where aforesaid distributor and two of aforesaid publishers of medical books—

- (c) Entered into separate agreements and conspiracies to prevent, and which did prevent a concern which sold new and slightly used medical books in Chicago and throughout the United States, and which was becoming a strong competitive factor in the new book business, from obtaining the medical books of said publishers at the regular dealer's discount; and
- (d) Refused, pursuant to said agreement, etc., to sell such medical books to such concern at the regular dealer's discount, with intent and effect of cutting off said concern's supply thereof, and with result that it was deprived of a substantial portion of its business of selling to hospitals, medical libraries, and government institutions requiring a 10 percent discount;

Tendency and effect of which acts and practices were to lessen competition in the sale and distribution of medical books, published by said publishers, in Chicago and in interstate commerce; to restrain the normal trade in and place a direct burden upon, such commerce from aforesaid publishers' places of business in other States to said concerns in Illinois; to create a monopoly in aforesaid distributor in sale and distribution of such books