

IN THE MATTER OF

IMPERIAL DRUG EXCHANGE, INC., ALSO TRADING AS
DUPREE MEDICAL COMPANY, AND ABRAHAM PARODNEYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5094. Complaint, Dec. 9, 1943—Decision, May 9, 1944*

Where a corporation and its president, engaged in the interstate sale and distribution of its "Dupree Brand New Formula Pills" and "Dupree Pills, Double Strength, New and Improved Formula"; in advertisements thereof which it disseminated through the mails and to dealers who distributed them among the purchasing public—

- (a) Falsely represented that their said preparations constituted a competent and effective treatment for delayed menstruation arising from colds, nervous strain, poor nutrition, anemia, fright, over-exposure, inadequate clothing, and change of climate; and
- (b) Failed to reveal facts material in the light of such representations or material with respect to the consequences which might result from the use of said preparations under prescribed or usual condition, in that they were irritant laxatives and as such potentially dangerous when taken by persons suffering from abdominal pain, nausea, vomiting or other symptoms of appendicitis;

With result that said advertising matter, disseminated by dealers, served as instrumentalities through which members of the purchasing public were deceived and misled as to the therapeutic value and safety of their said preparations, whereby such public was induced to purchase substantial quantities thereof:

Held, That said 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 Imperial Drug Exchange, Inc., a corporation, Imperial Drug Exchange, Inc., a corporation, trading as Dupree Medical Company and Abraham Parodney, individually, and as an officer of Imperial Drug Exchange, Inc., a corporation, herein 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 complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Imperial Drug Exchange, Inc., is a corporation, chartered and doing business under the laws of the State of New York with its principal place of business located at 20 East 17th Street, New York, N. Y. Said corporation trades and carries on certain of its business under the name of Dupree Medical Company, particularly that part of its business referred to in this complaint.

Abraham Parodney, is an individual, and is President, of the corporate respondent, Imperial Drug Exchange, Inc. This individual respondent

directs and controls the policies and practices of the respondent corporation including its business carried on as Dupree Medical Company. The address of said individual respondent is 20 East 17th St., New York, N. Y.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of certain medicinal preparations designated as:

Dupree Brand New Formula Pills and

Dupree Pills, Double Strength, New and Improved Formula.

Respondents cause said preparations, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said preparations by the United States Mail and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations in commerce, as commerce is defined in the Federal Trade Commission Act. Respondents also cause such false advertising to be transported by means of the United States mails and by other means in commerce, to wholesale and retail dealers of their products. Wholesale dealers cause such material to be transported to retailers and retailers distribute the same among the purchasing public.

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 means of circulars and other advertising literature, are the following:

Dupree Pills have been used throughout the country by women who have found them effective in delayed menstruation due to colds and nervous strain.

The phenomenon of menstruation which appears about every 28 days is a natural function which may be disturbed by a number of causes, such as poor nutrition, anemia, fright, colds, over-exposure, (Inadequate clothing, and change of climate).

It is for delayed menstruation due to these causes only, that Dupree Pills are recommended.

Dupree Double Strength Pills may be taken for the same conditions as the Dupree Single Strength Pills, but are sold for use in cases which require a stronger medication.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import not specifically set out herein, the respondents represent and have represented, that their preparations designated as "Dupree Brand New Formula Pills" and "Dupree Pills, Double Strength, New and Improved Formula," constitute a competent and effective treatment for delayed menstruation arising from colds, nervous

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strain, poor nutrition, anemia, fright, over-exposure, inadequate clothing, and change of climate.

PAR. 5. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, respondents' preparations are not a competent and effective treatment for delayed menstruation arising from nervous strain, poor nutrition, anemia, fright, colds and troubles caused by over-exposure, inadequate clothing, change of climate, or from any other cause.

PAR. 6. Respondents' advertisements disseminated as aforesaid, constitute false advertising 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 preparations to which the advertisements relate, under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact the said preparations are irritant laxatives and are potentially dangerous when taken by persons suffering from abdominal pains, stomach ache, cramps, colic, nausea, vomiting or other symptoms of appendicitis.

PAR. 7. The circulars and advertising matter placed in the hands of wholesalers and retailers and distributed and disseminated by them serve as instrumentalities by and through which members of the purchasing public may be and are likely to be deceived and misled as to the therapeutic value and safety of respondents' preparations.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements and representations with respect to their said preparations, disseminated as aforesaid, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' preparations possess properties which they do not in fact possess, and that said preparations are in all cases safe and harmless, when such is not the fact. As a result of such erroneous and mistaken belief the purchasing public has been induced to purchase and has purchased substantial quantities of respondents' preparations.

PAR. 9. 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 the 9th day of December, 1943, issued and subsequently served its complaint in this proceeding upon respondents, Imperial Drug Exchange, Inc., a corporation, also trading as Dupree Medical Company, and Abraham Parodney, individually, and as an officer, of Imperial Drug Exchange, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 17, 1944, the respondents filed their answer, in which answer they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and 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, Imperial Drug Exchange, Inc., is a corporation, chartered and doing business under the laws of the State of New York, with its principal place of business located at 20 East 17th Street, New York, N. Y. Said corporation trades and carries on certain of its business under the name of Dupree Medical Company, particularly that part of its business referred to herein.

Respondent, Abraham Parodney, is an individual, and is president of the corporate respondent, Imperial Drug Exchange, Inc. This individual respondent directs and controls the policies and practices of the respondent corporation, including its business carried on as Dupree Medical Company. The address of said individual respondent is 20 East 17th Street, New York, N. Y.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of certain medicinal preparations designated as "Dupree Brand New Formula Pills" and "Dupree Pills, Double Strength, New and Improved Formula."

Respondents cause said preparations, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said preparations by the United States mail and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said preparations by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents also cause such false advertising to be transported by means of the United States mails and by other means in commerce to wholesale and retail dealers in their products. Wholesale dealers cause such material to be transported to retailers, and retailers distribute the same among the purchasing public.

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 means of circulars and other advertising literature, are the following:

Dupree Pills have been used throughout the country by women who have found them effective in delayed menstruation due to colds and nervous strain.

The phenomenon of menstruation which appears about every 28 days is a natural function which may be disturbed by a number of causes, such as poor nutrition, anemia, fright, colds, overexposure (Inadequate clothing, and change of climate).

It is for delayed menstruation due to these causes only, that Dupree Pills are recommended.

Dupree Double Strength Pills may be taken for the same conditions as the Dupree Single Strength Pills, but are sold for use in cases which require a stronger medication.

PAR. 4. Through the use of the foregoing statements and representations and others of similar import not specifically set out herein, the respondents represent and have represented that their preparations designated as "Dupree Brand New Formula Pills" and "Dupree Pills, Double Strength, New and Improved Formula" constitute a competent and effective treatment for delayed menstruation arising from colds, nervous strain, poor nutrition, anemia, fright, overexposure, inadequate clothing, and change of climate.

PAR. 5. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondents' preparations are not a competent and effective treatment for delayed menstruation arising from colds, nervous strain, poor nutrition, anemia, fright, overexposure, inadequate clothing, change of climate, or from any other cause.

PAR. 6. Respondents' advertisements, disseminated as aforesaid, constitute false advertising 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 preparations to which the advertisements relate under the conditions prescribed in said advertisements or under such conditions as are customary or usual. In truth and in fact, the said preparations are irritant laxatives and are potentially dangerous when taken by persons suffering from abdominal pains, nausea, vomiting, or other symptoms of appendicitis.

PAR. 7. The circulars and advertising matter placed in the hands of wholesalers and retailers, and distributed and disseminated by them, serve as instrumentalities by and through which members of the purchasing public may be and are likely to be deceived and misled as to the therapeutic value and safety of respondents' preparations.

PAR. 8. The use by the respondents of the aforesaid false, misleading, and deceptive statements and representations with respect to their said preparations, disseminated as aforesaid, has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' preparations possess properties which they do not in fact possess, and that said preparations are in all cases safe and harmless when such is not the fact. As a result of such erroneous and mistaken belief, the purchasing public has been induced to purchase and has purchased substantial quantities of respondents' preparations.

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 on the complaint of the Commission and the answer of 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 the respondents, Imperial Drug Exchange, Inc., a corporation, also trading as Dupree Medical Company, or trading under any other name, its officers, and Abraham Parodney, individually, and as an officer, of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondents' medicinal preparations designated "Dupree Brand New Formula Pills" and "Dupree Pills, Double Strength, New and Improved Formula," or any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same names or any other name or names, 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 by implication, that said preparations constitute competent and effective treatments for delayed menstruation arising from colds, nervous strain, poor nutrition, anemia, fright, over-exposure, inadequate clothing, change of climate, or from any other cause, or which advertisement fails to reveal that said preparations should not be used in the presence of abdominal pains, nausea, vomiting, or other symptoms of appendicitis; provided, however, that such advertisement need contain only the statement, "CAUTION: Use Only as Directed," if and when the directions for use, wherever they appear, on the label, in the labeling, or both on the label and in the labeling, contain a warning to the above effect.

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 of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph 1 hereof, or which fails to comply with the affirmative requirements set forth 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.

IN THE MATTER OF

BELT OIL & CHEMICAL CORPORATION, ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4973. Complaint, June 4, 1943—Decision, May 10, 1944

Where a corporation, two officers thereof, and three partners, engaged in the interstate sale and distribution of their "Rubber-Life" product; in advertisements in circulars, newspapers, periodicals and by other means—

Falsely represented that their said product, painted on the treads of automobile tires, extended the life thereof, was "the answer" to the tire saving problem, added up to 25 per cent more mileage to a tire, or doubled its life, or otherwise increased its wearing qualities, prevented deterioration of rubber and was a tire "life-saver"; "seals the tiny pores and prevents the entrance of dust and humidity," "solidifies the millions of rubber particles on the surface into one mass," "improves the molecular structure of rubber," and "makes the rubber in a tire harder and more resistant";

Facts being product in question, a colorless glue-like mixture or compound of water and sodium silicate, contained nothing which would substantially affect the properties of the rubber used in tires, which was not porous in the sense that their said product would penetrate it and add something to or cause a change in the wearing surface thereof;

With effect of misleading and deceiving a substantial portion of the public into the erroneous belief that said representations were true, as a result whereof the public purchased substantial quantities of product in question:

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.

Before *Mr. James A. Purcell*, trial examiner.

Mr. James M. Hammond for the Commission.

Mr. Gabriel Wartels, of New York City, for respondents.

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 Belt Oil & Chemical Corporation, a corporation, Ernest Buchbinder, and William Blitz, individually, and as officers, of Belt Oil & Chemical Corporation; and Philip M. King, Jr., Stella King, Lila King, and Lillian McKinley, individually, and as copartners, doing business under the firm name and style of Overman & Co., hereinafter referred to as respondents, have 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, Belt Oil & Chemical Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1265 Broadway, New York, N. Y.