

IN THE MATTER OF
CALLIE E. MORRIS, DOING BUSINESS AS CONTROL
PRODUCTS COMPANY

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

Docket 3340. Complaint, Mar. 18, 1941¹—Decision, Mar. 20, 1945

Where an individual engaged in the interstate sale and distribution of his "Control Flow and Adjuster" device for colonic and vaginal irrigations, consisting of a long rubber hose to be attached directly to the water faucet and with attachments for the two uses above indicated, but with no provision for regulating intake; along with which he supplied for use therewith medicated tablets designated "Clentol Antiseptic Nodules," containing sodium borate, sodium bicarbonate, sodium chloride, D. C. aluminum phosphate, and aromatic antiseptics; through advertisements in newspapers and periodicals and circulars, leaflets, pamphlets and other advertising literature—

- (a) Represented that use of said device constituted a cure or remedy for constipation, piles, fistula, proctitis, colitis and all intestinal and rectal diseases, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcers, and enlarged prostate gland; and
- (b) Represented that use thereof constituted a cure and competent treatment for various vaginal disorders, that it was safe to use in colonic and vaginal irrigations, and that aforesaid tablets used in conjunction with said device had bactericidal effects;

The facts being that said device had no therapeutic value other than the temporary relief from constipation afforded by an ordinary enema, but did not constitute a competent or proper treatment therefor due to inability to regulate intake and because of high pressure of water direct from the faucet, by reason of which use thereof would be dangerous and might result in bursting the upper part of the colon when used for colonic irrigation; in the case of appendicitis or any ulcerous condition, the use of undue pressure within the colon might be sufficient to perforate the intestine and cause peritonitis, with resulting death; while use thereof for vaginal irrigation or douche would tend to force fluid and possible infection into the womb and Fallopian tubes, resulting in an infectious condition which might be dangerous to life; and tablets in question under conditions of use of said device would be of no value whatsoever; and

- (c) Failed to reveal facts material in the light of aforesaid representations in that use of said device for colonic or vaginal irrigation might result in serious and irreparable injury when used as aforesaid;

With capacity and tendency to mislead and deceive, and with effect of misleading and deceiving, a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby induce its purchase 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.

Before *Mr. John W. Addison* and *Mr. Miles J. Furnas*, trial examiners.
Mr. Carrel F. Rhodes for the Commission.

¹ Amended.

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 Callie E. Morris, an individual, doing business under the trade name of Control Products 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 thereto would be in the public interest hereby issues its amended complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Callie E. Morris, is an individual, doing business under the trade name of Control Products Company with his principal place of business located at 927 Putnam Avenue, Brooklyn, N. Y. Respondent is now, and for several years last past has been, engaged in the sale and distribution of a device designated as "Control Flow and Adjustor," which device is designed for use in connection with colonic and vaginal irrigations. Respondent causes said device when sold to be transported from respondent's 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. Respondent maintains and at all times mentioned herein has maintained a course of trade in said device in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. 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 device by 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 device by various means for the purpose of inducing and which are likely to induce directly or indirectly the purchase of his said device 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 hereinbefore set forth by United States mails and by advertisements in newspapers and periodicals are the following:

A LIGHT

To internal sickness and hidden diseases! Know HOW waste and poisons are removed from the body and blood-stream; diseases destroyed and a clear skin maintained by Internal Hydrotherapy "WATER CURE." Marvelous results in Prostate Gland Trouble. Dormant glands and weak vitality restored by the "CURE." The "Primer on Health," with details concerning the Control Flow and Adjuster Technique (patented) to use for taking the "CURE"—FREE to those in poor health. Write for your copy.

Destroy The Disease
Control Products Company
927 Putnam Avenue Brooklyn, New York

RESTORATION

for internal sickness and hidden diseases! Know HOW waste and poisons are removed from the body and blood-stream; diseases destroyed and a clear skin maintained by In-

Complaint

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ternal Hydrotherapy "WATER CURE." Marvelous results in Prostate Gland trouble. Dormant glands and weak vitality restored by the "CURE." The "Primer on Health," with details concerning the Control Flow and Adjuster Technique (patented) to use for taking the "CURE"—FREE to those in poor health. Write for your copy.

Destroy The Disease

Control Products Company

927 Putnam Avenue

Brooklyn, New York

In addition to the advertisements disseminated in newspapers and periodicals the respondent also disseminates by United States mail and by various other means an advertising circular designated "Primer on Health" which circular is usually mailed or distributed to persons answering advertisements appearing in various newspapers and periodicals. In said circular by means of descriptive statements and by extracts from purported testimonial letters, the respondent represents that the use of his device, Control Flow and Adjustor, is a cure or remedy for constipation, piles, fistula, proctitis, colitis, and all intestinal and rectal diseases, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcers, enlarged prostate gland, and various vaginal disorders; that use of said device will keep the blood stream clear of poisons and obstructions and gives a smooth and continuous circulation of the blood through the vessels; and that said device is harmless to use.

PAR. 3. By the use of the above statements and representations and others similar thereto not specifically set out herein, the respondent represents that the use of his device, Control Flow and Adjustor, will remove waste and poisons from the body and blood stream, restore dormant glands and weak vitality, and beneficially affect the circulation of the blood. Respondent further represents that the use of said device constitutes a cure or remedy for constipation, piles, fistula, proctitis, colitis, and all intestinal and rectal diseases, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcers, enlarged prostate gland, and vaginal disorders; and that it constitutes a competent and effective treatment for such diseases and conditions. Respondent further represents that said device is harmless and may be safely used in colonic and vaginal irrigations.

PAR. 4. The aforesaid representations used and disseminated by the respondent as aforesaid are grossly exaggerated, false and misleading. The use of said device will not clear the body of waste and poisons from the body or blood stream and will have no value in restoring dormant glands or increasing vitality or beneficially affecting circulation of the blood. The therapeutic value of respondent's device is limited to the temporary relief of constipation to the extent of that obtained by an ordinary enema, but would not be a competent or proper treatment for such condition because if used as directed by the respondent, it would have a tendency to accustom the bowels to enemas and cause the enema habit and because of the danger involved in such use as hereinafter set forth. The use of said device has no therapeutic value in the treatment of piles, fistula, proctitis, colitis or any intestinal or rectal diseases, gallstones, kidney and bladder disorders, cystitis, Bright's disease, consumption, cancer, appendicitis, rheu-

matism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcers, enlarged prostate gland, or various vaginal disorders. Respondent's device consists of a long rubber hose which is attached directly to the water faucet and has attachments for use both as a vaginal douche and colonic irrigation. By reason of the inability to regulate intake and because of the high pressure from the use of water direct from the faucet, the use of this device would be dangerous for either colonic or vaginal irrigation. The medicated tablet which respondent recommends for use in his device would be of no value whatsoever under the conditions of use of this device.

PAR. 5. In addition to the representations hereinabove set forth, the respondent has also engaged in the dissemination of false advertisements in the manner above set forth in that said advertisements so disseminated fail to reveal all facts material in the light of such representations or material with respect to the consequences which may result from the use of said device under the conditions prescribed in said advertisements or under such conditions as are customary or usual and that the use of said device may result in serious and irreparable injury to health by reason of the inability to control the amount of intake of water and by reason of the high pressure produced by using this device directly connected to the water faucet. Such use might result in bursting the upper part of the colon when used for colonic irrigation and when used for vaginal irrigation or douche the pressure would tend to force fluid into the womb and fallopian tubes causing salpingitis and when infection is present in the vaginal cavity may force such infection into the fallopian tubes and cause peritonitis.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements with respect to his device 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 said device.

PAR. 7. The foregoing acts and practices of 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 February 21, 1938, issued, and subsequently served, its complaint in this proceeding upon the respondent, Callie E. Morris, an individual, doing business under the trade name of Control Products Company, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the filing of respondent's answer to said complaint, the Commission, on March 18, 1941, issued and subsequently served its amended complaint upon said respondent, charging him with the use of unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Thereafter, testimony and other evidence in support of, and in opposition to, the allegations of said amended complaint were introduced before an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission upon said amended complaint, testimony and other evidence, report and supplemental report of the trial examiner upon the evidence and exceptions filed thereto, and briefs in support of the complaint (respondent not having filed brief and oral argument not having been requested); 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, Callie E. Morris, is an individual, doing business under the trade name of Control Products Company, with his principal place of business located at 927 Putnam Avenue, Brooklyn, N. Y. Respondent is now, and for several years last past has been, engaged in the sale and distribution of a device designated as "Control Flow and Adjuster," which device is designed and used in connection with colonic and vaginal irritations. Respondent causes said device, when sold, to be transported from his place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said device in commerce among and between the various States of the United States.

PAR. 2. 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 device, by 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 device by various means, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his said device 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 United States mails, by advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

1. That the use of said device constitutes a cure or remedy for constipation, piles, fistula, proctitis, colitis and all intestinal and rectal diseases, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcers, enlarged prostate gland, and various vaginal disorders, and that it constitutes a competent and effective treatment for such diseases and conditions.

2. That respondent's device is safe to use in colonic and vaginal irrigations.

PAR. 3. Respondent's device "Control Flow and Adjuster" consists of a long rubber hose which is attached directly to the water faucet and has attachments for use both as a vaginal douche and for colonic irrigation. By reason of the inability to regulate intake and because of high pressure

from use of water direct from the faucet, the use of this device would be dangerous and might result in bursting the upper part of the colon when used for colonic irrigation. A variation in the flow at the opening of the water system will cause increase in pressure before the individual using this device will become aware of it except by bodily discomfort. In the case of appendicitis or any ulcerous condition, the use of undue pressure within the colon might be sufficient to perforate the intestine and cause peritonitis, with resulting death. The use of this device for vaginal irrigation or douche would be dangerous, as it would tend to force fluid into the womb and fallopian tubes and may force infection, when present in the vaginal cavity, into the fallopian tubes, resulting in an infectious condition which might be dangerous to life.

The therapeutic value of respondent's device is limited to the temporary relief of constipation to the extent of that obtained by an ordinary enema, but the use of said device would not be a competent or proper treatment for such condition because of the danger involved in its use. The use of this device has no therapeutic value in the treatment of piles, fistula, colitis, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcer, enlarged prostate gland, or various vaginal disorders.

Respondent also supplies a medicated tablet, designated "Clentol Antiseptic Nodules," which he recommends for use in his device. These tablets contain sodium borate, sodium bicarbonate, sodium chloride, D. C. aluminum phosphate, and aromatic antiseptics. These ingredients have a tendency to cause alkalization and slight astringency but have no bactericidal effects. Under conditions of use of this device, such tablets would be of no value whatsoever.

PAR. 4. In addition to the representations hereinabove set forth, respondent is also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal facts material in the light of such representations and fail to reveal that the use of said device for colonic or vaginal irrigation under conditions prescribed in said advertisements or under such conditions as are customary or usual may result in serious and irreparable injury to health by supplying sufficient pressure, when used as a colonic irrigation, to burst or perforate the intestine, particularly when appendicitis or an ulcerous condition is present, resulting in peritonitis, or when used for vaginal irrigation or douche, to force infection, when present in the vaginal cavity, into the fallopian tubes, resulting in an infectious condition which might be dangerous to life.

PAR. 5. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his device disseminated as hereinabove set forth, 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 said device.

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 de-

ceptive 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, testimony and other evidence in support of, and in opposition to, the allegations of said amended complaint, taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, and briefs filed by counsel for the Commission; 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, Callie E. Morris, an individual, doing business under the trade name of Control Products Company, or doing business 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 device known as "Control Flow and Adjuster," or any other device of substantially similar construction or performing substantially similar functions, whether sold under the same name or under any other name, do forthwith cease and desist from:

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 the use of respondent's device constitutes a competent or proper treatment for constipation.

b. That the use of respondent's device has any therapeutic value in the treatment of piles, fistula, colitis, gallstones, kidney and bladder trouble, cystitis, Bright's disease, consumption, cancer, appendicitis, rheumatism, lumbago, varicose veins, swollen legs and ankles, yellow jaundice, gastric ulcer, enlarged prostate gland, or vaginal disorders.

c. That respondent's device may be safely used in colonic or vaginal irrigations.

d. That the use of respondent's device in conjunction with respondent's Clentol Antiseptic Nodules or any other tablets of similar composition has bactericidal effects or any other therapeutic value.

2. 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 fails to reveal that the use of respondent's device for colonic irrigation by attaching said device directly to the water faucet may result in sufficient pressure to burst or perforate the intestine, particularly when appendicitis or an ulcerous condition is present, resulting in peritonitis or other serious or irreparable injury to health.

3. 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 fails to reveal that the use of respondent's device for vaginal irrigation or douche by attaching said device directly to the water faucet may result in sufficient pressure to force infection, when present in the vaginal cavity, into the fallopian tubes, resulting in an infectious condition which may cause serious and irreparable injury to health.

4. 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 respondent's device, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof or which fails to comply with the requirements set forth in paragraphs 2 and 3 hereof.

It is further ordered, That the 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.

IN THE MATTER OF
NATIONAL RETAIL TEA & COFFEE MERCHANTS
ASSOCIATION, INC. ET AL.

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

Docket 4776. Complaint, June 25, 1942—Decision, Mar. 20, 1945

Where an association, the members of which consisted of about 170 "home service merchants" engaged in various States in the sale of tea, coffee, toilet preparations and other items of household use,—usually differing in package sizes and labels from those customarily sold in retail stores, and obtained from concerns which package such merchandise especially for "home service merchants"—to members of the consuming public, through salesmen or routemen who operated trucks and other vehicles from door to door, displayed samples of merchandise and of the premiums to be given with the purchase of certain quantities thereof and took orders for delivering then or at a later date; and members thereof; its secretary; and an individual, engaged as a home service merchant in New Orleans, and chairman of local group of home service merchants, members of said association, in said city—

Acted cooperatively to shut off competition considered objectionable by virtue of price cutting and failure to maintain suggested retail prices on assorted brands of the association and others, without distinction, in accordance with association policy, and to exercise control of prices at which "home service merchants" sold merchandise to the public, through persistently making known, directly and through their association, to suppliers of objectionable competitors, their opposition to latter's price cutting or other practices not in harmony with association policies, and requesting refusal by such suppliers of further sales thereto; and through use of their collective weight and influence secured the cooperation of the sources of supply patronized by them in preventing "price cutters" or competitors whom they considered otherwise objectionable, from securing supplies of merchandise from manufacturers and distributors who catered to the special needs of "home service merchants";

With the capacity, tendency and effect of hindering, lessening, and restraining competition among and between home service merchants, and of hindering and preventing home service merchants who were not members of said association from obtaining supplies of merchandise needed in their business, and of otherwise restraining and lessening competition in the sale and distribution of merchandise commonly handled by home service merchants, and thereby depriving the purchasing public of the benefits which normally flow from free competition among them:

Held, That such acts and practices were all to the prejudice of the public, and had a dangerous tendency to hinder, and did actually hinder and prevent, competition among and between such merchants, and their competitors and prospective competitors in the sale of tea, coffee, toilet preparations, household specialties, and other articles of merchandise; unreasonably restrained such commerce; and constituted unfair methods of competition in commerce.

Before *Mr. John L. Hornor*, trial examiner.

Mr. Floyd O. Collins for the Commission.

Castle, Williams & McCarthy, of Chicago, Ill., for National Retail Tea & Coffee Merchants Ass'n, Inc., *Oliver J. Corbett* and *Mother Hubbard Products Co., Inc.*