

IN THE MATTER OF

A. P. DURHAM TRADING AS HERB PRODUCTS CO.

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

Docket 5630. Complaint, Dec. 28, 1948—Decision, Jan. 9, 1950

Where an individual engaged in the interstate sale and distribution of his "Vim Herb" preparation, which consisted of a mixture of ordinary irritant laxative and bitter ingredients in a sugar-sweetened and volatile oil-flavored vehicle of water and alcohol; in advertising the product through newspapers and by continuities broadcast over different radio stations and otherwise—

- (a) Represented that constipation and faulty elimination were the cause of various bodily ills including, among many others set forth, poor digestion, loss of weight, bloating, loss of appetite, irritability, worn-out feeling, headaches, pains in the shoulders, dizzy spells, bad breath, coated tongue, floating specks before the eyes, kidney disorders, piles, liver trouble, etc.; and,
- (b) Represented falsely that his said preparation was an adequate and competent treatment for constipation; would correct such condition, and was capable of preventing and curing the underlying cause thereof, and of influencing the factors which give rise thereto; that said preparation had therapeutic value in the treatment of all the above mentioned symptoms and conditions; and would make the lazy muscles of the intestine work, cleanse the intestinal tract, stimulate the flow of gastric juices, and rid the system of accumulated waste;

The facts being that its therapeutic efficiency was limited to the therapeutic relief afforded by an evacuation, and to said extent in those cases of headaches, loss of appetite, bad breath and coated tongue which sometimes accompany constipation; and

- (c) Falsely represented that its use would improve the digestion, restore the appetite, prevent excessive acid stomach condition, clean or strengthen the entire system, restore health, provide energy and build up body resistance to influenza, bronchitis, pneumonia and colds, thereby enabling a person to ward off attacks of such ailments;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and thereby induce its purchase of said preparation:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce.

Mr. Morton Nesmith 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 A. P. Durham, indi-

vidually and trading as Herb Products Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, A. P. Durham, is an individual trading and doing business as Herb Products Co., with his office and principal place of business located in Anderson, S. C.

PAR. 2. The said respondent is now and has been for several years last past, engaged in the business of selling and distributing a certain drug preparation as "drug" is defined in the Federal Trade Commission Act. The designation used by respondent for his preparation, the formula and directions for its use, are as follows:

Designation: Vim Herb.

Formula:

Cascara Aromatic.....	6%
F. E. Senna Soluble.....	8%
F. E. Gentian Root N. F.....	½%
F. E. Indian Rhubarb.....	½%
F. E. Nux Vomica N. F. per oz.....	0.24 min.

The above ingredients are in solution in a non-active vehicle, suitably flavored with a mixture of flavoring oils.

Directions for Use:

"As a General Laxative—Adults—A Teaspoonful three times daily and one tablespoonful on retiring. Increase or decrease dose according to action on bowels. Children 4 to 12 years Half Adult Dose.

"Avoid forming habit of taking laxative continuously. In case of vomiting, nausea, or severe abdominal pains, indicative of appendicitis, avoid all purgatives, cathartics and laxative preparations."

The respondent causes said drug preparation when sold to be shipped from his place of business in the State of South Carolina to dealers and individuals located in various other States of the United States and in the District of Columbia. Said dealers in turn sell such drug preparation to the general public. Respondent maintains and at all times mentioned herein has maintained a course of trade in said preparation in commerce between and among the various States of the United States and in the District of Columbia. His volume of business in said drug preparation in such commerce is substantial.

PAR. 3. In the course and conduct of his business, respondent, subsequent to March 21, 1938, has disseminated and caused the dissemination of certain advertisements concerning said preparation by means of the United States mails and by various other means in

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commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in the following newspapers on the dates mentioned, as follows:

The Daily Mail, Anderson, S. C.—August 6, 11, 14, 16, 19, and 26, 1948;

The Independent, Anderson, S. C.—May 13, June 4, August 12 and 28, 1948;

and on various other dates between September, 1944, and January, 1945, in the Independent, and in the Daily Mail, both of Anderson, South Carolina, and on various other dates in the Spring and Fall of 1947 in the Independent and in the Daily Mail of Anderson, South Carolina; the Greenville News Piedmont of Greenville, South Carolina, and the Spartanburg Herald Journal of Spartanburg, South Carolina, and by continuities broadcast over radio stations

WORD—Spartanburg, S. C.

WRDW—Augusta, Ga.

WRLC—Tocca, Ga.

WAIM—Anderson, S. C.

WFBC—Greenville, S. C.

during the period from January 1944 and September 1948; and respondent has disseminated and caused the dissemination of advertisements concerning said preparation by various means, including but not limited to the advertisements referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among the statements and representations contained in said advertisements disseminated as aforesaid, are the following:

Are you underweight? Do you tire easily? Do you lose your patience on the spur of the moment and say things you are later sorry for having said? Friends, such conditions, in many cases, can be traced to faulty elimination, the one ailment that often causes aches and pains, poor digestion, loss of appetite, nervousness and that tired, worn-out feeling. But we believe that you can be relieved of faulty elimination in a reasonably short time and then the other ailments should improve. How can you do this? By starting the Vim-Herb Treatment.

Aid your system from the strain and suffering brought on by accumulated poison waste, by using Vim Herb, and you too should have better health, just like hundreds of folks say they have.

* * * should be taken long enough to aid in cleansing the thirty feet of intestinal tract.

* * * will aid in relieving constipation and attendant ills, such as: gas and stomach pains; poor digestion and many other similar ailments that are caused or aggravated by faulty elimination.

If you are suffering some type of an organic disorder brought on by faulty elimination, start the Vim Herb treatment today.

* * * perhaps you too can enjoy better health by starting the Vim Herb treatment.

Start the Vim Herb treatment today and we believe you will soon be on the road to health.

If faulty elimination is causing you to suffer with poor digestion, headaches, pains in the shoulders, chest and back; loss of appetite; sluggishness or that tired, all-in feeling, then we believe Vim Herb will help relieve you of this condition. These are all symptoms warning you that your system is in need of a medicine that will aid in bringing relief to such a dangerous condition.

* * * will help cleanse and strengthen the mail organs of the body, thus bringing aid to these vital organs in their timely duties.

* * * will aid you to have better health if you are suffering bilious attacks, nervousness, backaches, pains in the shoulders, chest and arms, loss of appetite and perhaps other aches and pains, if brought on by faulty elimination, because after this fine medicine aids Nature in relieving your system of the accumulated poison waste brought on by faulty elimination, the main organs of your body are then relieved and at the same time, help to carry on their duties, thus your system will be in better condition to ward off sickness.

If you are suffering with bilious attacks, loss of appetite; poor digestion and perhaps loss of energy, due to and aggravated by constipation * * * get a bottle of Vim Herb * * * soon you should feel like a different person. Digestion improves, appetite returns, and you get more energy and strength from the food you eat after Vim Herb helps Nature relieve your system of the accumulated poison waste caused by constipation.

If there are any of you who seem to be suffering from some disorder caused by faulty elimination, which may be sapping your energy and strength, start the Vim Herb treatment. Let this modern laxative with the tonic ingredients, help relieve your system of the strain and suffering brought on by improper elimination and then you should be in a better condition to do your work. You know, Neighbors, age itself, is a factor in slowing-up the tiny organs of your system and they sometimes need assistance in carrying on their daily duties.

Are you bothered with headaches, dizzy spells, indigestion attacks and perhaps other similar ailments caused from faulty elimination? If so, no doubt the reason for your suffering is due to a run-down condition, which usually prevails when faulty elimination exists. Vim Herb * * * is bringing relief to hundreds who were troubled with headaches, dizziness, poor digestion caused by constipation.

* * * the accumulated poisons, if allowed to remain in your system, can and often do cause serious troubles. * * * start the Vim Herb treatment today. Get satisfying relief from constipation and soon the many ailments caused from this condition should be relieved also. Remember, Vim Herb is a proven remedy; one that's helped hundreds of sufferers of constipation back to better health. So, if you or any member of your family are suffering from improper elimination, go to the nearest drug counter and ask for Vim Herb. Start on the road to health and happiness today, the Vim Herb way.

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Vim Herb aids free bowel movement, aids in cleansing the intestinal tract; helps restore the appetite, as it is a preparation especially for constipation and the relief of attendant ills, after which you should have more strength and you should be in a better condition to ward off cold and flu germs.

BAD BREATH—COATED TONGUE—DIZZY FEELING THAT IS THE WARNING.

A serious complication may develop. Vim Herb is generally recognized as a good laxative with tonic ingredients. Most upsets in health are attributed to improper functioning of elimination organs, in many cases caused from faulty elimination. Therefore, why not try the medicine that so many people are talking about?

TROUBLED WITH ACIDOSIS?

Help your stomach fight the acid condition. It is easy . . . stimulate the flow of gastric juice in your stomach by letting Vim Herb aid your system from constipation—then your other organs should function more properly.

DON'T LET HOT WEATHER GET YOU DOWN. VIM HERB HELPS PROVIDE THE NEEDED ENERGY.

The fact that you are tired and without your usual pep is no sign that you are lazy. Perhaps it's constipation. But it is a sign that you need quick, revitalizing energy. If so you can easily overcome this condition. Try Vim Herb * * *.

* * * a good medicine to use in fighting off the cold and flu germs which are attacking so many people now. Be on the safe side * * * Start the Vim Herb treatment today and we believe you will be less apt to catch a cold or flu, because your system will then have more resistance in throwing off the cold and flu germs.

If you suffer from constipation and attending ills, such as gas, bloating, acid indigestion, dizzy spells, coated tongue and bad breath, you will find Vim Herb the ideal laxative. This herb laxative with tonic ingredients added makes the lazy muscles of the intestines active. Most people when constipated need the tonic ingredients of Vim Herb.

It will relieve you of that tired, sluggish feeling often caused or aggravated by constipation. Regain your lost pep and vitality by taking Vim Herb.

Vim Herb, the popular herb laxative, with stomachics added stimulates the lazy muscles of the intestines to activity. Many people when constipated need the stomachics as well as the laxative effect Vim Herb supplies.

OLD FOLKS ATTENTION—

Do you feel tired, worn-out, pepleless, depressed, nervous, irritable, bilious, see floating specks before your eyes, gas on stomach, indigestion, heartburn, fullness after meals, pains under your ribs, in back and legs; if so, these symptoms indicate that there is something wrong. You too may be suffering that dreaded ailment constipation * * * try Vim Herb.

A gradual accumulation of waste matter is dangerous. The elimination organs must function properly to avoid constipation which in some cases brings about stomach trouble, acid indigestion, biliousness, backache, liver trouble, weak kidneys, piles and tired, worn-out run down condition. Vim Herb makes the lazy muscles of the intestines active and promotes proper elimination.

Winter diseases—Flu and Colds, sometimes cause Constipation, Biliousness, Kidney Disorders and other serious ailments. Don't drag around from day to day. Take this medicine that has helped thousands right here at home. Results guaranteed.

Keep Your System Cleansed with Vim Herb.

HEALTH IS YOUR GREATEST ASSET. GIVE HIM VIM HERB LAXATIVE WITH TONIC INGREDIENTS.

KEEP YOUR SYSTEM CLEAN DURING FLU EPIDEMICS. A WEAK RUN-DOWN SYSTEM OFTEN PAVES THE WAY NOT ONLY FOR INFLUENZA BUT BRONCHITIS AND PNEUMONIA ALSO MANY OTHER SERIOUS ILLS. BUILD UP YOUR BODY RESISTANCE WITH VIM HERB.

Authorities claim that constipation in many cases is the cause of stomach disorders and numerous other complaints of the human system. Hundreds have testified that they suffer with constipation, indigestion, gas on stomach, coated tongue, no appetite, no vitality, but by the aid of medicine eliminating the poisonous waste matters from the system through its free action on the bowels, they now owe their good health to its use and once more enjoy hearty meals without any ill effects and no longer suffer with the most common ailment of the day, constipation. If you want to enjoy good health you must free yourself from the clutches of constipation.

PAR. 5. Through the use of the advertisements hereinabove set forth and others of the same import not specifically set out herein, respondent has represented that constipation and faulty elimination are the cause of various bodily ills including poor digestion, loss of weight, bloating, acid indigestion, heartburn, fullness after meals, loss of appetite, nervousness, irritability, loss of energy, tiring easily, a worn-out feeling, stomach trouble including gas and stomach pains, headaches, pains in the shoulders, chest, back, arms, under the ribs and in the legs, sluggishness, bilious attacks, dizzy spells, bad breath, coated tongue, a depressed feeling, floating specks before the eyes, weak kidneys and kidney disorders, piles, liver trouble, and many other similar ailments; that Vim Herb is an adequate and competent treatment for constipation; that it will correct such condition; that it is capable of preventing and curing the underlying causes of constipation and of influencing the factors which give rise to such condition; and that said preparation has therapeutic value in the treatment of all of the above-mentioned symptoms and conditions; that it will make the lazy muscles of the intestines work, cleanse the intestinal tract, stimulate the flow of gastric juices and rid the system of accumulated poison waste; that its use will improve the digestion, restore the appetite, prevent an excessive acid stomach condition, clean and strengthen the entire system, restore health, act as a tonic, provide energy and build up the system and body resistance to influenza, bronchitis, pneumonia and colds thereby enabling a person to ward off an attack of these ailments.

PAR. 6. Said advertisements are misleading in material respects and are false advertisements as that term is defined in the Federal Trade Commission Act. In truth and in fact, Vim Herb is a mixture of ordinary irritant laxative and bitter ingredients in a sugar sweet-

ened and volatile oil flavored vehicle of water and alcohol. Its therapeutic efficacy is limited to the temporary relief afforded by an evacuation of the bowels. It is incapable of preventing or curing the underlying causes of constipation or to in any way favorably influence the several factors which give rise to this condition. It does not activate or stimulate lazy intestinal muscles in the sense of restoring their normal functions, its use simply results in an irritation to which the musculature responds with a bowel movement to expel the irritant. It will not cleanse the intestinal tract; will not appreciably stimulate the flow of gastric juices nor will it relieve the system of accumulated poison waste.

Headache, loss of appetite, bad breath and coated tongue, may, and sometimes do, accompany irregularity of bowel movement. The other symptoms and conditions referred to in Paragraph Five and kindred symptoms and conditions are not caused by constipation and would not be improved or corrected by this preparation. Headache, loss of appetite, bad breath and coated tongue are frequently caused by and associated with many ailments that have no relation to or connection with constipation or irregularity of bowel movement and when caused by any condition other than constipation, Vim Herb would be of no value in the treatment thereof. When headache, loss of appetite, bad breath and coated tongue are caused by or associated with constipation the use of this preparation will have no value in the treatment thereof other than the temporary relief afforded by an evacuation of the bowels.

Vim Herb contains ingredients which may under proper and adequate directions act as a bitter tonic or stomachic. The directions for use are improper and inadequate, however, in that they do not specify that said preparation must be taken shortly before meals in order to act as a bitter tonic or stomachic. When taken at any other time, Vim Herb will not act as a bitter tonic or stomachic. Regardless of when taken, said preparation will not improve the digestion, prevent an excessive acid stomach condition, clean or strengthen the system, restore health, provide energy or build up the system or body resistance. Its use is of no value in warding off attacks of influenza, bronchitis, pneumonia or colds.

PAR. 7. The use by the respondent of the aforesaid statements and representations disseminated as aforesaid, has had and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such statements are true, and to induce a substantial portion of the

purchasing public, because of such erroneous and mistaken belief, to purchase said medicinal preparation Vim Herb.

PAR. 8. The aforesaid 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 December 28, 1948, issued and thereafter served its complaint in this proceeding upon respondent, A. P. Durham, an individual trading as Herb Products Co., charging said respondent with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On January 26, 1949, the respondent filed his answer, in which answer he 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, A. P. Durham, is an individual trading and doing business as Herb Products Co., with his office and principal place of business located in Anderson, S. C.

PAR. 2. The said respondent is now, and has been for several years last past, engaged in the business of selling and distributing a certain drug preparation, as "drug" is defined in the Federal Trade Commission Act. The designation used by respondent for his preparation, the formula, and the directions for use of the preparation are as follows:

Designation: Vim Herb

Formula:

Cascara Aromatic.....	6%
F. E. Senna Soluble.....	8%
F. E. Gentian Root N. F.....	1/2%
F. E. Indian Rhubarb.....	1/2%
F. E. Nux Vomica N. F. per oz.....	0.24 min.

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The above ingredients are in solution in a non-active vehicle, suitably flavored with a mixture of flavoring oils.

Directions for Use:

"As a General Laxative—Adults—A Teaspoonful three times daily and one tablespoonful on retiring. Increase or decrease dose according to action on bowels. Children 4 to 12 years Half Adult Dose.

"Avoid forming habit of taking laxative continuously. In case of vomiting, nausea, or severe abdominal pains, indicative of appendicitis, avoid all purgatives, cathartics and laxative preparations."

The respondent causes said drug preparation when sold to be shipped from his place of business in the State of South Carolina to dealers and individuals located in various other States of the United States and in the District of Columbia. Said dealers in turn sell such drug preparation to the general public. Respondent maintains and at all times mentioned herein has maintained a course of trade in said preparation in commerce between and among the various States of the United States and in the District of Columbia. His volume of business in said drug preparation in such commerce is substantial.

PAR. 3. In the course and conduct of his business, respondent, subsequent to March 21, 1938, has disseminated and caused the dissemination of certain advertisements concerning said preparation by means of the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in the following newspapers on the dates mentioned, as follows:

The Daily Mail, Anderson, S. C.—August 6, 11, 14, 16, 19, and 26, 1948;

The Independent, Anderson, S. C.—May 13, June 4, August 12 and 28, 1948;

and on various other dates between September 1944 and January 1945 in the Independent and in the Daily Mail, both of Anderson, South Carolina, and on various other dates in the Spring and Fall of 1947 in the Independent and in the Daily Mail of Anderson, South Carolina, and Greenville News Piedmont of Greenville, South Carolina, and the Spartanburg Herald Journal of Spartanburg, South Carolina, and by continuities broadcast over radio stations

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during the period from January 1944 and September 1948; and respondent has disseminated and caused the dissemination of advertisements concerning said preparation by various means, including but not limited to the advertisements referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among the statements and representations contained in said advertisements disseminated and caused to be disseminated, as and for the purposes hereinabove set out, have been the following:

Are you underweight? Do you tire easily? Do you lose your patience on the spur of the moment and say things you are later sorry for having said? Friends, such conditions, in many cases, can be traced to faulty elimination, the one ailment that often causes aches and pains, poor digestion, loss of appetite, nervousness and that tired, worn-out feeling. But we believe that you can be relieved of faulty elimination in a reasonably short time and then the other ailments should improve. How can you do this? By starting the Vim-Herb Treatment.

Aid your system from the strain and suffering brought on by accumulated poison waste, by using Vim Herb, and you too should have better health, just like hundreds of folks say they have.

* * * should be taken long enough to aid in cleansing the thirty feet of intestinal tract.

* * * will aid in relieving constipation and attendant ills, such as: gas and stomach pains; poor digestion and many other similar ailments that are caused or aggravated by faulty elimination.

If you are suffering some type of an organic disorder brought on by faulty elimination, start the Vim Herb treatment today.

* * * perhaps you too can enjoy better health by starting the Vim Herb treatment.

Start the Vim Herb treatment today and we believe you will soon be on the road to health.

If faulty elimination is causing you to suffer with poor digestion, headaches, pains in the shoulders, chest and back; loss of appetite; sluggishness or that tired, all-in feeling, then we believe Vim Herb will help relieve you of this condition. These are all symptoms warning you that your system is in need of a medicine that will aid in bringing relief to such a dangerous condition.

* * * will help cleanse and strengthen the main organs of the body, thus bringing aid to these vital organs in their timely duties.

* * * will aid you to have better health if you are suffering bilious attacks, nervousness, backaches, pains in the shoulders, chest and arms, loss of appetite and perhaps other aches and pains, if brought on by faulty elimination, because after this fine medicine aids Nature in relieving your system of the accumulated poison waste brought on by faulty elimination, the main organs of your body are then relieved and at the same time, helped to carry on their duties, thus your system will be in better condition to ward off sickness.

If you are suffering with bilious attacks, loss of appetite; poor digestion and perhaps loss of energy, due to and aggravated by constipation * * * get a

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bottle of Vim Herb * * * soon you should feel like a different person. Digestion improves, appetite returns, and you get more energy and strength from the food you eat after Vim Herb helps Nature relieve your system of the accumulated poison waste caused by constipation.

If there are any of you who seem to be suffering from some disorder caused by faulty elimination, which may be sapping your energy and strength, start the Vim Herb treatment. Let this modern laxative with the tonic ingredients, help relieve your system of the strain and suffering brought on by improper elimination and then you should be in a better condition to do your work. You know, Neighbors, age itself, is a factor in slowing-up the tiny organs of your system and they sometime need assistance in carrying on their daily duties.

Are you bothered with headaches, dizzy spells, indigestion attacks and perhaps other similar ailments caused from faulty elimination? If so, no doubt the reason for your suffering is due to a rundown condition, which usually prevails when faulty elimination exists. Vim Herb * * * is bringing relief to hundreds who were troubled with headaches, dizziness, poor digestion caused by constipation.

* * * the accumulated poisons, if allowed to remain in your system, can and often do cause serious troubles. * * * start the Vim Herb treatment today. Get satisfying relief from constipation and soon the many ailments caused from this condition should be relieved also. Remember, Vim Herb is a proven remedy; one that's helped hundreds of sufferers of constipation back to better health. So, if you or any member of your family are suffering from improper elimination, go to the nearest drug counter and ask for Vim Herb. Start on the road to health and happiness today, the Vim Herb way.

Vim Herb aids free bowel movement, aids in cleansing the intestinal tract; helps restore the appetite, as it is a preparation especially for constipation and the relief of attendant ills, after which you should have more strength and you should be in a better condition to ward off cold and flu germs.

BAD BREATH—COATED TONGUE—DIZZY FEELING THAT IS THE WARNING.

A serious complication may develop. Vim Herb is generally recognized as a good laxative with tonic ingredients. Most upsets in health are attributed to improper functioning of elimination organs, in many cases caused from faulty elimination. Therefore, why not try the medicine that so many people are talking about?

TROUBLED WITH ACIDOSIS?

Help your stomach fight the acid condition. It is easy . . . stimulate the flow of gastric juice in your stomach by letting Vim Herb aid your system from constipation—then your other organs should function more properly.

DON'T LET HOT WEATHER GET YOU DOWN. VIM HERB HELPS PROVIDE THE NEEDED ENERGY.

The fact that you are tired and without your usual pep is no sign that you are lazy. Perhaps it's constipation. But it is a sign that you need quick, revitalizing energy. Is so you can easily overcome this condition. Try Vim Herb * * *.

* * * a good medicine to use in fighting off the cold and flu germs which are attacking so many people now. Be on the safe side * * * Start the Vim Herb treatment today and we believe you will be less apt to catch a cold or flu, because your system will then have more resistance in throwing off the cold and flu germs.

If you suffer from constipation and attending ills, such as gas, bloating, acid indigestion, dizzy spells, coated tongue and bad breath, you will find Vim Herb the ideal laxative. This herb laxative with tonic ingredients added makes the lazy muscles of the intestines active. Most people when constipated need the tonic ingredients of Vim Herb.

It will relieve you of that tired, sluggish feeling often caused or aggravated by constipation. Regain your lost pep and vitality by taking Vim Herb.

Vim Herb, the popular herb laxative with stomachics added stimulates the lazy muscles of the intestines to activity. Many people when constipated need the stomachics as well as the laxative effect Vim Herb supplies.

OLD FOLKS ATTENTION—

Do you feel tired, worn-out, pepleless, depressed, nervous, irritable, bilious, see floating specks before your eyes, gas on stomach, indigestion, heartburn, fullness after meals, pains under your ribs, in back and legs; if so, these symptoms indicate that there is something wrong. You too may be suffering that dreaded ailment constipation * * * try Vim Herb.

A gradual accumulation of waste matter is dangerous. The elimination organs must function properly to avoid constipation which in some cases brings about stomach trouble, acid indigestion, biliousness, backache, liver trouble, weak kidneys, piles and tired, worn-out run down condition. Vim Herb makes the lazy muscles of the intestines active and promotes proper elimination.

Winter diseases—Flu and Colds, sometimes causes Constipation, Biliousness, Kidney Disorders and other serious ailments. Don't drag around from day to day. Take this medicine that has helped thousands right here at home. Results guaranteed.

Keep Your System Cleansed with Vim Herb.

HEALTH IS YOUR GREATEST ASSET. GIVE HIM VIM HERB LAXATIVE WITH TONIC INGREDIENTS.

KEEP YOUR SYSTEM CLEAN DURING FLU EPIDEMICS. A WEAK RUN-DOWN SYSTEM OFTEN PAVES THE WAY NOT ONLY FOR INFLUENZA BUT BRONCHITIS AND PNEUMONIA ALSO MANY OTHER SERIOUS ILLS. BUILD UP YOUR BODY RESISTANCE WITH VIM HERB.

Authorities claim that constipation in many cases is the cause of stomach disorders and numerous other complaints of the human system. Hundreds have testified that they suffer with constipation, indigestion, gas on stomach, coated tongue, no appetite, no vitality, but by the aid of medicine eliminating the poisonous waste matters from the system through its free action on the bowels, they now owe their good health to its use and once more enjoy hearty meals without any ill effects and no longer suffer with the most common ailment of the day, constipation. If you want to enjoy good health you must free yourself from the clutches of constipation.

PAR. 5. Through the use of the advertisements containing the aforesaid statements and representations, and others of the same import, respondent has represented that constipation and faulty elimination are the causes of various bodily ills including poor digestion, loss of weight, bloating, acid indigestion, heartburn, fullness after meals, loss of appetite, nervousness, irritability, loss of energy, tiring easily, a worn-out feeling, stomach trouble including gas and stomach pains,

headaches, pains in the shoulders, chest, back, arms, under the ribs and in the legs, sluggishness, bilious attacks, dizzy spells, bad breath, coated tongue, a depressed feeling, floating specks before the eyes, weak kidneys and kidney disorders, piles, liver trouble, and many other similar ailments; that Vim Herb is an adequate and competent treatment for constipation; that it will correct such condition; that it is capable of preventing and curing the underlying causes of constipation and of influencing the factors which give rise to such conditions; and that said preparation has therapeutic value in the treatment of all of the above-mentioned symptoms and conditions; that it will make the lazy muscles of the intestines work, cleanse the intestinal tract, stimulate the flow of gastric juices and rid the system of accumulated poison waste; that its use will improve the digestion, restore the appetite, prevent an excessive acid stomach condition, clean and strengthen the entire system, restore health, provide energy and build up the system and body resistance to influenza, bronchitis, pneumonia, and colds, thereby enabling a person to ward off an attack of these ailments.

PAR. 6. The aforesaid preparation is a mixture of ordinary irritant laxative and bitter ingredients in a sugar sweetened and volatile oil flavored vehicle of water and alcohol. Its therapeutic efficacy is limited to the temporary relief afforded by an evacuation of the bowels. It is incapable of preventing or curing the underlying causes of constipation or favorably influencing in any way the several factors which give rise to this condition. It does not activate or stimulate lazy intestinal muscles in the sense of restoring their normal functions, its use simply results in an irritation to which the musculature responds with a bowel movement to expel the irritant. It will not cleanse the intestinal tract; will not appreciably stimulate the flow of gastric juices nor will it relieve the system of accumulated poison waste.

Headache, loss of appetite, bad breath, and coated tongue may, and sometimes do, accompany irregularity of bowel movement. The other symptoms and conditions referred to in paragraph 5 and kindred symptoms and conditions are not caused by constipation and would not be improved or corrected by this preparation. Headache, loss of appetite, bad breath, and coated tongue are frequently caused by and associated with many ailments that have no relation to or connection with constipation or irregularity of bowel movement and when caused by any condition other than constipation, Vim Herb would be of no value in the treatment thereof. When headache, loss of appetite, bad breath, and coated tongue are caused by or associated with constipation the use of this preparation will have no value in the treatment thereof other than the temporary relief afforded by an evacuation of

the bowels. Said preparation will not improve the digestion, prevent an excessive acid stomach condition, clean or strengthen the system, restore health, provide energy, or build up the system or body resistance. Its use is of no value in warding off attacks of influenza, bronchitis, pneumonia, or colds.

PAR. 7. The Commission therefore finds that the respondent's claims for and representations concerning the preparation "Vim Herb," as set forth in paragraph 5 hereof, are false, misleading, and deceptive.

PAR. 8. The use by the respondent of the aforesaid false advertisements has had and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the representations made in said advertisements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said preparation.

CONCLUSION

The acts and practices of 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 the answer of the respondent, in which answer the respondent admitted all of the material allegations of fact set forth in the complaint and waived 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 the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, A. P. Durham, individually and trading as Herb Products Co. or any other name, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondent's drug preparation designated "Vim Herb," or any preparation of substantially similar composition or possessing substantially similar properties under whatever name sold, do forthwith cease and desist from:

(1) Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce as "commerce" is

defined in the Federal Trade Commission Act, any advertisement which represents directly or by implication:

(a) That said preparation will prevent or is a cure or remedy for constipation or any of the causes of constipation; or that it has any therapeutic value in the treatment of any of the symptoms thereof in excess of the temporary relief afforded by its laxative action.

(b) That said preparation is a cure or remedy or a competent or effective treatment of poor digestion, loss of weight, heartburn, bloating, acid indigestion, fullness after meals, nervousness, irritability, loss of energy, tiring easily, stomach trouble including gas or stomach pains, a worn-out feeling, pains in the shoulders, chest, back, arms, under the ribs, or in the legs, sluggishness, bilious attacks, dizzy spells, a depressed feeling, floating specks before the eyes, weak kidneys or kidney disorders, piles, or liver trouble.

(c) That said preparation is a cure or remedy for headache, loss of appetite, bad breath, or coated tongue; or that it is a competent or effective treatment of such conditions in excess of the temporary relief afforded by an evacuation of the bowels in those cases in which such conditions are caused by and associated with constipation.

(d) That said preparation will restore the normal functions of the intestinal muscles, cleanse the intestinal tract, appreciably stimulate the flow of gastric juices, or rid the system of accumulated poison waste.

(e) That said preparation will improve the digestion, prevent an excessive acid stomach condition, clean or strengthen the system, restore health, provide energy, or build up body resistance to, or have any effect in warding off, attacks of influenza, bronchitis, pneumonia, or colds.

(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 preparation in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph (1) hereof.

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

Complaint

IN THE MATTER OF

BABIGLO CO., 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 5652. Complaint, Apr. 26, 1949—Decision, Jan. 11, 1950

Where a corporation, and its two officers who formulated and controlled its policies, acts and practices, engaged in the interstate sale and distribution of soap products—

- (a) Represented through the statement "made with 100 percent genuine imported olive oil castile soap", on the wrappers of their "Kent Castile Soap" that the only oil used in the manufacture thereof was olive oil; when in fact none was used;
- (b) Represented through the statement "rich in olive oil" on their "Babiglo Castile" that said product contained significant quantities of said substance; the facts being it contained none nor was olive oil used in its manufacture;
- (c) Falsely represented through the use of the word "Hospital" in the name of its "Hospital Brand Castile Soap" on the wrapper, that said product had been approved or endorsed by a hospital; and
- (d) Falsely represented through the use of the words "Dr. Beck" in the name of its "Dr. Beck's Germicidal Soap", that said product was made from a formula or under the supervision of a doctor;

With tendency and capacity to mislead and deceive a substantial portion of the public and thereby induce its purchase of their said products; and with the result of placing in the hands of purchasers of such products for resale a means and instrumentality whereby they might mislead and deceive said public as to the actual composition of said products:

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. B. G. Wilson for the Commission.

Mr. Solomon Popkin, 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 Babiglo Co., Inc., a corporation, and Louis Funder and Carrie Funder, individually and as officers of Babiglo Co., Inc., a corporation, hereinafter 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: