

action against the respondents at any time in the future as may be warranted by the then existing circumstances.

IN THE MATTER OF
HADACOL, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 8523. Complaint, July 27, 1962—Decision, Jan. 19, 1963*

Order requiring the Chicago distributor of drug preparations known as "New Super Hadacol Liquid" and "Capsules" to cease representing falsely in advertisements in newspapers and by radio and television broadcasts that their said preparations were a safe and effective treatment for iron deficiency and related ailments and that the vitamins and minerals contained therein were similarly beneficial, that they would immediately provide new vigor and energy, prevent colds, aches and pains, and were particularly necessary for inhabitants of the Southern States.

*Reported as amended November 27, 1962.

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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 Hadacol, Inc., a corporation, Jerome S. Garland and James P. Garland, individually and as officers of said 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:

PARAGRAPH 1. Respondent Hadacol, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 919 North Michigan Avenue, Chicago, Ill.

Respondents Jerome S. Garland, and James P. Garland are officers of the corporate respondent. These individuals formulate, direct and control the policies, acts and practices of the corporate respondent and their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for some time last past, engaged in the sale and distribution of drug preparations containing ingredients which come within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

The designations used by respondents for said preparations, the formulae thereof and directions for use are as follows:

1. Designation: New Super Hadacol Liquid Formula: (2 oz.)

Vitamins

B1 (Thiamine Hydrochloride) 6 mg.
B2 (Riboflavin) 4 mg.
B6 (Pyridoxine hydrochloride) 2 mg.
B12 (Crystalline) 3 mcg.
Niacinamide 40 mg.
d-Panthenol 4 mg.
Biotin 30 mg.
Inositol 25 mg.
Choline Dihydrogen Citrate 25 mg.

Minerals

Iron (as ferrous lactate) 100 mg.
Calcium (as Glycerophosphate) 150 mg.
Manganese (as Glycerophosphate) 15 mg.
Phosphorous (Glycerophosphate) 125 mg.
Potassium Iodide 0.13 mg.
Cobalt Sulfate 0.1 mg.
Copper Sulfate 1 mg.

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Magnesium Sulfate 1 mg.

Zinc Sulfate 1 mg.

Alcohol 11%

Honey—15 minims per flu. oz.

Directions: Adults: 1 tablespoonful (15cc.) 4 times a day. Children 6 to 12: 3 teaspoonfuls (15cc.) 3 times a day. Children 1 to 6: 2 teaspoonfuls (10cc.) 3 times a day.

Take HADACOL either pure or in a half glass of water preferably after meals and before retiring.

2. Designation: New Super Hadacol Capsules Formula: (Per capsule)

Vitamine B1 (Thiamine Mononitrate) 7.5 mg.

Vitamin B2 (Riboflavin U.S.P.) 5 mg.

Vitamin B6 (Pyridoxine Hydrochloride) 0.25 mg.

Vitamin B12 U.S.P. 3 mcg.

Vitamin C (Ascorbic Acid U.S.P.) 40 mg.

Vitamin E (Equivalent) 2 mg.

Niacinamide U.S.P. 20 mg.

Calcium Pantothenate 3 mg.

Folic Acid, U.S.P. 0.25 mg.

Liver Dessicated (Undeffated) NF IX 150 mg.

Ferrous sulfate Dried U.S.P. (Equiv. to 11.8 mg. iron) 40 mg.

Choline Dihydrogen Citrate 25 mg.

Inositol 25 mg.

dl-Methionine 25 mg.

Copper Sulfate Monohydrate 5.6 mg.

Lemon Bioflavonoid Complex 10 mg.

Directions: Adults: When used as a treatment for deficiency of the established vitamins contained in the HADACOL CAPSULE formula take one to three HADACOL CAPSULES daily after meals, or as indicated by a physician.

PAR. 3. Respondents cause the said preparations when sold, to be transported from Preston Drug, Inc., Dallas, Texas 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 said preparations in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated and caused the dissemination of, certain advertisements concerning the said preparations by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers and by means of television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations; and have dissemi-

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nated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the afore-said media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

If winter colds have been getting you down * * * If you feel all dead part of time and half dead all of the time * * * you need a spring tonic * * * New Super Hadacol blood tonic! (Radio)

* * * * *
If you suffer from iron and mineral deficient blood, your first spoonful of New Super Hadacol will start your blood surging with new internal get-up-and-go! You'll feel like doing things you haven't done in years! And, like I said Hadacol will help prevent Winter colds because Hadacol gives you new energy * * * (Radio)

* * * * *
Try Hadacol Blood Tonic * * * not for a month * * * not for 10 days * * * try it for just one week. If you don't feel the difference right away * * * right from the start * * * return for double your money back! (Radio)

* * * * *
* * * the vitamin tonic that revitalizes your blood, adds new pep and energy * * * (Newspaper)

* * * * *
Remember right now is the time to start building yourself up to resist the miseries of Winter colds, aches and pains * * * (Radio)

* * * * *
New Super Hadacol is made in the South by Southerners who know the southern climate * * * know the southern diet * * * understand the type of tonic needed by southern people. (Radio)

* * * * *
Tired? Nervous? Restless? * * * Sleepless nights and that "tired all day" feeling are gone when you take vitamin rich New Super Hadacol. (Newspaper)

* * * * *
Can't sleep? Nervous? Tired? Put an end to your agonies from over-exhaustion, sleepless nights and excessive nervousness caused by iron and mineral deficient blood. (Newspaper)

* * * * *
The vitamin tonic that supplements your diet and gives you energy and pep to get more fun and joy from life. (Newspaper)

* * * * *
Modern scientists working in our research laboratories in the South have now discovered what Vitamins and Minerals are truly necessary to supplement the diet for Southern people, but NEW SUPER HADACOL is not just a nutri-

tional supplement. It is a BLOOD BUILDER * * * charging your blood with pep and energy to wear away that let-down, no-life feeling. Yes, other national brand advertisers use part of our blood-building formula * * * but they do not include our special additives to fortify your diet for a healthier, happier feeling * * * to prevent special possible diet deficiencies. (Radio)

PAR. 6. Through the use of the statements in the aforesaid advertisements and others similar thereto but not specifically set out herein, respondents have represented and now represent, directly or by implication:

1. That the use of New Super Hadacol Liquid and New Super Hadacol Capsules will be of benefit, safe and effective in the treatment and relief of an established or existing deficiency of iron and iron deficiency anemia, and tiredness, sleeplessness, nervousness, and exhaustion.

2. That New Super Hadacol Liquid and New Super Hadacol Capsules will immediately provide new vigor and energy.

3. That New Super Hadacol Liquid and New Super Hadacol Capsules will prevent colds, aches and pains.

4. That due to special diet deficiencies and climatic conditions, inhabitants of the Southern States have a particular need for New Super Hadacol Liquid and New Super Hadacol Capsules.

5. That the vitamins and minerals other than iron, contained in both New Super Hadacol Liquid and New Super Hadacol Capsules, contribute to the effectiveness of these preparations in the treatment and relief of an established or existing deficiency of iron and iron deficiency anemia.

PAR. 7. In truth and in fact:

1. Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will be of benefit in the treatment of tiredness, sleeplessness, nervousness or exhaustion except in a small minority of persons whose tiredness, sleeplessness, nervousness or exhaustion is due to an established or existing deficiency of one or more of the vitamins provided by these preparations or to an established or existing deficiency of iron or to iron deficiency anemia.

Furthermore, the statements and representations in said advertisements have the capacity and tendency to suggest, and do suggest that in cases of persons of both sexes and all ages who experience tiredness, sleeplessness, nervousness or exhaustion there is a reasonable probability that these symptoms in such cases will respond to treatment by the use of these preparations; and have the capacity and tendency to suggest, and do suggest, that in cases of persons of both sexes and all ages who have an established or existing deficiency of iron or who have iron deficiency anemia the preparations can be used safely and effec-

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tively in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia and their symptoms. In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements", as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts that in the great majority of persons, or of any age, sex or other group or class thereof, who experience tiredness, sleeplessness, nervousness or exhaustion, these symptoms are not caused by an established or existing deficiency of one or more of the vitamins provided by New Super Hadacol Liquid or New Super Hadacol Capsules or by an established or existing deficiency of iron or iron deficiency anemia, and that in such persons the said preparations will be of no benefit; and they are additionally misleading in a material respect because they fail to reveal the material fact, when representing that the preparations will be effective in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia, in adults, and when ascribing symptoms of tiredness, sleeplessness, nervousness or exhaustion in adults, to an established or existing deficiency of iron or to iron deficiency anemia, that in women of any age beyond the usual child-bearing age and in men of all ages, an established or existing deficiency of iron or iron deficiency anemia is almost invariably due to bleeding from some serious disease or disorder and in the absence of adequate treatment of the underlying cause of the bleeding the use of the preparations may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

2. Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will immediately provide new vigor or energy.

3. Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will prevent colds, aches and pains.

4. The inhabitants of the Southern States have no particular need for New Super Hadacol Liquid or New Super Hadacol Capsules.

5. Neither the vitamins nor the minerals other than iron supplied by New Super Hadacol Liquid or New Super Hadacol Capsules are of any benefit in the treatment or relief of an established or existing deficiency of iron and iron deficiency anemia.

PAR. 8. The dissemination by the respondents of false advertisements as aforesaid, constituted, and now constitutes unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Mr. Bruce J. Brennan supporting the complaint.

Mr. Jerome S. Garland, pro solido.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

NOVEMBER 30, 1962

STATEMENT OF PROCEEDINGS

The Federal Trade Commission on July 27, 1962, issued its complaint charging Hadacol, Inc., a corporation, and Jerome S. Garland and James P. Garland, individually and as officers of said corporation, with violation of the Federal Trade Commission Act. The complaint alleges respondents to have been engaged for some time last past in the interstate sale and distribution of preparations containing ingredients which come within the classification of drugs, as the term "drug" is defined in Section 15(c) of the Federal Trade Commission Act. It is alleged that respondents disseminated and caused the dissemination of advertisements concerning said drug preparations by the United States mails and through various other means including newspapers, television and radio broadcasts in interstate commerce, for the purpose of and which were likely to induce the purchase of said drug preparations in intrastate and interstate commerce and contrary to the prohibition of Section 12(a) (1), (2) and (b) of the Federal Trade Commission Act. It is further alleged that respondents in said advertisements, directly or by implication, made statements and representations misleading in material respects and that such constituted "false advertisements" as said term is defined in Section 15(a) (1) of the Federal Trade Commission Act. Respondents' volume of business in the said drug preparations is alleged to be substantial and the dissemination of the said advertisements as alleged and set forth in the complaint is charged to constitute unfair and deceptive acts and practices in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Answer to the complaint by counsel for respondents denying the said advertising representations to be false, misleading and deceptive or unfair within the meaning and intent of the Federal Trade Commission Act was filed September 7, 1962. Dismissal of respondent James P. Garland, individually and as an officer of respondent Hadacol, Inc., was also asked and later supported by an affidavit by James P. Garland submitted and directed to be filed herein during the course of a prehearing conference held on October 8, 1962. Following the prehearing conference which was made a matter of public record by agreement of respective counsel, a certificate of necessity was certified to and granted by the Commission on October 22, 1962, permitting consecutive hearings to be held in Chicago, Illinois, Washington, D.C., and New Orleans, Louisiana, for the taking of testimony in support of and in opposition to the charges of the complaint.

Respondent Jerome S. Garland alone appeared at the first Chicago, Illinois, hearing on November 8, 1962, and stated that respondents were no longer represented by their former legal counsel and that said respondent individual would personally act for and represent all respondents. Upon being sworn as a witness called on behalf of counsel supporting the complaint, respondent Jerome S. Garland stated that he alone controlled and operated the corporate respondent Hadacol, Inc., and that he understood the content and the purport of the motion to amend the complaint then being offered by counsel supporting the complaint, the answer thereto being made by respondents in lieu of the answer to the original complaint, and the stipulation also being then submitted in conjunction with said motion and answer.

The motion to amend complaint by counsel supporting the complaint was submitted in conformance with § 4.7 of the Federal Trade Commission Rules of Practice for Adjudicative Proceedings and the content of the said amendment was reasonably within the scope of the proceeding initiated by the original complaint. The amendment was directed to the deletion of subparagraph 1 in Paragraphs 6 and 7 of the original complaint, and the substitution therefor of a new subparagraph 1 in said Paragraphs 6 and 7; the insertion of additional words in subparagraph 5 of said Paragraphs 6 and 7; the entire deletion of Paragraph 8; and the renumbering of Paragraph 9 to be Paragraph 8 of the complaint as amended. The balance of the original complaint remained as issued and by order of the hearing examiner dated November 27, 1962, the complaint was amended in conformance with the said motion to amend. An accompanying order of the same date directed the aforesaid motion to amend complaint, the answer to the amended complaint, and the stipulation between counsel supporting the complaint and respondents, to be filed of record and the answer to the complaint before amendment withdrawn.

The new answer signed for respondent Hadacol, Inc., by Jerome S. Garland and by respondent Jerome S. Garland, individually and as an officer of said corporate respondent, admits all the allegations, statements, and conclusions set forth in the complaint as amended, except such as relate to respondent James P. Garland, as to whom a dismissal of the said complaint is requested. This request is based on the prior affidavit filed by said respondent, and the denial in the new answer that he at any time directed or controlled, the policies, acts and practices of the corporate respondent or that he was ever employed by said corporation.

The stipulation signed by counsel supporting the complaint and Jerome S. Garland for respondent Hadacol, Inc., and respondent Jerome S. Garland, individually and as an officer of respondent

Hadacol, Inc., agrees to the amendment of the complaint set forth in the motion to amend the complaint, the withdrawal of the prior answer and the entering of the new answer to the complaint as amended, and further, contains an agreed upon proposed order to cease and desist directed to the charges of the complaint as amended. The stipulation also recites that respondents waive all rights as provided for in the Rules of Practice of the Federal Trade Commission regarding time for filing answer to the amended complaint, notice of hearing, petition for reviewing of the hearing examiner's initial decision, the filing of briefs as to any aspect of this proceeding, and any other intermediate procedure.

After carefully reviewing the entire record in this proceeding as hereinbefore described, and based on such record, the following findings of fact and conclusions therefrom are made, and the following order issued.

FINDINGS OF FACT

1. Respondent Hadacol, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 919 North Michigan Avenue, Chicago, Illinois.

Respondents Jerome S. Garland and James P. Garland are officers of the corporate respondent. Respondent Jerome S. Garland is the vice president, treasurer and controlling stockholder of the corporate respondent, and said individual respondent alone formulates, directs and controls the policies, acts and practices of the corporate respondent, and his address is the same as that of the corporate respondent. An affidavit of record by respondent James P. Garland, dated October 6, 1962, stated to be correct by respondent Jerome S. Garland under oath as a witness in this proceeding, recites that James P. Garland, the son of Jerome S. Garland, had no knowledge of the matters set forth in the complaint, that he was an 18-year-old student at Lake Forest College, Lake Forest, Illinois at the time of the formation of the respondent corporation, and that subsequent to being a student he has since been and now is engaged in teaching at Skokie Junior High School, Winnetka, Illinois.

Respondent James P. Garland, whose name was used only for convenience in the forming of the corporate respondent, and for which he received no compensation, was only a nominal officer of the respondent corporation and at no time participated in the formulation, direction and control of its policies, acts and practices, and was never employed by said respondent corporation. The order herein will, on such basis, provide for the dismissal of the complaint as to respondent James P.

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Garland. Reference to respondents hereinafter shall mean respondent Jerome S. Garland and the corporate respondent Hadacol, Inc.

2. Respondents are now, and have been for some time last past, engaged in the sale and distribution of drug preparations containing ingredients which come within the classification of drugs, as the term "drug" is defined in the Federal Trade Commission Act.

The designations used by respondents for said preparations, the formulae thereof and directions for use are as follows:

(1) Designation: New Super Hadacol Liquid Formula: (2 oz.)

Vitamins

B1 (Thiamine Hydrochloride) 6 mg.
B2 (Riboflavin) 4 mg.
B6 (Pyridoxine hydrochloride) 2 mg.
B12 (Crystalline) 3 mcg.
Niacinamide 40 mg.
d-Panthenol 4 mg.
Biotin 30 mg.
Inositol 25 mg.
Choline Dihydrogen Citrate 25 mg.

Minerals

Iron (as ferrous lactate) 100 mg.
Calcium (as Glycerophosphate) 150 mg.
Manganese (as Glycerophosphate) 15 mg.
Phosphorous (Glycerophosphate) 125 mg.
Potassium Iodide 0.13 mg.
Cobalt Sulfate 0.1 mg.
Copper Sulfate 1 mg.
Magnesium Sulfate 1 mg.
Zinc Sulfate 1 mg.
Alcohol 11%
Honey 15 minims per flu. oz.

Directions: Adults: 1 tablespoonful (15cc.) 4 times a day. Children 6 to 12: 3 teaspoonfuls (15 cc.) 3 times a day. Children 1 to 6: 2 teaspoonfuls (10cc.) 3 times a day.

Take HADACOL either pure or in a half glass of water preferably after meals and before retiring.

(2) Designation: New Super Hadacol Capsules Formula: (Per capsule)

Vitamin B1 (Thiamine Mononitrate) 7.5 mg.
Vitamin B2 (Riboflavin U.S.P.) 5 mg.
Vitamin B6 (Pyridoxine Hydrochloride) 0.25 mg.
Vitamin B12 U.S.P. 3 mcg.
Vitamin C (Ascorbic Acid U.S.P.) 40 mg.
Vitamin E (Equivalent) 2 mg.
Niacinamide U.S.P. 20 mg.
Calcium Pantothenate 3 mg.
Folic Acid, U.S.P. 0.25 mg.
Liver Dessicated (Undeffated) NF IX 150 mg.

Ferrous sulfate Dried U.S.P. (Equiv. to 11.8 mg. iron) 40 mg.
 Choline Dihydrogen Citrate 25 mg.
 Inositol 25 mg.
 dl-Methionine 25 mg.
 Copper Sulfate Monohydrate 5.6 mg.
 Lemon Bioflavonoid Complex 10 mg.

Directions: Adults: When used as a treatment for deficiency of the established vitamins contained in the HADACOL CAPSULE formula take one to three HADACOL CAPSULES daily after meals, or as indicated by a physician.

3. Respondents cause the said preparations when sold, to be transported from Preston Drug, Inc., Dallas, Texas, 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 said preparations in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

4. In the course and conduct of their said business, respondents have disseminated and caused the dissemination of, certain advertisements concerning the said preparations by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers and by means of television and radio broadcasts transmitted by television and radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations; and have disseminated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

If winter colds have been getting you down * * * If you feel all dead part of the time and half dead all of the time * * * you need a spring tonic * * * New Super Hadacol blood tonic! (Radio)

* * * * *
 If you suffer from iron and mineral deficient blood, your first spoonful of New Super Hadacol will start your blood surging with new internal get-up-and-go! You'll feel like doing things you haven't done in years! And, like I said Hadacol will help prevent Winter colds because Hadacol gives you new energy * * * (Radio)

* * * * *

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Try Hadacol Blood Tonic * * * not for a month * * * not for 10 days * * * try it for just one week. If you don't feel the difference right away * * * right from the start * * * return for double your money back! (Radio)

* * * the vitamin tonic that revitalizes your blood, adds new pep and energy * * * (Newspaper)

Remember right now is the time to start building yourself up to resist the miseries of Winter colds, aches and pains * * * (Radio)

New Super Hadacol is made in the South by Southerners who know the southern climate * * * know the southern diet * * * understand the type of tonic needed by southern people. (Radio)

Tired Nervous? Restless? * * * Sleepless nights and that 'tired all day' feeling are gone when you take vitamin rich New Super Hadacol. (Newspaper)

Can't sleep? Nervous? Tired? Put an end to your agonies from over-exhaustion, sleepless nights and excessive nervousness caused by iron and mineral deficient blood. (Newspaper)

The vitamin tonic that supplements your diet and gives you energy and pep to get more fun and joy from life. (Newspaper)

Modern scientists working in our research laboratories in the South have now discovered what Vitamins and Minerals are truly necessary to supplement the diet for Southern people, but NEW SUPER HADACOL is not *just* a nutritional supplement. It is a BLOOD BUILDER * * * charging your blood with pep and energy to wear away that let-down, no-life feeling. Yes, other national brand advertisers use part of our blood-building formula * * * but they do not include our special additives to fortify *your* diet for a healthier, happier feeling * * * or to prevent special possible diet deficiencies. (Radio)

6. Through the use of the statements in the aforesaid advertisements and others similar thereto but not specifically set out herein, respondents have represented and now represent, directly or by implication:

(1) That the use of New Super Hadacol Liquid and New Super Hadacol Capsules will be of benefit, safe and effective in the treatment and relief of an established or existing deficiency of iron and iron deficiency anemia, and tiredness, sleeplessness, nervousness, and exhaustion.

(2) That New Super Hadacol Liquid and New Super Hadacol Capsules will immediately provide new vigor and energy.

(3) That New Super Hadacol Liquid and New Super Hadacol Capsules will prevent colds, aches and pains.

(4) That due to special diet deficiencies and climatic conditions, inhabitants of the Southern States have a particular need for New Super Hadacol Liquid and New Super Hadacol Capsules.

(5) That the vitamins and minerals other than iron, contained in both New Super Hadacol Liquid and New Super Hadacol Capsules contribute to the effectiveness of these preparations in the treatment and relief of an established or existing deficiency of iron and iron deficiency anemia.

7. In truth and in fact:

(1) Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will be of benefit in the treatment of tiredness, sleeplessness, nervousness or exhaustion except in a small minority of persons whose tiredness, sleeplessness, nervousness or exhaustion is due to an established or existing deficiency of one or more of the vitamins provided by these preparations or to an established or existing deficiency of iron or to iron deficiency anemia.

Furthermore, the statements and representations in said advertisements have the capacity and tendency to suggest, and do suggest that in cases of persons of both sexes and all ages who experience tiredness, sleeplessness, nervousness or exhaustion there is a reasonable probability that these symptoms in such cases will respond to treatment by the use of these preparations; and have the capacity and tendency to suggest, and do suggest, that in cases of persons of both sexes and all ages who have an established or existing deficiency of iron or who have iron deficiency anemia the preparations can be used safely and effectively in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia and their symptoms. In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements", as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts that in the great majority of persons, or of any age, sex or other group or class thereof, who experience tiredness, sleeplessness, nervousness or exhaustion, these symptoms are not caused by an established or existing deficiency of one or more of the vitamins provided by New Super Hadacol Liquid or New Super Hadacol Capsules or by an established or existing deficiency of iron or iron deficiency anemia, and that in such persons the said preparations will be of no benefit; and they are additionally misleading in a material respect because they fail to reveal the material fact, when representing that the preparations will be effective in the treatment and relief of an established or existing deficiency of iron or of iron deficiency anemia, in adults, and when ascribing symptoms of tiredness, sleeplessness, nervousness or exhaustion in adults, to an established or ex-

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isting deficiency of iron or to iron deficiency anemia, that in women of any age beyond the usual child-bearing age and in men of all ages, an established or existing deficiency of iron or iron deficiency anemia is almost invariably due to bleeding from some serious disease or disorder and in the absence of adequate treatment of the underlying cause of the bleeding the use of the preparations may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

(2) Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will immediately provide new vigor or energy.

(3) Neither New Super Hadacol Liquid nor New Super Hadacol Capsules will prevent colds, aches and pains.

(4) The inhabitants of the Southern States have no particular need for New Super Hadacol Liquid or New Super Hadacol Capsules.

(5) Neither the vitamins nor the minerals other than iron supplied by New Super Hadacol Liquid or New Super Hadacol Capsules are of any benefit in the treatment or relief of an established or existing deficiency of iron and iron deficiency anemia.

8. The advertisements set forth and referred to in Finding No. 5 above were, and are, misleading in material respects and constituted and now constitute "false advertisements" as the term is defined in the Federal Trade Commission Act.

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

2. The complaint herein states a cause of action, and this proceeding is in the public interest.

3. The dissemination by the respondents of false advertisements as aforesaid, constituted, and now constitutes unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

4. The proposed form of order to cease and desist, set forth in the stipulation of record herein, is appropriate to the disposition of this proceeding as to respondent Hadacol, Inc., and respondent Jerome S. Garland, individually and as an officer of said corporation.

ORDER

It is ordered, That the respondents Hadacol, Inc., a corporation, and its officers, and Jerome S. Garland, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or any other device, in connection with the offering for sale, sale or distribution of the preparations designated New Super Hadacol Liquid or New Super

Hadacol Capsules, or any other preparation of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from, directly or indirectly:

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 the use of such preparation will be of benefit in the treatment or relief of tiredness, sleeplessness, nervousness or exhaustion unless such advertisement expressly limits the effectiveness of the preparations to those persons whose symptoms are due to an established or existing deficiency of one or more of the vitamins provided by these preparations, or to an established or existing deficiency of iron or to iron deficiency anemia, and, further, unless the advertisement clearly and conspicuously reveals the fact that in the great majority of persons, or of any age, sex or other group or class thereof, who experience such symptoms, these symptoms are due to conditions other than those which may respond to treatment by the use of the preparation, and that in such persons the preparation will not be of benefit.

(b) That the use of such preparation will be of benefit in the treatment or relief of tiredness, sleeplessness, nervousness or exhaustion due to an established or existing deficiency of iron, or to iron deficiency anemia, in adults other than women in the usual childbearing age group, unless such advertisement, in addition to the requirements of paragraph (a) hereof, clearly and conspicuously reveals the fact that an established or existing deficiency of iron, or iron deficiency anemia, in such adults, or in any age, sex or other group or class thereof, is almost invariably due to bleeding from some serious disease or disorder and that, in the absence of adequate treatment of the underlying cause the use of the preparation in such adults may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

(c) That the use of such preparation will be of benefit in the treatment or relief of an established or existing deficiency of iron, or of iron deficiency anemia, in adults other than women in the usual childbearing age groups, unless such advertisement clearly and conspicuously reveals the fact that an established or existing deficiency of iron, or iron deficiency anemia, in such adults, or in any age, sex or other group or class thereof, is almost invariably due to bleeding from some

serious disease or disorder and that, in the absence of adequate treatment of the underlying cause the use of the preparation in such adults may mask the signs and symptoms and thereby permit the progression of such disease or disorder.

(d) That either New Super Hadacol Liquid or New Super Hadacol Capsules will immediately provide new vigor or energy.

(e) That either New Super Hadacol Liquid or New Super Hadacol Capsules will prevent colds, aches or pains.

(f) That the inhabitants of the Southern States, or any other geographical area or region, have a particular need for either New Super Hadacol Liquid or New Super Hadacol Capsules.

(g) That the vitamins or minerals other than iron supplied in either New Super Hadacol Liquid or New Super Hadacol Capsules are of any benefit in the treatment or relief of an established or existing deficiency of iron or iron deficiency anemia.

2. Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce directly or indirectly the purchase of respondents' preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in or which fails to comply with the affirmative requirements of Paragraph One hereof.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent James P. Garland.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, effective June 1, 1962, the initial decision of the hearing examiner shall on the 19th day of January 1963, become the decision of the Commission; and, accordingly,

It is ordered, That respondents Hadacol, Inc., a corporation, and Jerome S. Garland, individually and as an officer of said corporation shall, within sixty (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 the order to cease and desist.

Complaint

IN THE MATTER OF

ROBERT BLUM TRADING AS BLUM FUR COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket C-301. Complaint, Jan. 23, 1963—Decision, Jan. 23, 1963

Consent order requiring a furrier in Seattle, Wash., to cease violating the Fur Products Labeling Act by such practices as substituting labels with other numbers for those bearing the registered identification number, and using labels which failed to identify the manufacturer, etc., on fur products; failing to show on invoices the true animal name of fur used or the country of origin of imported products, and to disclose when fur was artificially colored or when it was natural; advertising in newspapers which failed to disclose when fur products contained artificially colored fur or when the fur was natural, represented fur prices as reduced from "regular" prices which were in fact fictitious, stated falsely that "Every item has been reduced ½ price", represented fur products from other suppliers as his own distinctive style and exclusive design, and falsely represented products offered as including a large selection of Jaguar and Somoli Leopard garments; failing to maintain adequate records as a basis for price and value claims; and failing in other respects to comply with requirements of the Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Robert Blum, an individual trading as Blum Fur Company, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling 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. Robert Blum is an individual trading as Blum Fur Company with his office and principal place of business located at 1008 Western Avenue, Seattle, Wash. The respondent is a manufacturer and retailer of fur products.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been and is now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation and distribution, in commerce, of fur products and has manufactured for sale, sold, advertised, offered for sale, transported and distributed fur prod-