



or practices of the corporation. Their principal place of business is the same as that of Snore Formula, Inc.

3. Respondent Gerald L. Harris is an individual also doing business as KJ Enterprises. Gerald Harris' principal office or place of business is 3321 Old Mallard Road, Enid, OK 73703.
4. Individually or in concert with others, respondents Snore Formula, Inc.; Dennis H. Harris, M.D.; and Ronald E. General have formulated, manufactured, labeled, advertised, offered for sale, sold, and distributed products to the public, including Dr. Harris' Original Snore Formula tablets (also called "caplets"). Dr. Harris' Original Snore Formula tablets are "foods" and/or "drugs" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.
5. Gerald L. Harris is a distributor of Dr. Harris' Original Snore Formula tablets and is the owner and operator of the <www.snoreformula.com> Website. Individually or in concert with others, he has advertised, offered for sale, sold, and distributed products to the public, including Dr. Harris' Original Snore Formula tablets.
6. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
7. To induce consumers and distributors to purchase Dr. Harris' Original Snore Formula Tablets, respondents Snore Formula, Inc.; Dennis H. Harris, M.D.; and Ronald E. General have disseminated or have caused to be disseminated promotional materials, including but not necessarily limited to the attached Exhibits A, B, and C. Distributors, including but not necessarily limited to respondent Gerald L. Harris, have further disseminated or caused to be disseminated these promotional materials. These promotional materials contain the following statements:
  - A. Exhibit A – promotional audio cassette (transcript attached as Exhibit A-1): "‘The True Facts About Snoring’ By Dennis H. Harris, MD"

MALE ANNOUNCER: Welcome to this week's edition of Medical Milestones, the show that brings you information vital to your good health. Our guest this week is Dr. Dennis Harris. Dr. Harris is an expert on snoring. He will be sharing some of the latest information on the causes and treatments for snoring. Exh. A-1 at 3.

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DR. DENNIS HARRIS: [Twenty-five] percent of all pre-adolescent children in the United States are snorers.

CHRIS McKAY [HOST]: Twenty-five percent?

DR. DENNIS HARRIS: Yeah. And not only that, with kids it's even worse because they develop these huge tonsils and adenoids and they literally block off the airflow, and most of these kids actually have a condition called sleep apnea, which is a much more serious problem, and we'll talk about it in a little more detail as the show goes on. But it is a big problem and it really does need to be taken care of in kids. Exh. A-1 at 11.

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DR. DENNIS HARRIS: Yeah. So, you can see that more people will join that group of chronic snorers as they age and not only that, what those figures don't show is that very definitely the snoring progressively gets worse as time goes on. Exh. A-1 at 14.

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DR. DENNIS HARRIS: Now, the incredible part of that is that, at that point, 20 percent of all those people that are chronic snorers will then go on to progress to a very serious problem called sleep apnea. Exh. A-1 at 15.

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DR. DENNIS HARRIS: We used to think in medicine that people developed sleep apnea and that was a separate condition. But like I just pointed out, it is not a separate condition. It is the end result of somebody who first begins to snore progressing all the way through these different stages and ending up with sleep apnea. Exh. A-1 at 16.

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CHRIS McKAY: Now, Doctor, we've spent some time here talking about the problem. You actually have come up with a solution, is that correct? Exh. A-1 at 16.

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DR. DENNIS HARRIS: [W]e've had about 100,000 people that have used the product. I did -- I did a lot of testing for about two years prior to the time that we put it on the market. I tested it on about 220 patients and, you know, we wanted to see how effective it really was.

CHRIS McKAY: Sure. And the results are?

DR. DENNIS HARRIS: The results were wonderful. We were hoping that it was maybe going to help 50 percent of the people or so.

CHRIS McKAY: Yeah.

DR. DENNIS HARRIS: In reality, 86 percent of the people that were taking this formula had really good to excellent results.

CHRIS McKAY: Oh, that's fantastic.

DR. DENNIS HARRIS: Yeah. And that's really kind of held up -- we run about 86 to 90 percent of the people that have good results that take it. Exh. A-1 at 20.

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CHRIS McKAY: Now, Doctor, will your product help in those instances?

DR. DENNIS HARRIS: What we find is that in the early stages of sleep apnea, we do have a high rate of success. But once it reaches a moderate to severe level, I mean, that really is a structural problem that demands a physical solution to it.

CHRIS McKAY: So, what you're really saying is people have to understand that they need to take care of this early on.

DR. DENNIS HARRIS: That's the good news.

CHRIS McKAY: Okay.

DR. DENNIS HARRIS: That's the good news, exactly. You know, we didn't have good ways to handle snoring for a long period of time, and so, people did go through this progression. But the good news is that you can stop this. You can absolutely stop this progression. Exh. A-1 at 24-25.

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DR. DENNIS HARRIS: Anyhow, what are some of the things that really occur? You know, they started gathering more statistics about snoring, and lo and behold, what they started to realize was that there are both short-term and long-term problems, medical problems associated with snoring. For example, the long-term medical problems are a 400 to 500 percent increase in the level of risk of developing heart attacks, strokes and high blood pressure compared to non-snorers. Exh. A-1 at 26.

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DR. DENNIS HARRIS: [T]he good news is we can stop that whole thing from getting to that point.

CHRIS McKAY: That's great. Dr. Harris, you've convinced me. I'm going to put your product to the test and try it myself. I'd encourage my listeners to do the same. What an easy solution. Exh. A-1 at 28.

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DR. DENNIS HARRIS: One real parting thought. If you don't carry anything away, if you hear -- if you're a listener and you haven't carried anything away that we've talked about, remember one thing, we have the opportunity now of stopping this progression of snoring, and

when you stop it, at that point, the healing power of your body takes over, and eventually, all of these -- all of this damage repairs itself and you get back to normal.

Don't wait. Pick up the phone today, try our product. It is absolutely without risk to you because we have a 100 percent money back guarantee. You have nothing to lose but your snoring.

CHRIS McKAY: You heard it here, first. Again, I encourage anyone who's experiencing snoring to pick up the phone and call Dr. Harris. Exh. A-1 at 28-9.

B. Exhibit B – Brochure: "Dr. Harris' Original Snore Formula"

Dr. Harris' Original Snore Formula

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86% of those using this formulation had good to excellent results

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**DANGERS OF SNORING:**

- Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- Snoring often produces daytime sleepiness or daytime fatigue.
- Snorers have a much higher rate of automobile accidents than non-snorers.
- Snoring causes sleep disturbances that lead to increased anxiety, hyperirritability, decreased memory, and poor concentration.

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contain statements based upon the promotional materials described in Paragraph 7. These additional promotional materials contain the following statements:

Exhibit D – Website <[www.snoreformula.com](http://www.snoreformula.com)>

## **SNORE FORMULA, INC.**

### **KJ Enterprises**

A unique combination of all natural herbs and enzymes that work together to prevent snoring. Statistics have proven that over 40% of the population or 100 million people in the United States are chronic, regular snorers!

### **DANGERS OF SNORING:**

- ! Snorers have a markedly higher risk of developing heart attacks, high blood pressure, or strokes.
- ! Snorers have a 300% higher risk of becoming involved in an automobile accident.
- ! Snorers have a 400% to 500% higher risk of daytime fatigue.
- ! Snoring causes sleep apnea, a serious medical condition, in 20% of all chronic snorers
- ! 25% of all preadolescent children are chronic snorers, and most of these have some form of sleep apnea, a serious medical condition.
- ! Snoring causes sleep disturbances that lead to increased anxiety, hyperirritability, decreased memory and poor concentration.

This unique formulation was created by Dennis H. Harris, MD, a recognized medical expert in the field of snoring. Dr. Harris tested this preparation on 220 subjects. Amazingly, 86% of those using this formulation had good to excellent results. *Good Housekeeping* magazine also performed an independent study that demonstrated a marked improvement in the vast majority of users. **Over 150,000 people have used the product over the past 36 months with good results.**

9. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that:
  - A. Dr. Harris' Original Snore Formula tablets prevent sleep apnea in adult and child users of the product who would otherwise develop sleep apnea;
  - B. Dr. Harris' Original Snore Formula tablets treat the "early stages" of sleep apnea; and

- C. Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in users of the product.
10. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.
  11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.
  12. Through the means described in Paragraph 8, respondent Gerald L. Harris has, expressly or by implication, further made the representations set forth in Paragraph 9.
  13. Through the means described in Paragraph 8, respondent Gerald L. Harris has further represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made.
  14. In truth and in fact, respondent Gerald L. Harris did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 9, at the time the representations were made. Therefore, the representation set forth in Paragraph 13 was, and is, false or misleading.
  15. In their advertising and sale of Dr. Harris' Original Snore Formula tablets, respondents have made the representations set forth in Paragraph 9 while failing to disclose or disclose adequately that persons who have symptoms of sleep apnea should consult a physician because sleep apnea is a potentially life-threatening condition. These facts would be material to consumers in their purchase or use of the product. The failure to disclose adequately these facts, in light of the representations made, was, and is, a deceptive practice.
  16. Through the means described in Paragraph 7, respondents have represented, expressly or by implication, that scientific testing demonstrates that Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in 86% of users. Through the means described in Paragraph 8, respondent Gerald L. Harris has, expressly or by implication, further made this representation.
  17. In truth and in fact, scientific testing does not demonstrate that Dr. Harris' Original Snore Formula tablets eliminate, prevent, or significantly reduce snoring in 86% of users. Therefore, the representation set forth in Paragraph 16 was, and is, false or misleading.

18. Through the means described in Paragraph 7, respondents Snore Formula, Inc., Dennis H. Harris, M.D., and Ronald E. General have provided means and instrumentalities to distributors of Dr. Harris' Original Snore Formula tablets, including but not necessarily limited to Gerald L. Harris, to engage in deceptive acts or practices, including the dissemination of the statements set forth in Paragraphs 7 and 8.
19. Respondent Dennis H. Harris, M.D., has made statements as an expert endorser for Dr. Harris' Original Snore Formula tablets, including but not necessarily limited to statements made in the promotional audio cassette attached as Exhibit A (transcribed as Exhibit A-1). These statements include those set forth in Paragraph 7.A.
20. Through the means described in Paragraph 19, respondent Dennis H. Harris, M.D., has represented, directly or by implication, that at the time he made the representations set forth in Paragraph 9, he possessed and relied upon a reasonable basis for such representations, consisting of the actual exercise of his represented expertise in snoring treatment, in the form of an examination or testing of Dr. Harris' Original Snore Formula tablets at least as extensive as an expert in the field would normally conduct in order to support the conclusions presented in the endorsement.
21. In truth and in fact, at the time he made the representations set forth in Paragraph 9, respondent Dennis H. Harris, M.D., did not possess and rely upon a reasonable basis for such representations. Therefore, the representation set forth in Paragraph 20 was, and is, false and misleading.
22. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this twenty-fourth day of July, 2003, has issued this complaint against respondents.

By the Commission.

Donald S. Clark  
Secretary