

IN THE MATTER OF

HARRY GOROV TRADING AS ISABELLA LABORATORIES,
HARTMAN WHOLESALE DRUG 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 3609. Complaint, Sept. 28, 1938—Decision, Jan. 7, 1939*

Where an individual, corporate wholesale drug concern, and eight retail drug companies located in Chicago, and engaged in sale and distribution, under trade name "281," of medical preparation for reducing, active ingredient in which was a powerful stimulator of body metabolism which resulted, through accelerated rate thereof, in the more rapid destruction of body tissues and particularly fat, and also in marked toxic effect, causing, in some cases, direct degenerative changes in the vital organs and formation of bilateral cataracts on the eyes of users—

Caused to be disseminated false advertisements which contained, as typical, such representations as that said compound was recognized and widely prescribed by practicing physicians as aid in weight reduction, requiring no change in diet or normal mode of living or exercising, and that voluntary letters received during the past 4 years testified to the effect that no ill effects were experienced, and thereby disseminated, or caused to be disseminated, false advertisements in commerce which induced, or were likely to induce, purchase of aforesaid drug and were intended so to do;

Facts being preparation in question was not widely prescribed as aforesaid, many ill effects were often experienced from use thereof, and such use, under conditions prescribed in said advertisements and under such conditions as were customary and usual, was injurious to the health of the users and caused loss or serious impairment of eyesight, and injured and impaired other functions of the body;

With effect of misleading substantial portion of purchasing public into erroneous and mistaken belief that their said representations were true, and with result that public, acting under mistaken and erroneous belief induced by such false and misleading statements and representations, purchased substantial volume of said preparation:

Held, That such acts and practices were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Gerard A. Rault for the Commission.

Waller & Nedow, of Chicago, Ill., for respondents, with the exception of Harry Gorov, who was represented by *Mr. Eugene Bernstein*, of Chicago, Ill.

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 Harry Gorov, an individual trading as Isabella Laboratories, and Hartman Wholesale

Drug Co., Inc., Hartman Wabash Drug Co., Hartman Drug Co., Hartman North Shore Drug Co., Hartman Pharmacy, Inc., Hartman Medinah Drug Co., Hartman LaSalle Drug Co., Hartman Stony Island Drug Co., and Hartman Sheridan Drug Co., corporations, hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Harry Gorov is an individual trading and doing business under the name of Isabella Laboratories with his principal place of business located at 220 South State Street, Chicago, Ill.

Hartman Wholesale Drug Co., Inc., is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 59 East Van Buren Street, Chicago, Ill.

Hartman Wabash Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 401 South Wabash Avenue, Chicago, Ill.

Hartman Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 338 South Clark Street, Chicago, Ill.

Hartman North Shore Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 4600 Broadway, Chicago, Ill.

Hartman Pharmacy, Inc., is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 2059 West Madison Street, Chicago, Ill.

Hartman Medinah Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 507 North Michigan Avenue, Chicago, Ill.

Hartman LaSalle Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 41 South LaSalle Street, Chicago, Ill.

Hartman Stony Island Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 6701 Stony Island Avenue, Chicago, Ill.

Hartman Sheridan Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 701 Sheridan Road, Chicago, Ill.

PAR. 2. The individual respondent and corporate respondents, hereinabove named, have acted together and in cooperation with each other in carrying out the acts and practices herein alleged.

PAR. 3. The individual respondent, Harry Gorov, trading and doing business as Isabella Laboratories, is engaged in distributing a medical preparation sold under the trade name of "281."

Corporate respondent Hartman Wholesale Drug Co., Inc., is engaged in wholesaling drugs to the other corporate respondents named herein. Included among the drugs so sold to the other corporate respondents is the preparation known as "281." All of said other corporate respondents are engaged in the retail drug business and sell among other drugs the preparation known as "281."

PAR. 4. In the course and conduct of their said businesses, and for the purpose of inducing the purchase of the preparation known as "281," respondents have caused false advertisements containing representations as to the safety with which said medicine product "281" may be used to be disseminated by means of the United States mails, by means of circulars and other advertising material distributed between and among the various States of the United States, and by means of advertisements inserted in newspapers and other publications distributed and circulated between and among the various States of the United States and in the District of Columbia. Among and typical of the representations contained in said false advertisements so used and disseminated as aforesaid are the following:

A SIMPLE METHOD FOR
REDUCING WEIGHT

"2 8 1"

"281" is a compound recognized and widely prescribed by practicing physicians as aids in weight reduction. No change in diet or the normal mode of living or exercising is necessary. Voluntary letters received during the past 4 years testify to the fact that no ill effects are experienced.

The representations contained in the advertisement hereinabove set out, and in other advertisements similar thereto but not set out herein, are false, misleading, and untrue. This preparation is not widely prescribed by practicing physicians, as an aid in reducing weight. Many ill effects are often experienced from its use. Said advertisements of respondents are also false in that they fail to reveal that the use of this product under the conditions prescribed in said advertisements, and under such conditions as are customary and usual, may be injurious to the health of the user thereof by causing loss or serious impairment of eyesight and in other ways injuring or impairing the functions of the human body.

The true facts are that the active agent contained in said preparation "281" is the drug dinitrocresol. This drug is a powerful stimulator of body metabolism. Through the accelerated metabolism rate

caused by the use of this drug body tissues, particularly fat, are more rapidly destroyed. This drug, however, has a marked toxic effect, causing, in some cases, direct degenerative changes in the vital organs and the formation of bilateral cataracts on the eyes of the persons subjected to its use.

PAR. 5. The aforesaid false advertisements disseminated in commerce in the manner above described induce, or are likely to induce, directly or indirectly, the purchase of a drug, to wit: the preparation known as "281."

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to the product "281" disseminated as aforesaid has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and into the purchase of respondent's said medical preparation as a result of such erroneous and mistaken beliefs.

PAR. 7. 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 September 28, 1938, issued and served its complaint in this proceeding upon respondents charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 19, 1938, respondent Harry Gorov, trading as Isabella Laboratories, 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. On November 18, 1938, all of the other respondents named herein filed their answer, in which answer they also 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. The respondent Harry Gorov is an individual trading and doing business under the name of Isabella Laboratories with his principal place of business located at 220 South State Street, Chicago, Ill. Respondent Hartman Wholesale Drug Co., Inc., is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 59 East Van Buren Street, Chicago, Ill. Respondent Hartman Wabash Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 401 South Wabash Avenue, Chicago, Ill. Respondent Hartman Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 338 South Clark Street, Chicago, Ill. Respondent Hartman North Shore Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 4600 Broadway, Chicago, Ill. Respondent Hartman Pharmacy, Inc., is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 2059 West Madison Street, Chicago, Ill. Respondent Hartman Medinah Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 507 North Michigan Avenue, Chicago, Ill. Respondent Hartman LaSalle Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 41 South LaSalle Street, Chicago, Ill. Respondent Hartman Stony Island Drug Co. is a corporation created and existing under the laws of the State of Illinois with its office and principal place of business located at 6701 Stony Island Avenue, Chicago, Ill. Respondent Hartman Sheridan Drug Co. is a corporation created and existing under the laws of the State of Illinois, with its office and principal place of business located at 701 Sheridan Road, Chicago, Ill.

PAR. 2. The individual respondent and corporate respondents, named in paragraph 1, have acted together and in cooperation with each other in carrying out the acts and practices herein found.

PAR. 3. The individual respondent, Harry Gorov, trading and doing business as Isabella Laboratories, is engaged in distributing a medical preparation sold under the trade name of "281."

Corporate respondent Hartman Wholesale Drug Co., Inc., is engaged in wholesaling drugs to the other corporate respondents named herein.

Included among the drugs so sold to the other corporate respondents is the preparation known as "281." All of said other corporate respondents are engaged in the retail drug business and sell among other drugs the preparation known as "281."

PAR. 4. For the purpose of inducing the purchase of the preparation known as "281," all respondents have caused false advertisements containing representations as to the safety with which said medicinal product "281" may be used to be disseminated by means of the United States mails, by means of circulars and other advertising material distributed between and among the various States of the United States, and by means of advertisements inserted in newspapers and other publications distributed and circulated between and among the various States of the United States and in the District of Columbia.

Among and typical of the representations contained in said false advertisements so used and disseminated as aforesaid are the following:

A SIMPLE METHOD FOR
REDUCING WEIGHT

"281"

"281" is a compound recognized and widely prescribed by practicing physicians as aids in weight reduction. No change in diet or the normal mode of living or exercising is necessary. Voluntary letters received during the past 4 years testify to the fact that no ill effects are experienced.

The Commission finds that the representations contained in the advertisement hereinabove set out, and in other advertisements similar thereto but not set out herein, are false, misleading, and untrue. In truth and in fact the preparation designated "281" is not widely prescribed by practicing physicians as an aid in reducing weight. The Commission finds that many ill effects are often experienced from its use. The Commission further finds that the use of said product under the conditions prescribed in said advertisements, and under such conditions as are customary and usual, is injurious to the health of the users thereof. Use of the product causes loss or serious impairment of eyesight. Use of the product also injures and impairs other functions of the human body.

The Commission finds that the active agent contained in said preparation "281" is the drug dinitrocresol, which drug is a powerful stimulator of body metabolism. Through the accelerated metabolism rate caused by the use of this drug body tissues, particularly fat, are more rapidly destroyed. This drug, however, has a marked toxic effect, causing, in some cases, direct degenerative changes in the vital

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organs and the formation of bilateral cataracts on the eyes of the persons subjected to its use.

PAR. 5. The aforesaid false advertisements disseminated in commerce in the manner above described induce, or are likely to induce, directly or indirectly, the purchase of a drug, to wit: the preparation known as "281."

PAR. 6. Each and all of the false and misleading statements and representations made by respondents in their advertising in newspapers and other publications and by means of circulars and other advertising material, in offering for sale and selling the product "281," had, and now has, the capacity and tendency to, and does, mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true. Acting under the mistaken and erroneous beliefs induced by the false and misleading statements and representations, herein above found, the public has purchased a substantial volume of the medicinal preparation designated "281."

CONCLUSION

The above acts and practices of the respondents as herein found are all to the prejudice 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 answers of respondents in which answers respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Harry Gorov, trading as Isabella Laboratories, or under any other trade name, and respondents Hartman Wholesale Drug Co., Inc., Hartman Wabash Drug Co., Hartman Drug Co., Hartman North Shore Drug Co., Hartman Pharmacy, Inc., Hartman Medinah Drug Co., Hartman LaSalle Drug Co., Hartman Stony Island Drug Co., and Hartman Sheridan Drug Co., their officers and their respective representatives, agents, and employees do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce by any means for

the purpose of inducing or which is likely to induce directly or indirectly the purchase of the drug known as "281" whether sold under the same name or under any other trade name, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce directly or indirectly the purchase in commerce of said preparation "281" which advertisements represent that the preparation "281" is prescribed by practicing physicians as an aid in reducing weight and that no ill effects are experienced from its use, and which advertisements fail to state that the use of this preparation under the conditions prescribed in said advertisements or under such conditions as are customary and usual may be injurious to the health of the user thereof by causing loss or serious impairment of eyesight and in other ways injuring and impairing the functions of the human body.

It is further ordered, That respondents shall within 10 days after service upon them of this order file with the Commission an interim report in writing stating whether they intend to comply with this order and if so, setting forth in detail the manner and form in which they intend to comply; and that within 60 days after service upon them of this order said respondents shall file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
SINNOCK & SHERRILL, INC.

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

Docket 3421. Complaint, May 12, 1938—Decision, Jan. 10, 1939

Where a corporation engaged in manufacture of emblem jewelry and of penknives which were made in such a manner as to cause a thin gold shell or covering to be placed upon or over, and to conceal completely, a base metal filling, so that in completed product entire casing or covering or handle of the knife, with exception of skeleton holding blades, appeared to be of gold, as marked thereon as below indicated, and in sale and distribution of said knives in commerce among other States, along with other manufacturers of gold penknives who advertise and sell their products in commerce as aforesaid and in the District of Columbia, and who do not in any manner misrepresent their products, and with others who make penknives of part gold and part base metal mountings and sell and ship their products in commerce as aforesaid and disclose the true composition and character of their said products, and all of whom suffer loss in trade as result of its methods of doing business as below set forth, and, as thus engaged, in competition with others engaged in sale and distribution of like or similar products—

Caused figures and letters 10K and 14K to be stamped, branded, or imprinted upon the bails of its aforesaid penknives, manufactured as above set forth, and thereby represented to members of purchasing public and purchasers that entire casing or mountings thereof were composed wholly of gold of the fineness in quality represented thereon, facts being they were not thus composed as above set forth, in accordance with practice of jewelry manufacturers generally and, more specifically, manufacturers of solid gold penknives, of using such figures and letters to indicate mountings consisting solely of gold of 10K or 14K fineness respectively, nor in accordance with the significance of said figures and letters, as understood by substantial portion of retail dealers and members of purchasing public, as descriptive of the process of manufacture of solid gold knives, and as designating the quality, quantity, character, and fineness of the gold thereon, and as serving as representations to the general purchasing public that the mountings of said knives thus marked or branded consisted of gold of the fineness indicated;

With result that substantial portion of such dealers and members of such public were misled by its said methods and representations into erroneous and mistaken belief that its said knives were solid gold of the thickness, fineness, and character indicated by the mounting or handle thereof, and including the brass or other base metal filler, and of thereby placing in the hands of unscrupulous retailers instrument and means whereby they might perpetrate fraud upon substantial portion of such public through enabling them falsely to represent, offer, and sell its said products as superior or equal to other manufacturers' penknives properly branded as to gold content and fineness, and with tendency and capacity to mislead