

IN THE MATTER OF

EDWIN L. LEISENRING, TRADING AS U. S. DRUG & SALES
COMPANY, U. S. DRUG LABORATORIES, AND U. S. DRUG
COMPANY, AND GORDON LEISENRINGCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4364. Complaint, Oct. 29, 1940—Decision, Dec. 28, 1940*

Where two individuals engaged in interstate sale and distribution of their "Alcoban" for alcoholism; in advertisements of their said product which they disseminated and caused to be disseminated through the mails and by various other means in commerce and otherwise, and through newspapers and periodicals, and by circulars, pamphlets, and other advertising literature, and which advertisements were intended and likely to induce purchase of their said product—

- (a) Represented, directly and by implication, that said preparation was a competent and effective treatment for alcoholism which removed desire for alcoholic stimulants, and that it was safe and harmless, facts being it did not constitute such a treatment for said purpose, nor remove aforesaid desire, and was not safe and harmless, by virtue of content therein of drugs ephedrine hydrochloride, emetine hydrochloride, and pilocarpine hydrochloride in quantities sufficient to cause serious injury to health if used under conditions prescribed in said advertisements, or under such conditions as are customary or usual, and including, among effects thus variously produced, nervous excitability, which might be characterized by tremors, insomnia and anxiety complex, toxic disturbances and conditions, and particularly in case of those whose general resistance is at low level, and possibility of oedema of the lungs; and

- (b) Failed to reveal, in advertisements disseminated by it as aforesaid, facts material in the light of the representations contained therein, and that use of said preparation under conditions prescribed in said advertisements or under such conditions as are customary or usual might cause serious injury to the nerves, tissues, and lungs, and might produce toxic conditions in the body;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that their preparation possessed properties which it did not in fact possess, and that it was safe and harmless, when such was not the fact, and with result, as consequence of such erroneous and mistaken belief, engendered as above set forth, that said public was induced to purchase and purchased substantial quantities of their said preparation:

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. DeWitt T. Puckett 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 Edwin L. Leisenring, an individual, trading as U. S. Drug & Sales Co., U. S. Drug Laboratories, and U. S. Drug Co., and Gordon Leisenring, an individual, 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Edwin L. Leisenring, is an individual trading as U. S. Drug & Sales Co., U. S. Drug Laboratories, and U. S. Drug Co., with his office and principal place of business located at 1534 Lawrence Street, Denver, Colo.

Respondent Gordon Leisenring is an individual, with his office and principal place of business located at 1534 Lawrence Street, Denver, Colo.

Respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of various medicinal preparations, including, among others, a drug preparation advertised as "Alcoban" represented by respondents as a treatment for alcoholism.

Respondents cause said preparation, when sold by them, to be transported from their aforesaid place of business in the State of Colorado to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times herein mentioned have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their aforesaid business the respondents have disseminated and are now disseminating, and have caused and are now causing, the dissemination of false advertisements concerning their said product by the United States mails and by various other means in commerce as commerce is defined in the Federal Trade Commission Act; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated, as hereinbefore set forth, by

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the United States mails, by advertisements in newspapers and periodicals, and by circulars, pamphlets, and other advertising literature, are the following:

LIQUOR HABIT

A treatment that has aided thousands, given secretly or knowingly. \$2. Postpaid. Plain wrapper. U. S. Drug Co., 1534 Lawrence St.

* * * * *

Tasteless, odorless and colorless when dissolved. ALCOBAN can be given with or without the "drinker's" knowledge.

* * * * *

ALCOBAN is designed to do three important things:

- I. To make liquor distasteful, killing the desire to drink.
- II. To aid in freeing the body of toxic cell poisons created by Alcohol.
- III. Contains an ingredient to aid nature in rebuilding the glands.

* * * * *

The ALCOBAN treatment is the result of years of work and experimentation by physicians, and represents the scientific method of treating Alcoholism, as it was developed through the knowledge of medical science, and a comprehensive understanding of the cause of "drink," and its results on the organs of the body.

By the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of respondents' preparation and its effectiveness, respondents have represented, directly and by implication, that said preparation is a competent and effective treatment for alcoholism; that it removes the desire for alcoholic stimulants; that it is safe and harmless.

PAR. 3. The aforesaid representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' preparation does not constitute a competent or effective treatment for alcoholism. It does not remove the desire for alcoholic stimulants. Said preparation is not safe or harmless, as it contains the drugs ephedrine hydrochloride, emetine hydrochloride, and pilocarpine hydrochloride in quantities sufficient to cause serious injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

The drug ephedrine hydrochloride produces a nervous excitability which may be characterized by tremors, insomnia, and an anxiety complex. The drug emetine hydrochloride has a tendency to accumulate in the body tissues, giving rise to toxic disturbances and conditions, particularly in the case of persons whose general resistance is at a low level. The drug pilocarpine hydrochloride may result in oedema of the lungs.

PAR. 4. The advertisements disseminated by respondents as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained therein and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual may cause serious injury to the nerves, tissues, and lungs, and may produce toxic conditions in the body.

PAR. 5. The use by the respondents of said false advertisements has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' preparation possesses properties which it does not in fact possess, and that said preparation is safe and harmless, when such is not the fact. As a result of such erroneous and mistaken belief, engendered as herein set forth, the purchasing public has been induced to purchase and has purchased substantial quantities of respondents' preparation.

PAR. 6. The aforesaid acts and practices of the respondents 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 October 29, 1940, issued, and on October 31, 1940, served its complaint in this proceeding upon respondents, Edwin L. Leisenring, an individual, trading as U. S. Drug & Sales Co., U. S. Drug Laboratories, and U. S. Drug Co.; and Gordon Leisenring, an individual, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Subsequently, respondents filed their answer in which they 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 Edwin L. Leisenring is an individual trading as U. S. Drug & Sales Co., U. S. Drug Laboratories, and U. S. Drug Co., with his office and principal place of business located at 1534 Lawrence Street, Denver, Colo.

Respondent Gordon Leisenring is an individual, with his office and principal place of business located at 1534 Lawrence Street, Denver, Colo.

Respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of various medicinal preparations, including, among others, a drug preparation advertised as "Alcoban" represented by respondents as a treatment for alcoholism.

Respondents cause said preparation, when sold by them, to be transported from their aforesaid place of business in the State of Colorado to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times herein mentioned have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of their aforesaid business the respondents have disseminated and are now disseminating, and have caused and are now causing, the dissemination of false advertising concerning their said product by the United States mails and by various other means in commerce as commerce is defined in the Federal Trade Commission Act, and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements, concerning their said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their said product in commerce as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated, as hereinbefore set forth, by the United States mails, by advertisements in newspapers and periodicals, and by circulars, pamphlets, and other advertising literature, are the following:

LIQUOR HABIT

A treatment that has aided thousands, given secretly or knowingly. \$2. Postpaid. Plain wrapper. U. S. Drug Co., 1534 Lawrence St.

Tasteless, odorless and colorless when dissolved. ALCOBAN can be given with or without the "drinker's" knowledge.

ALCOBAN is designed to do three important things:

- I. To make liquor distasteful killing the desire to drink.
- II. To aid in freeing the body of toxic cell poisons created by Alcohol.
- III. Contains an ingredient to aid nature in rebuilding the glands.

* * * * *

The ALCOBAN treatment is the result of years of work and experimentation by physicians; and represents the scientific method of treating Alcoholism, as it was developed through the knowledge of medical science, and a comprehensive understanding of the cause of "drink" and its results on the organs of the body.

By the use of the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the therapeutic properties of respondents' preparation and its effectiveness, respondents have represented, directly and by implication, that said preparation is a competent and effective treatment for alcoholism; that it removes the desire for alcoholic stimulants; that it is safe and harmless.

PAR. 3. The aforesaid representations are grossly exaggerated, false, and misleading. In truth and in fact respondents' preparation does not constitute a competent or effective treatment for alcoholism. It does not remove the desire for alcoholic stimulants. Said preparation is not safe or harmless, as it contains the drugs ephedrine hydrochloride, emetine hydrochloride, and pilocarpine hydrochloride in quantities sufficient to cause serious injury to health if said preparation is used under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

The drug ephedrine hydrochloride produces a nervous excitability which may be characterized by tremors, insomnia, and an anxiety complex. The drug emetine hydrochloride has a tendency to accumulate in the body tissues, giving rise to toxic disturbances and conditions, particularly in the case of persons whose general resistance is at a low level. The drug pilocarpine hydrochloride may result in oedema of the lungs.

PAR. 4. The advertisements disseminated by respondents as aforesaid constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained therein and fail to reveal that the use of said preparation under the conditions prescribed in said advertisements or under such conditions as are customary or usual may cause serious injury to the nerves, tissues, and lungs, and may produce toxic conditions in the body.

PAR. 5. The use by the respondents of said false advertisements has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous

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and mistaken belief that respondents' preparation possesses properties which it does not in fact possess, and that said preparation is safe and harmless, when such is not the fact. As a result of such erroneous and mistaken belief, engendered as herein set forth, the purchasing public has been induced to purchase and has purchased substantial quantities of respondents' preparation.

CONCLUSION

The aforesaid acts and practices of the respondents 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 respondents, in which answer the 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 its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Edwin L. Leisenring, individually and trading as U. S. Drug & Sales Co., U. S. Drug Laboratories, and U. S. Drug Co., or trading under any other name or names, and Gordon Leisenring, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of their medicinal preparation designated as Alcoban, or any other medicinal preparation of substantially similar composition, or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that said preparation is a competent or effective treatment for alcoholism; that said preparation is safe or harmless; that said preparation removes the desire for alcoholic stimulants; or which advertisement fails to reveal that the use of said preparation may result in serious injury to the nerves, tissues, and lungs, and may produce toxic conditions in the body.

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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof; or which advertisement fails to reveal that the use of said preparation may result in serious injury to the nerves, tissues, and lungs, and may produce toxic conditions in the body.

It is further ordered, That the respondent 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, the manner and form in which they intend to comply; and that within 60 days after the 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
**ROBERT V. BIERHAUS AND EDWARD G. BIERHAUS,
TRADING AS E. BIERHAUS & SONS**

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

Docket 4377. Complaint, Nov. 14, 1940—Decision, Dec. 28, 1940

Where two individuals engaged in sale and distribution of candy and other confectionery products, including assortments which were so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers thereof, and included, as illustrative of various kinds of such assortments sold by them—

- (1) assortment consisting of number of candy bars of uniform size and shape, and box of candy, together with push card for use in sale and distribution of said products to public under a plan, and in accordance with said card's explanatory legend, by which purchasers secured right to exchange bar obtained, for 5 cents paid, for 2, 3, or 4, of such bars in accordance with success or failure in securing by chance from board one of lucky numbers there announced, and person making last punch received the box of candy, and other assortments, with which they distributed push cards involving lot or chance feature similar to that above described, from which they varied in detail only; and
- (2) assortment consisting of 12 boxes of candy, value of each of which was in excess of 5 cents, together with three-section punchboard, for use in sale and distribution of said products under plan, and in accordance with said board's explanatory legend, by which purchaser or customer secured for 5 cents paid, and in accordance with success or failure in securing one of lucky numbers, or in making last punch in each of said three sections into which board was divided, one of said boxes of candy, and under which those who did not qualify by obtaining one of said numbers or making one of said last punches received nothing for their money other than privilege of punching number from board;

Sold said assortments, along with such punchboards for sale and distribution of their candy to consuming public by means of games of chance, gift enterprises, or lottery schemes as aforesaid, to wholesalers, jobbers, and retailers by whom, as direct or indirect purchasers thereof, they were sold to purchasing public, in accordance with aforesaid sales plans involving game of chance, or sale of a chance to procure additional pieces of candy without additional cost, or boxes of candy at price which was much less than normal retail price thereof, and thereby supplied to and placed in the hands of others means of conducting lotteries in sale of their candy in accordance with sales plans hereinabove set forth, contrary to an established public policy of the United States Government, and in violation of the criminal laws, and in competition with many who are unwilling to adopt and use said methods or any method involving game of chance or sale of a chance to win something by chance, or any other method contrary to public policy, and refrain therefrom;