

IN THE MATTER OF
AMERICAN DRUG & CHEMICAL COMPANY

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

Docket 4200. Complaint, July 26, 1940—Decision, Mar. 19, 1941

Where a corporation engaged in the interstate sale and distribution of various drug products, including certain preparations designated as "Ardanol," "Chloro-Zol," and "Germ-I-Tabs"; by advertisements in magazines and trade journals and by circulars, leaflets, folders, pamphlets, booklets, and advertising literature—

- (a) Represented, directly and by implication, that its product "Ardanol" was a cure or remedy for sterility in both sexes, would restore fertility of the generative organs, and was a reliable preventive of abortion, facts being said "Ardanol" was not a cure or remedy for sterility in either sex, did not possess any value as a preventative of abortion, and use thereof would not restore or beneficially affect the fertility of the generative organs;
- (b) Represented, as aforesaid, that its "Chloro-Zol" constituted a competent and effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis, and body odors, facts being said "Chloro-Zol" did not constitute a competent or effective treatment for such ailments or conditions; and
- (c) Represented that its "Germ-I-Tabs" and "Chloro-Zol" could be used to compound a reliable and effective douche for all needs and purposes in feminine hygiene, facts being said products, whether used separately or together, did not constitute a reliable or effective means of feminine hygiene and were of no value as such, other than for use in very weak solutions as a vaginal douche;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that said statements and representations were true, and, by reason thereof, into purchase of its said products:

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

Mr. R. P. Bellinger 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 American Drug & Chemical Co., a corporation, hereinafter referred to as respondent, has 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, American Drug & Chemical Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its principal place of business located at 420 South Sixth Street, Minneapolis, Minn.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing various drug products. Among the drug products sold and distributed by respondent are certain preparations designated and advertised as Ardanol, Chloro-Zol, and Germ-I-Tabs.

Respondent causes said products, when sold, to be transported from its place of business in the State of Minnesota to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning its said products, by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said products; and respondent has also disseminated and is now disseminating, and has caused and is now causing, the dissemination of false advertisements concerning its said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of its said products 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 hereinabove set forth, by the United States mails, by advertisements in magazines and trade journals, and by circulars, leaflets, folders, pamphlets, booklets, and other advertising literature, are the following:

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1. As to Ardanol:

For Vitamin E Deficiency

ARDANOL

Wheat Germ Oil

Medicinal

During recent years, it has been repeatedly demonstrated that a deficiency of Vitamin E in the diet is the cause of degenerative changes in the reproductive organs of both sexes. In the males, they undergo irreparable damage to the germinal epithelium of the testes. While the sex glands of the female may be apparently unaffected, the vitamin deficiency is the cause of the death of the fetus with subsequent abortion or reabsorption.

According to present knowledge, the principal function of Vitamin E is the prevention of certain types of sterility and infertility. Leading authorities have stated that in the male the gradual loss of reproductive power due to Vitamin E deficiency leads to complete and incurable sterility, but that fertility can be maintained if treatment with Vitamin E is started while a few normal tubules remain in the testes. Also, that female sterility due to Vitamin E deficiency is not incurable, since only temporary tissues are damaged.

2. As to Chloro-Zol:

CHLORO-ZOL is a synthetic chlorine carrying chemical. It is a most powerful antiseptic and germicide, having approximately 50 times the germicidal power of pure phenol (carbolic acid) yet being virtually non-poisonous and non-irritating.

Some suggested uses for CHLORO-ZOL:

Sterilization work.

Prevention and treatment of infection.

Open wounds and sores.

Bromidrosis, tetter, Cuban Itch, itching between the toes, blisters on the feet.

Irritation of the skin. Acne, Boils, Sore Throat, Halitosis. Treatment of abscesses after extraction of teeth.

Feminine Personal hygiene.

Body deodorant.

FEMININE HYGIENE.

When the douche is desired, use a solution made by emptying the contents of one CHLORO-ZOL Capsule in one or two quarts of warm water. Stronger solutions may be used if desirable. The above strength, however, is the one usually prescribed by physicians and is very effective in destroying many objectionable germs.

CHLORO-ZOL SUPERIOR TO MANY COMPOUNDS.

CHLORO-ZOL has many advantages over carbolic acid, cresol, bichloride of mercury, and similar poisonous compounds used in feminine hygiene. CHLORO-ZOL does not burn, harden or dry the tissues and membranes. In fact, it provides an efficient germicide that is harmless, and its action is especially beneficial upon the delicate membranes and tissues of the vaginal tract. It is also a very effective deodorant.

3. As to Germ-I-Tabs:

Always recommend Germ-I-Tabs * * * for the treatment and prevention of wound infection, feminine hygiene, personal deodorant or wherever an effective germicide and antiseptic may be required.

The enlightened and fastidious woman of today knows the importance of the douche as part of the feminine toilet. The convenience and economy of Germ-I-Tabs in personal feminine hygiene appeal to the modern woman. Most women know how to take care of themselves in this respect but they so frequently employ the wrong compounds, using poisonous caustic solutions.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others similar thereto, not specifically set-out herein, the respondent represents and has represented, directly and by implication, that its product designated as Ardanol is a cure or remedy for sterility in both sexes and will restore fertility of the generative organs, and is a reliable preventive of abortion; that its products designated as Chloro-Zol and Germ-I-Tabs constitute competent and effective antiseptics and germicides; that said product Chloro-Zol constitutes a competent and effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis and body odors; that the products Chloro-Zol and Germ-I-Tabs can be used as the basis to compound a reliable and effective douche for all needs and purposes in personal feminine hygiene.

PAR. 5. The foregoing statements and representations used and disseminated by the respondent as herein set forth are grossly exaggerated, false, misleading, and deceptive. In truth and in fact, respondent's product Ardanol is not a cure or remedy for sterility in either of the sexes, nor does it possess any value as a preventive of abortion. The use of such product will not restore or beneficially affect the fertility of the generative organs. While said products Chloro-Zol and Germ-I-Tabs possess antiseptic properties of a low toxicity, they are not competent or effective antiseptics or germicides. Said product Chloro-Zol does not constitute a competent or effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis, or body odors. The products Chloro-Zol and Germ-I-Tabs, whether used separately or together, do not constitute a reliable or effective means of feminine hygiene.

PAR. 6. The use by the respondent of the aforesaid false, exaggerated, misleading, and deceptive statements and representations with respect to respondent's said products, disseminated as aforesaid, has had and now has the capacity and tendency to, and does, mis-

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lead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of respondent's said products because of such erroneous and mistaken belief.

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 the 26th day of July 1940, issued, and on the 29th day of July 1940, served its complaint in this proceeding upon the respondent, American Drug and Chemical Co., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On January 27, 1941, the respondent filed its answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent through its president, John William Smith, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved, accepted, and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, American Drug and Chemical Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its principal place of business located at 420 South Sixth Street, Minneapolis, Minn.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing various drug products. Among the drug products sold and distributed by respondent are certain preparations designated and advertised as Ardanol, Chloro-Zol and Germ-I-Tabs.

Respondent causes said products, when sold, to be transported from its place of business in the State of Minnesota to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning its said products, by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said products; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of the false advertisements concerning its said products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly the purchase of its said products 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 hereinabove set forth, by the United States mails, by advertisements in magazines and trade journals and by circulars, leaflets, folders, pamphlets, booklets, and other advertising literature, are the following:

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Findings

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According to present knowledge the principal function of Vitamin E is the prevention of certain types of sterility and infertility. Leading authorities have stated that in the male the gradual loss of reproductive power due to Vitamin E deficiency leads to complete and incurable sterility, but that fertility can be maintained if treatment with Vitamin E is started while a few normal tubules remain in the testes. Also, that female sterility due to Vitamin E deficiency is not incurable, since only temporary tissues are damaged.

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CHLORO-ZOL is a synthetic chlorine carrying chemical. It is a most powerful antiseptic and germicide, having approximately 50 times the germicidal power of pure phenol (carbolic acid) yet being virtually non-poisonous and non-irritating.

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Irritation of the skin: Acne, Boils, Sore Throat, Halitosis.

Treatment of abscesses after extraction of teeth.

Feminine Personal hygiene.

Body deodorant.

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3. As to Germ-I-Tabs:

Always recommend Germ-I-Tabs * * * for the treatment and prevention of wound infection, feminine hygiene, personal deodorant or wherever an effective germicide and antiseptic may be required.

The enlightened and fastidious woman of today knows the importance of the douche as part of the feminine toilet. The convenience and economy of Germ-I-Tabs in personal feminine hygiene appeal to the modern woman. Most women know HOW to take care of themselves in this respect but they so frequently employ the wrong compounds, using poisonous caustic solutions.

PAR. 4. Through the use of the statements and representations hereinbefore set forth, and others similar thereto, not specifically set-out herein, the respondent represents and has represented, directly and by implication, that its product designated as Ardanol is a cure or remedy for sterility in both sexes and will restore fertility of the

generative organs, and is a reliable preventive of abortion; that its product Chloro-Zol constitutes a competent and effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis, and body odors; that its products Chloro-Zol and Germ-I-Tabs can be used as the basis to compound a reliable and effective douche for all needs and purposes in personal feminine hygiene.

PAR. 5. The foregoing statements and representations used and disseminated by the respondent as herein set forth are grossly exaggerated, false, misleading, and deceptive. In truth and in fact respondent's product Ardanol is not a cure or remedy for sterility in either of the sexes, nor does it possess any value as a preventative of abortion. The use of such product will not restore or beneficially affect the fertility of the generative organs. The said product Chloro-Zol does not constitute a competent or effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis, or body odors. The products Chloro-Zol and Germ-I-Tabs, whether used separately or together, do not constitute a reliable or effective means of feminine hygiene and they are of no value as such other than the use in very weak solutions as a vaginal douche.

PAR. 6. The use by the respondent of the aforesaid false, exaggerated, misleading, and deceptive statements and representations with respect to respondent's said products, 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 said statements and representations are true, and into the purchase of respondent's said products because of such erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and W. T. Kelley, chief counsel for the Com-

mission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, American Drug & Chemical Co., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its medicinal preparations designated as Ardanol, Chloro-Zol, and Germ-I-Tabs, or of any other medicinal preparations composed of substantially similar ingredients or possessing substantially similar properties whether sold under the same names or under any other names 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 the preparation Ardanol is a cure or remedy for sterility in either of the sexes or that said preparation will restore or beneficially affect the fertility of the generative organs or that said preparation possesses any value as a preventive of abortion; that said preparations designated Chloro-Zol and Germ-I-Tabs constitute a reliable or effective means of feminine hygiene, or have any value in connection with feminine hygiene other than a vaginal douche; or that said preparation designated Chloro-Zol constitutes a competent or effective treatment for bromidrosis, tetter, Cuban itch, itching between the toes, blisters on the feet, irritations of the skin, acne, boils, halitosis, or body odors.

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 any of said preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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

Complaint

IN THE MATTER OF
CANDYMASTERS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4243. Complaint, Aug. 20, 1940—Decision, Mar. 19, 1941*

Where a corporation engaged in competitive interstate sale and distribution of candy and confectionery products, including various assortments which were so packed and assembled as to involve use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers thereof, including, as typical, small candy bars of uniform size and shape, together with certain larger bars and a four-section push card for use in sale and distribution of said candy to purchasing public under a plan, explained thereon, by which those securing certain numbers received, for the five cents paid, in lieu of small bars first referred to, "One Large Chocolate Divinity Bar" or "One Extra Large Chocolate Divinity Bar," and last number in each section received "One Super Special Bar";

Sold such assortments, along with said cards, to wholesalers, jobbers, and retailers, by whom, as direct or indirect purchasers thereof, they were exposed and sold to purchasing public in accordance with aforesaid sales plan, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its products in accordance with plan involving game of chance or sale of a chance to procure larger bars of candy without additional cost, 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 use said or any method involving a game of chance or any other method contrary to public policy, refrain therefrom;

With the result that many persons were attracted by its said sales plan or method and the element of chance involved therein, and were thereby induced to buy and sell its said candy in preference to that of its aforesaid competitors, and with tendency and capacity, because of said game of chance, unfairly to divert trade in commerce to it from such competitors:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. L. P. Allen, Jr., for the Commission.

Mr. Clifton Parks, of St. Paul, Minn., for respondent.

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 Candymasters, Inc.,