

IN THE MATTER OF

**BEN GORDON (ALSO KNOWN AS BENJAMIN GORDON)
AND LOUIS GORDON, TRADING AS BENGOR PRODUCTS
COMPANY AND GOLF PRODUCTS COMPANY**

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

Docket 4479. Complaint, Mar. 29, 1941—Decision, July 10, 1941

Where two individuals engaged in interstate sale and distribution of various commodities including two medicinal preparations, one designated as "Dupree Pills" and as "Dr. Gordon's Single Strength Pills," and the other as "Dupree Pills Double Strength" and as "Dr. Gordon's Double Strength Pills"; by means of advertisements disseminated through the mails and by various other means—

- (a) Represented, falsely, directly or through implication, that their said preparations constituted competent and effective treatments for amenorrhea and dysmenorrhea; and
- (b) Failed to reveal facts material in the light of such representations, and that, due to presence in said preparations of certain drugs, use thereof under the conditions prescribed in aforesaid advertisements or under such conditions as are customary or usual, might result in gastro-intestinal disturbances, catharsis, nausea, and vomiting, with pelvic congestion and hemorrhage, and in cases of pregnancy might result in uterine infection, blood poisoning, and other serious conditions;

With tendency and capacity to mislead and deceive members of the purchasing public into the erroneous belief that said representations were true, and, because of such mistaken belief thus engendered, to induce the public to purchase substantial quantities of their said preparations:

Held, That said acts and practices, as above 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.

Mr. Samuel J. Ernstoff, of New York City, for respondents.

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 Ben Gordon (also known as Benjamin Gordon) and Louis Gordon, trading as Bengor Products Co. and as Golf Products Co., 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. Respondents, Ben Gordon (also known as Benjamin Gordon) and Louis Gordon, are individuals trading as Bengor Prod-

ucts Co. and as Golf Products Co., with their principal place of business at 878 Broadway, New York, N. Y., from which address they conduct business under the above trade names.

PAR. 2. The respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of various commodities, among which are two medicinal preparations, one being designated as Dupree Pills, and as Dr. Gordon's Single Strength Pills, and the other as Dupree Pills Double Strength and as Dr. Gordon's Double Strength Pills.

In the course and conduct of their business respondents cause their said medicinal preparations, when sold, to be transported from their place of business in the State of New York 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 their said medicinal preparations 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 their business as aforesaid, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said products 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 products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their 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 and by insertions in catalogs and other advertising literature are the following:

DUPREE PILLS

(Single Strength)

A combination of Tansy, Cotton Root, Aplol and Pennyroyal.

Each-----	25¢	Dozen-----	\$2.75
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DUPREE PILLS

(Double strength)

A specially prepared regulator, scientifically compounded for Amenorrhea and Dysmenorrhea, 24 pills to a box. Each box 85¢.

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PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein, the respondents represent, directly or through inference, that their said preparations constitute competent and effective treatment for amenorrhea and dysmenorrhea. These representations are grossly exaggerated, false, and misleading, in that neither of said preparations constitutes a competent or effective treatment for amenorrhea or dysmenorrhea.

PAR. 5. The advertisements disseminated by the respondents, as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained in such advertisements, and fail to reveal that the use of said preparations under the conditions prescribed in said advertisements, or under such conditions as are customary or usual, may result in serious injury to health. The preparation Dupree Pills contains, among other ingredients, the drugs extract cotton root bark, extract black hellebore, aloe, oil of tansy, and oil of savin. The preparation Dupree Pills Double Strength contains, among other ingredients, the drugs ergotin, extract cotton root bark, extract black hellebore, aloe, and oil of savin. Such drugs are present in said preparations in quantities sufficient to cause serious injury to health if said preparations are used under the conditions referred to above.

The use of said preparations under such conditions may result in gastro-intestinal disturbances, catharsis, nausea and vomiting, with pelvic congestion and congestion of the uterus, leading to excessive uterine hemorrhage, and in those cases where said preparations are used to interfere with the normal course of pregnancy, such use may result in uterine infection, with extension to other pelvic and abdominal structures, and even to the blood stream, causing the condition known as septicemia or blood poisoning.

PAR. 6. The use by the respondents of said false and misleading advertisements with respect to their preparations has the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that the representations in said advertisements are true and that said preparations are safe for use, and the tendency and capacity to induce the public to purchase substantial quantities of respondents' preparations as a result of the erroneous and mistaken belief engendered by said advertisements.

PAR. 7. The aforesaid acts and practices of 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 March 29, 1941, issued and thereafter served its complaint in this proceeding upon respondents, Ben Gordon (also known as Benjamin Gordon) and Louis Gordon, trading as Bengor Products Co. and as Golf Products Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 29, 1941, the respondents filed their answer, in which answer 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. Respondents, Ben Gordon (also known as Benjamin Gordon) and Louis Gordon, are individuals trading as Bengor Products Co. and as Golf Products Co., with their principal place of business at 878 Broadway, New York, N. Y., from which address they conduct business under the above trade names.

PAR. 2. The respondents are now, and for more than 2 years last past have been, engaged in the sale and distribution of various commodities, among which are two medicinal preparations, one being designated as Dupree Pills, and as Dr. Gordon's Single Strength Pills, and the other as Dupree Pills Double Strength and as Dr. Gordon's Double Strength Pills.

In the course and conduct of their business respondents cause their said medicinal preparations, when sold, to be transported from their place of business in the State of New York 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 their said medicinal preparations 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 their business as aforesaid, respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said products by the United States mails, and by

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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 products, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their 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 and by insertions in catalogs and other advertising literature are the following:

DUPREE PILLS

(Single Strength)

A combination of Tansy, Cotton Root, Apiol and Pennyroyal.

Each----- 25¢ Dozen----- \$2.75

DUPREE PILLS

(Double Strength)

A specially prepared regulator, scientifically compounded for Amenorrhea and Dysmenorrhea,

24 pills to a box. Each box 85¢.

PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein, the respondents represent, directly or through inference, that their said preparations constitute competent and effective treatments for amenorrhea and dysmenorrhea. These representations are grossly exaggerated, false, and misleading, in that neither of said preparations constitutes a competent or effective treatment for amenorrhea or dysmenorrhea.

PAR. 5. The advertisements disseminated by the respondents, as aforesaid, constitute false advertisements for the further reason that they fail to reveal facts material in the light of the representations contained in such advertisements, and fail to reveal that the use of said preparations under the conditions prescribed in said advertisements, or under such conditions as are customary or usual, may result in serious injury to health. The preparation Dupree Pills contains, among other ingredients, the drugs extract cotton root bark, extract black hellebore, aloe, oil of tansy, and oil of savin. The preparation Dupree Pills Double Strength contains, among other ingredients, the drugs ergotin, extract cotton root bark, extract black hellebore, aloe, and oil of savin. Such drugs are present in said preparations in quan-

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tities sufficient to cause serious injury to health if said preparations are used under the conditions referred to above.

The use of said preparations under such conditions may result in gastro-intestinal disturbances, catharsis, nausea, and vomiting, with pelvic congestion and congestion of the uterus, leading to excessive uterine hemorrhage, and in those cases where said preparations are used to interfere with the normal course of pregnancy, such use may result in uterine infection, with extension to other pelvic and abdominal structures, and even to the blood stream, causing the condition known as septicemia or blood poisoning.

PAR. 6. The use by the respondent of said false and misleading advertisements with respect to their preparations has the tendency and capacity to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that the representations in said advertisements are true and that said preparations are safe for use, and the tendency and capacity to induce the public to purchase substantial quantities of respondents' preparations as a result of the erroneous and mistaken belief engendered by said advertisements.

CONCLUSION

The aforesaid acts and practices of 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 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, Ben Gordon (also known as Benjamin Gordon) and Louis Gordon, trading as Bengor Products Co. and as Golf Products Co., or trading under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their two medicinal preparations, the one designated as Dupree Pills and as Dr. Gordon's Single Strength Pills, the other as Dupree Pills Double Strength and as Dr. Gordon's Double Strength Pills, or any preparation of substantially

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similar composition 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 respondents' said preparations constitute a competent and effective treatment for amenorrhea or dysmenorrhea; or that said preparations are safe and harmless; or which advertisement fails to reveal that the use of said preparations may result in gastro-intestinal disturbances with pelvic congestion and congestion of the uterus leading to excessive uterine hemorrhage and that the use of said preparations in cases of pregnancy may result in uterine infection extending to other pelvic and abdominal structures and to the blood stream causing septicemia or blood poisoning.

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 preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal that the use of said preparations may result in gastro-intestinal disturbances with pelvic congestion and congestion of the uterus leading to excessive uterine hemorrhage and that the use of said preparations in cases of pregnancy may result in uterine infection extending to other pelvic and abdominal structures and to the blood stream causing septicemia or blood poisoning.

It is further ordered, That the 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, 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.

Syllabus

IN THE MATTER OF
WILLIAM E. EVANS, TRADING AS PIONEER MATTRESS
COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4483. Complaint, Apr. 5, 1941—Decision, July 10, 1941

Where an individual engaged in the manufacture and interstate sale and distribution of mattresses through advertising letters and cards bearing purported signatures of certain women's clubs, prepared subject to his approval and mailed by a New York advertising agency to addresses of numerous prospective purchasers supplied by him, and also through circulars, letters, cards, and other advertising material, and through tags and labels attached to his products, and otherwise—

- (a) Represented that his said mattresses had been designed, sponsored or recommended by a physician, and were the products of a certain competitor long engaged in manufacture and sale of nationally advertised and widely and favorably known mattresses, through use of words "Dr." and "Simmons" in such statements as "Dr. Simmons Spring-filled Mattress * * *" " * * * Dr. Simmons Inner-Spring mattress is nationally known * * *" notwithstanding the fact his said mattresses were not designed, sponsored, or recommended by any physician and were not the product of the Simmons Co.;
- (b) Represented that his said mattresses were approved or sponsored by women's clubs or organizations through use of various purported offers and such statements as "HAS BEEN APPROVED BY US" and "THE WORLD'S BEST INNER-SPRING MATTRESS" over such names as "American Good Housekeeper Club" and "The Great Northern Women's Club," and "Recommended by the leading Women's Clubs * * *"; the facts being that such names were wholly fictitious, their purported addresses being the address of the advertising agency referred to;
- (c) Misrepresented the customary or regular retail prices of his products through placing on tags and labels attached to certain mattresses, and inserting in advertising material, "\$39.50," notwithstanding fact mattresses in question never sold at any price approximating said amount, but were customarily offered and sold at retail for about \$10.95;
- (d) Represented that his prices were special or reduced prices or applicable for a limited time only, or for advertising purposes, or represented only cost of manufacture, and that prospective purchasers were selected and might obtain his products at prices less than those at which they were customarily sold, through such statements as "LAST OPPORTUNITY! CAMPAIGN CLOSES * * * DB. SIMMONS SPRING-FILLED MATTRESS MADE BY Pioneer Mattress Company * * *," and "HAS BEEN APPROVED BY US. This mattress retails for \$39.50. During this campaign you can buy one for \$10.95 if you will phone or write them at once, as your name was selected to get one at the actual manufacturers cost. * * * AMERICAN GOOD HOUSEKEEPERS CLUB * * *," and " * * * I recently had the pleasure of selecting your name to receive a beautiful new Dr. Simmons Health Inner-Spring Mattress for advertising purposes, and have instructed The Pioneer Mattress Company, Spartanburg, S. C., to deliver this mattress to you at \$10.95 which is the actual manufac-