

IN THE MATTER OF

THE RENESOL CORPORATION, MAURICE GOLDBERG
AND CHARLES GOLDBLATT

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

Docket 3695. Complaint, Jan. 25, 1939—Decision, July 6, 1942

Where a corporation and two individuals, who controlled and directed its affairs and activities, engaged in the interstate sale and distribution of their "Renesol" medicinal preparation for the treatment of epilepsy—

Represented, directly and indirectly, through advertisements disseminated by them that their said product contained no harmful drugs, was not habit forming, and was safe to use;

The facts being that while phenobarbital—of which each capsule of said product contained a grain—is recognized by the medical profession as an appropriate treatment for some of the symptoms of epilepsy, the drug is definitely habit forming; and while various individuals have different tolerances therefor, there are those to whom the administration of a small dose would be dangerous and, in unusual instances, fatal; continued use of said drug in excessive amounts will, in some cases, affect the comprehension, concentration, memory, and judgment, and may produce toxic psychosis with hallucinations; their recommended dosage was excessive; and their product could not be considered safe and harmless;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that said representations were true, thereby causing it to purchase said preparation; whereby injury was done to a substantial portion of said public:

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

Before *Mr. Lewis C. Russell* and *Mr. John L. Hornor*, trial examiners.

Mr. J. W. Brookfield, Jr., for the Commission.

L. J. and G. A. Shapiro, of Brooklyn, N. Y., 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 The Renesol Corporation, and Maurice Goldberg and Charles Goldblatt, individuals, 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, Maurice Goldberg and Charles Goldblatt, are individuals, maintaining their place of business at 551 Fifth Avenue, New York, N. Y., and are now and have been for more than 2 years last past engaged in the business of offering for sale and selling a medical preparation or compound for the treatment of epilepsy under the brand name "Renesol."

Respondent, The Renesol Corporation, was incorporated under the laws of the State of New York in the year 1933, and maintains its principal office and place of business at 551 Fifth Avenue, New York, N. Y. Respondent, The Renesol Corporation, is owned, dominated, controlled, and directed by the individual respondents, Maurice Goldberg and Charles Goldblatt, who, since its incorporation, have controlled, managed, and directed and now control, manage, and direct the affairs and activities of said respondent, The Renesol Corporation.

Said respondent, The Renesol Corporation, under the direction and control of the individual respondents, Maurice Goldberg and Charles Goldblatt, is now, and for more than 2 years last past, has been engaged in advertising, selling, and distributing for use in the treatment of epilepsy, a certain medical preparation designated "Renesol." Said respondents cause and for more than 2 years last past have caused, said preparation, when sold by them, to be shipped from their place of business in New York, N. Y., to the purchasers thereof located in various States of the United States other than the State of origin of such shipments, and in the District of Columbia. There is now and has been for more than 2 years last past, a course of trade in said preparation "Renesol" sold and distributed by the respondents in commerce between and among 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 United States mails, by insertion in newspapers and periodicals having a general circulation and also in circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States and by 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 their said product; and have 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

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in the Federal Trade Commission Act. Among and typical of the false statements and representations contained in said advertisements disseminated, and caused to be disseminated as aforesaid, are the following:

Renesol DOES NOT CONTAIN Any BROMIDES OR any other HARMFUL or HABIT-FORMING DRUGS and is absolutely safe for use by both children and adults.

Renesol is not habit forming making it perfectly safe to use.

Renesol is not harmful—either to stomach, kidney or skin.

Most important **RENESOL DOES NOT CONTAIN HABIT-FORMING OR HARMFUL DRUGS OF ANY KIND**. It is absolutely safe to use for children as well as adults.

It is safe and harmless—so safe that even a child can take it.

The greatest gift that has ever been bestowed upon mankind is unquestionably **HEALTH AND HAPPINESS**. You who have suffered much will fully appreciate the normal, happy and healthy life which the **RENESOL** treatment assures you. Your **RENESOL** treatment will make you realize as it has for countless others who have been relieved of suffering and misery that a **NEW LIFE OF JOYOUS FREEDOM FROM THE ILLS AND EMBARRASMENTS OF EPILEPSY AWAIT YOU!**

Through 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 remedial, curative, or therapeutic properties of respondents' product, and of the ingredients contained therein, respondents have represented and do now represent, directly and indirectly, that respondents' preparation "**Renesol**" will assure to the user a normal, happy, and healthy life; that it contains no harmful drugs, that it is not habit forming; and that it is safe to use.

PAR. 3. The aforesaid representations and claims made by the respondents as hereinabove described are grossly exaggerated, misleading, and untrue, and constitute false advertising. In truth and in fact, respondents' preparation "**Renesol**" will not assure the user a normal, happy, and healthy life. It does contain harmful drugs and may be habit forming. It cannot be used indiscriminately with safety. Said advertisements of respondents are also false in that they fail to reveal that the use of this preparation, under the conditions prescribed in said advertisements and under such conditions as are customary and usual, may result in serious illness as well as nervous and mental disorders.

PAR. 4. The use by the respondents of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid with respect to said medicinal preparation, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the errone-

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ous and mistaken belief that respondents' said preparation does not in fact contain any harmful drugs, is not habit forming, is safe to use, and that its use will assure the user a normal, happy, and healthy life, and causes a portion of the purchasing public, because of said erroneous and mistaken belief so engendered, to purchase respondents' said preparation. As a result thereof, injury has been and is now being done by respondents to a substantial portion of the purchasing public in the various States of the United States and in the District of Columbia.

PAR. 5. The aforesaid acts and practices of the respondents, as herein alleged, 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 25, 1939, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, certain facts agreed upon were read into the record, and testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before examiners of the Commission theretofore duly designated by it, and said agreed facts, testimony, and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, the agreed facts, testimony and other evidence, report of the trial examiners and exceptions thereto, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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, The Renesol Corporation, is a corporation organized and existing under the laws of the State of New York and having its principal office and place of business at 551 Fifth Avenue, New York, N. Y. Respondents, Maurice Goldberg, an individual, and Charles Goldblatt, an individual, control, manage, and direct the

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affairs and activities of the corporate respondent, and have since its organization in 1933 controlled, managed, and directed said affairs and activities.

PAR. 2. Respondent, The Renesol Corporation, under the direction and control of the individual respondents, Maurice Goldberg and Charles Goldblatt, is now, and for a number of years last past, has been engaged in advertising, selling, and distributing a medical preparation designated "Renesol" for use in the treatment of epilepsy. Said respondents cause, and for a number of years last past have caused, said preparation, when sold by them, to be shipped from their place of business in New York, N. Y., to purchasers thereof located in various States of the United States other than the State of New York and in the District of Columbia, and maintain and have maintained a course of trade in said preparation 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 aforesaid business respondents, by means of the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said medicinal preparation, and respondents by various means have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said medicinal preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false representations contained in the advertisements disseminated and caused to be disseminated as aforesaid are the following:

Renesol DOES NOT CONTAIN ANY BROMIDES OR any other HARMFUL or HABIT-FORMING DRUGS and is absolutely safe for use by both children and adults.

Renesol is not habit forming, making it perfectly safe to use.

Renesol is not harmful—either to stomach, kidney, or skin.

Most important, **RENESOL DOES NOT CONTAIN HABIT-FORMING OR HARMFUL DRUGS OF ANY KIND.** It is absolutely safe to use for children as well as adults.

It is safe and harmless—so safe that even a child can take it.

PAR. 4. Through 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' product and of the ingredients contained therein,

respondents have represented and now represent, directly or indirectly, that respondents' preparation "Renesol" contains no harmful drugs, that it is not habit forming, and that it is safe to use.

PAR. 5. Respondents' product, "Renesol," is sold to members of the public in capsule form, and each capsule contains one grain of phenobarbital and some bicarbonate of soda. Respondents furnish to purchasers of "Renesol" directions for the administration thereof, which read in part:

Three (3) capsules are taken with a glass of water twice a day, once after breakfast, and again one hour before going to bed at night. This is continued until the patient begins to feel DROWSY AND DIZZY. If at the end of the third day, drowsiness has not occurred, then continue to take three (3) capsules twice a day for two more days, but NO MORE.

This initial dosage is for the purpose of placing patient fully under the influence of the treatment.

As soon as the drowsiness begins to occur, or at the end of the fifth day, EVEN IF THE DROWSINESS HAS NOT YET BEGUN, the patient begins to take two (2) capsules ONCE A DAY before going to bed at night. After having taken two (2) capsules once a day for three days, in the majority of the cases the symptoms of the disease are CONTROLLED and there is no longer any drowsiness. Then two (2) capsules a day is the proper dose to continue to take before going to bed.

The directions further provide that in certain contingencies the dosage be increased to the amount of the initial dosage, and provision is also made that in other contingencies a gradual reduction in dosage be made. Various suggestions are also made with respect to diet, regulation of bowels, and avoidance of excitement.

Phenobarbital in proper dosage under adequate direction and supervision is recognized by the medical profession as an appropriate treatment for some of the symptoms of epilepsy. It is a sedative and tends to ameliorate the violence of epileptic seizures. It is sometimes administered separately and sometimes in conjunction with bromides.

Through continued use of phenobarbital, a craving for it may be developed, and the denial of it to a patient who has become habituated to its use may result in the patient developing the usual symptoms of withdrawal of the drug. It is definitely a habit-forming drug, not to the extent that morphine is, but to a greater degree than some other drugs which are recognized as habit-forming. Various individuals have different tolerances for phenobarbital. Some individuals are exceedingly sensitive to it, some less so, and others may have more than the normal or average tolerance for it. There are, however, individuals to whom the administration of what might be considered a small dose would be dangerous and could, in unusual conditions, result in death.

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The dosage recommended by respondents is excessive. This fact was evidently recognized by respondents, and before the conclusion of the trial of this case they revised the directions furnished to purchasers and substantially reduced the dosage recommended therein. The continued use of phenobarbital in excessive amounts will, in some cases, affect the comprehension, concentration, memory, and judgment of an individual, and may produce toxic psychosis with hallucinations.

In view of the fact that phenobarbital is habit-forming, and of the varying degrees of sensitivity to the drug among individuals, as well as the effects which may result from the use of doses not usually considered excessive, the Commission concludes that respondents' product is not a safe and harmless one.

PAR. 6. The use by respondents of the false, deceptive, and misleading statements, representations, and advertisements with respect to "Renesol," disseminated as aforesaid, has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' said preparation does not contain any harmful drugs, is not habit forming, and is safe to use, and causes a portion of the purchasing public because of such erroneous and mistaken belief to purchase respondents' said preparation. As a result thereof, injury has been and is now being done by respondents to a substantial portion of the purchasing public in the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondents 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 answer of respondents, certain agreed facts, testimony, and other evidence in support of and in opposition to the allegations of the complaint taken before examiners of the Commission theretofore duly designated by it, report of the trial examiners and exceptions thereto, and briefs in support of and in opposition to the complaint, 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.

Order

It is ordered, That respondent, The Renesol Corporation, its officers, agents, representatives, and employees, and respondents, Maurice Goldberg, and Charles Goldblatt, individuals, their representatives, agents, and employees, jointly or severally, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of the medicinal preparation designated "Renesol," or any other medicinal preparation which is substantially similar in composition or possesses substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, 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 such commerce of the medicinal preparation designated "Renesol," which advertisement:

1. Represents, directly or through inference, that said preparation is not habit forming, or that it is safe or harmless.
2. Fails to reveal that the use of said preparation in excessive doses may result in serious injury to the physical and mental health of the user: provided, further, that such advertisement need contain only the statement, "CAUTION: Use only as directed," if and when the directions for use, wherever they appear on the label, in the labeling or both, contain a warning to the above effect; and provided further, that such directions for use do not recommend dosage of said preparation in excess of that recommended in respondents' directions as revised during the trial of this case.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, 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

GENE HUGHES DRUG STORES, INC., ALSO TRADING AS
SACRAMENTO PHARMACAL COMPANY; AND EUGENE
P. HUGHES

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

Docket 4316. Complaint, Sept. 17, 1940—Decision, July 6, 1942

Where a corporation and its president, engaged in interstate sale and distribution of their "SLENDODIDS" drug preparation; by advertisements in newspapers, circulars, and other advertising literature, directly and by implication—

Represented that their said preparation was a cure or remedy for obesity and constituted a safe, competent, and effective treatment therefor; and that use thereof "tones up the entire system," "Turns ugly Fat into Energy," and would relieve the body of excess fat without harmful effects;

The facts being it was not such a cure or safe, effective treatment for obesity; properties thereof were limited to effecting a reduction in weight through cathartic dehydration; and because of such action it might irritate the colon and rectum and tend to produce an irritation of the nervous system, resulting in serious injury to health;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such statements were true, and thereby induce purchase thereof:

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.

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. DeWitt T. Puckett for the Commission.

Mr. A. M. Mull, Jr., of Sacramento, Calif., 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 Gene Hughes Drug Stores, Inc., a corporation, also trading as Sacramento Pharmacal Co., and Eugene P. Hughes, an individual, trading as Sacramento Pharmacal Co., and as officer of Gene Hughes Drug Stores, Inc., 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, Gene Hughes Drug Stores, Inc., is a corporation organized, existing, and doing business under the laws of