

IN THE MATTER OF
CHARBOY PRODUCTS, INC.

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

Docket 4756. Complaint, May 1, 1942—Decision, Jan. 20, 1944

Where a corporation, engaged in the compounding and interstate sale and distribution of a medicinal preparation designated "Cuproloid"; in advertisements in newspapers and periodicals and by radio broadcasts, circulars, leaflets, pamphlets and other advertising literature—

Represented falsely that said product was a cure or remedy, and constituted a competent and effective treatment, for pimples, acne, eczema, athlete's foot, ringworm, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn; sterilized and healed and would keep the skin healthy; and had been scientifically tested and approved by competent medical authorities, and was extensively prescribed by the medical director of a large life insurance company;

Facts being that, according to the consensus of reliable medical opinion, said preparation "Cuproloid" had no therapeutic value in the treatment of athlete's foot, ringworm and eczema in excess of a slightly deterring effect upon the growth of fungus responsible therefor with which it came in contact, but, lacking any penetrating effect, could not come into contact with fungi embedded in the tissues; and other claims made therefor as aforesaid were false, misleading and deceptive;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby induce it to purchase its said preparation:

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

Mr. S. F. Rose for the Commission.

Dow & Lohnes, of Washington, D. C., 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 Charboy Products, Inc., a corporation, has violated the provisions of 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, Charboy Products, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New Jersey with its principal place of business located at Red Bank, N. J.

PAR. 2. The respondent, Charboy Products, Inc., a corporation, is now and has been for more than three years last past engaged in the compounding, selling and distribution of a certain medicinal preparation which it designates "Cuproloid," recommended for use in the treatment of various skin diseases and ailments. Respondent causes said medicinal preparation, when sold, to be transported from its aforesaid place of

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business in the State of New Jersey to purchasers thereof located in other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said preparation in commerce between and among the various States of the United States.

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

Here is good news for those afflicted with pimples or other itching skin infections. . . . Thousands of enthusiastic users praise its amazing results. It is called Cuproloid—you, too, can now get quick relief.

Acne—eczema and other similar surface skin troubles are quickly relieved by Cuproloid.

Cuproloid is thoroughly tried and proven treatment for—acne . athlete's foot . eczema . ringworm . surface ulcers . pimples from surface causes.

It is most efficient as the quick medical treatment for burns and painful sunburn as well as for poison ivy.

Cuproloid sterilizes and heals.

Depend on Cuproloid to keep your skin healthy.

Cuproloid is a—proven treatment . . .

Cuproloid is also the safe, rapid and dependable preparation to apply when the skin has been affected by bruises . insect bites . cuts . burns from heat and chemicals . ivy poisoning . sunburn.

—a scientifically approved preparation . . .

Cuproloid . . . is now being prescribed nationally by the medical director of one of the largest life insurance companies.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others of similar import not set forth herein, all of which purport to be descriptive of the therapeutic properties of respondent's said preparation, respondent represents, directly and by implication, that said medicinal preparation is a cure or remedy for and constitutes a competent and effective treatment of pimples, acne, eczema, athlete's foot, ringworm, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn; that it sterilizes, heals and will keep the skin healthy; that said preparation has been scientifically tested and proved by competent medical authorities and that it is extensively prescribed by the medical director of a large life insurance company.

PAR. 5. The aforesaid statements and representations are grossly exaggerated, false and misleading. In truth and in fact, respondent's medical preparation is not a cure or remedy for, and has no therapeutic value in the treatment of pimples, acne, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn. Said preparation has no therapeutic value in the treatment of athlete's foot and ringworm in excess of relieving the symptoms thereof and it has no therapeutic value in the treatment of eczema except in those cases where the condition is caused by fungus infection. Said preparation has not been scientifically tested and proved by competent medical authorities, nor has it been prescribed for use by a medical director of any life insurance company.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations and others of similar nature, disseminated as aforesaid, has had, and now 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 such statements, representations and advertisements are true and to induce a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said preparation.

PAR. 7. The aforesaid acts and practices of the 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 1st day of May, 1942, issued and served its complaint in this proceeding upon said respondent, Charboy Products, Inc., 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 June 10, 1942, 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 and Richard P. Whiteley, Assistant 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 now being 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, Charboy Products, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New Jersey with its principal place of business located at Red Bank, N. J.

PAR. 2. The respondent, Charboy Products, Inc., a corporation, has been for more than three years last past engaged in the compounding, selling and distribution of a certain medicinal preparation containing approximately 0.125% of colloidal copper suspended in an aqueous menstrum containing gelatin and salts, which is sold under the trade designation "Cuproloid," recommended for treatment of various skin diseases and ailments. Respondent caused said medicinal preparation, when sold, to be transported from its aforesaid place of business in the State of New Jersey to purchasers thereof located in other States of the United States. Respondent at all times mentioned herein has maintained a course of trade in its said preparation in commerce between and among the various States of the United States.

PAR. 3. Respondent, in the course and conduct of its business aforesaid, has disseminated and has caused the dissemination of, advertisements concerning its said medicinal preparation by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and has caused the dissemination of, advertisements concerning said medicinal preparation by various means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails, by advertisements inserted in newspapers and periodicals and by radio broadcasts, circulars, leaflets, pamphlets and other advertising literature, are the following:

Here is good news for those afflicted with pimples or other itching skin infections. . . . Thousands of enthusiastic users praise its amazing results. It is called Cuproloid—you, too, can now get quick relief.

Acne—eczema and other similar surface skin troubles are quickly relieved by Cuproloid.

Cuproloid is thoroughly tried and proven treatment for—acne . athlete's foot . eczema . ringworm . surface ulcers . pimples from surface causes.

It is most efficient as the quick medical treatment for burns and painful sunburn as well as for poison ivy.

Cuproloid sterilizes and heals.

Depend on Cuproloid to keep your skin healthy.

Cuproloid is a—proven treatment . . .

Cuproloid is also the safe, rapid and dependable preparation to apply when the skin has been affected by bruises . insect bites . cuts . burns from heat and chemicals . ivy poisoning . sunburn.

—a scientifically approved preparation . . .

Cuproloid . . . is now being prescribed nationally by the medical director of one of the largest life insurance companies.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and others of similar import not set forth herein, all

of which purport to be descriptive of the therapeutic properties of respondent's said preparation, respondent represented, directly and by implication, that said medicinal preparation is a cure or remedy for and constitutes a competent and effective treatment of pimples, acne, eczema, athlete's foot, ringworm, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn; that it sterilizes, heals and will keep the skin healthy; that said preparation has been scientifically tested and approved by competent medical authorities and that it was extensively prescribed by the medical director of a large life insurance company.

At the time of making the aforesaid statements and representations the respondent had not made or caused to be made scientific tests and experiments to determine the therapeutic properties of Cuprolid, nor had its use by the medical profession or by persons afflicted with the various skin diseases for which it was recommended by respondent been of an extent sufficient to ascertain the nature and extent, if any, of its medicinal properties.

The statements set out in paragraph 3 hereof were disseminated at various times during the year 1938 and a part of the year 1939, and were being made by the respondent at the time of the institution of the investigation concerning said claims by the Federal Trade Commission.

PAR. 5. Athlete's foot is a popular term used to denote a fungus infection of the feet, particularly between the toes. Fungi causing this infection often become embedded in the tissues. Ringworm is a popular term signifying fungus infection usually on other parts of the body. Eczema is a generic term used by skin specialists to cover all those inflammatory conditions, both acute and chronic, which produce lesions of the skin where it is difficult or impossible to determine the exact nature of the condition. Only a small percentage of cases of eczema are due to fungus infections.

The statements and representations made by the respondent concerning Cuprolid were false, misleading and deceptive. According to the consensus of reliable medical opinion, Cuprolid has no therapeutic value in the treatment of athlete's foot, ringworm and eczema in excess of having a slightly deterring effect upon the growth of fungus causing such conditions with which it comes in contact. It has no penetrating effect and will not come into contact with fungi which are embedded in the tissues. Cuprolid has no known curative properties or therapeutic value in the treatment of pimples, acne, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn. It has no sterilizing or healing properties nor will it keep the skin healthy. Said preparation has not been scientifically tested and approved by competent medical authorities nor has it been prescribed for use by a medical director of any life insurance company.

PAR. 6. The use by the respondent of the foregoing false and misleading statements and representations and others of similar nature, disseminated as aforesaid, has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements were true and induced a substantial portion of the purchasing public, because of such mistaken and erroneous belief, to purchase respondent's said preparation.

CONCLUSION

The aforesaid acts and practices of the 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 Richard P. Whiteley, Assistant Chief Counsel for the Commission, 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, Charboy Products, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or any other device in connection with the offering for sale, sale, or distribution of its medicinal preparation designated "Cuprolloid," or any other medicinal preparation of substantially similar composition, or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from:

1. 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, which advertisement represents, directly or through inference:

a. That respondent's preparation is a cure or remedy for pimples, acne, surface ulcers, skin bruises, insect bites, burns from heat and chemicals, poison ivy, and sunburn or that it has any therapeutic value in the treatment of said diseases or conditions;

b. That respondent's preparation possesses sterilizing or healing properties or that its use will keep the skin healthy;

c. That respondent's preparation has any therapeutic value in the treatment of athlete's foot, ringworm, or eczema in excess of slightly deterring the growth of fungi with which it comes in contact;

d. That respondent's preparation has been scientifically tested and approved by competent medical authorities or has been prescribed for use by the medical profession.

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 respondent's preparation, 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.

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IN THE MATTER OF

HELEN E. HOECK, TRADING AS HELENA VOLAY COSMETICS; AND CHICAGO UNION ADVERTISING AGENCY, INC.

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

Docket 4967. Complaint, May 26, 1943—Decision, Jan. 20, 1944

Where an individual engaged in the interstate sale and distribution of her cosmetic preparation "Helena Volay Face Oil," together with the corporation acting as her advertising agency; by advertisements in newspapers and periodicals and in circulars, leaflets, pamphlets and other advertising literature—

Represented falsely that use of said preparation improved the skin and caused it to become finer and more youthful looking, and was effective in the treatment of, and combated and prevented the formation of, wrinkles and sagging tissues;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and to induce it, because of such erroneous belief, to purchase substantial quantities of such preparation:

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

Mr. B. W. Stanley for the Commission.

COMPLAINT

Pursuant to 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 Helen E. Hoeck, an individual, trading as Helena Volay Cosmetics and Chicago Union Advertising Agency, Inc., a corporation, 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 in the interest of the public, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Helen E. Hoeck, is an individual, doing business under the trade name Helena Volay Cosmetics, with her principal place of business located at 421 Bazoobuth Street, Needles, Calif.

PAR. 2. Said respondent is now, and has been, for more than three years last past engaged in the sale and distribution of a cosmetic preparation designated Helena Volay Face Oil. The quantitative formula of said cosmetic is stated by respondent to be

Mineral Oil	11 oz.
Olive Oil	1 oz.
Benzoin	1 oz.
Lanolin	1 oz.
Bergamot Oil	1 oz.

In the course and conduct of her said business, respondent causes and has caused said cosmetic preparation, when sold, to be shipped or transported from her said place of business in the State of California to pur-