

IN THE MATTER OF  
SCIENTIFIC MANUFACTURING COMPANY, INC., AND  
HOWARD J. FORCE, LAWSON H. FORCE, AND LILLIAN B.  
FORCE, TRADING AS THE FORCE COMPANY

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

*Docket 4482. Complaint, June 12, 1942<sup>1</sup>—Decision, May 11, 1944*

Where an individual, acting through a corporation and its successor partnership, engaged in the manufacture and interstate sale and distribution of his "Pheno-Isolin" and "Pheno-Isolin Ointment," and "Dialin," for diabetes; in advertisements in newspapers and periodicals and by testimonial letters and other advertising literature—

- (a) Falsely represented that his said "Pheno-Isolin" preparations were powerful germicides and antiseptics, and had therapeutic value in the treatment of infectious conditions, such as ulcers, sores, boils, carbuncles, and abscesses; and of peritonitis, gangrene, and ulcerated cancer; and that the germicidal and antiseptic properties of the ointment—the same preparation as the other with the addition of a wax or paraffin base—were sufficient to make it of value in surgery and as surgical dressings;
- (b) Falsely represented that they were effective in the treatment of ankylosis or stiffening of the joints, and would cure coughs, colds, sore throat, sinus conditions, influenza, and other respiratory diseases, and diphtheria and septic sore throat;

The facts being they had no value in the treatment of joint conditions other than the benefit that might be received from massaging in the application thereof; to use or recommend them for use for diphtheria and septic sore throat would be dangerous; and claims made therefor were false;

- (c) Represented that their said preparations had therapeutic value in the treatment of athlete's foot; would relieve the burning and itching inflammation caused by said condition and help heal the irritated tissues; and were effective in the treatment of skin infections, eczema, and second-degree burns, and of hemorrhoids and piles;

The facts being that by reason of their oily content they might supply moisture which would help multiply the fungus responsible for athlete's foot; they were not competent treatment for skin diseases generally or of any value in the treatment of eczema as they would not reach the underlying cause; were contraindicated in the treatment of burns; and had no value in the treatment of hemorrhoids; and

- (d) Falsely represented that their "Dialin" was a competent and effective treatment for diabetes, which assisted the pancreas to produce insulin in the natural way and corrected abnormal conditions caused by diabetes, and that use thereof eliminated the necessity for the use of insulin;

The facts being there is no accepted treatment for diabetes other than diet and, if that is insufficient to reduce the blood-sugar level to normal, insulin administered by hypodermic injections adjusted to need of each patient; use of preparation in question, by reason of the mild diuretic action thereof would, by increasing the flow of urine, dilute the sugar so that its percentage would necessarily drop, but without affecting the blood-sugar level; and it might be definitely harmful to a patient suffering from diabetes, in that it would give a false sense of security and delay the inauguration of effective treatment;

<sup>1</sup> Amended and supplemental.

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such false and misleading statements were true and to induce it, because of such belief, to purchase such products:

*Held*, That aforesaid acts and practices, under 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. Randolph Preston*, trial examiner.

*Mr. Merle P. Lyon* and *Mr. William L. Pencke* for the Commission.

*Mr. George W. Ellis*, of Scranton, Pa., for respondents.

#### AMENDED AND SUPPLEMENTAL 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 Scientific Manufacturing Company, Inc., a corporation, and Howard J. Force, Lawson H. Force and Lillian S. Force, individually, and as copartners, trading as The Force Company, 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 amended and supplemental complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Scientific Manufacturing Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 426 Prescott Avenue in the city of Scranton, State of Pennsylvania. Respondent, Howard J. Force, is president of said corporate respondent, Scientific Manufacturing Company, Inc., and in said capacity has formulated, directed, controlled and dominated the practices and methods of said corporate respondent.

Respondents, Howard J. Force, Lawson H. Force and Lillian S. Force, are individuals, who since on or about October 1, 1941 and at all times subsequent thereto, have engaged and are now engaging in business as copartners, trading under the name and style of The Force Company, with their principal office and place of business located at 426 Prescott Avenue, in the city of Scranton, State of Pennsylvania.

Respondents are now, and have been during the times mentioned herein, engaged in the manufacture of medicinal products, including certain preparations designated Pheno-Isolin, Pheno-Isolin Ointment, and Dialin, and in the sale and distribution of such products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondents, being engaged in business as aforesaid, cause and have caused their said products, when sold, to be transported from their said place of business in the State of Pennsylvania to purchasers thereof located in the States of the United States other than the State of Pennsylvania, and in the District of Columbia. Respondents maintain, and at all times mentioned have maintained, a course of trade in their 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 their aforesaid business, the respondents have disseminated and are now disseminating, and have

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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, by advertisements in newspapers and periodicals, by testimonials, and by other advertising literature, are the following:

(With respect to Pheno-Isolin and Pheno-Isolin Ointment.)

Pheno-Isolin contains two percent of thymol, giving you a powerful agent to help destroy various kinds of bacteria, and is used with good results in surgical work as well as appendicitis, etc.

It is very rare to hear of a case of infection where Pheno-Isolin is used. The Ointment gives good results in dry skin conditions and rashes.

In cases of infection such as old ulcers, etc., Pheno-Isolin has often quickly healed them up, at the same time relieving the pain of burning sensation so often present.

You will find it an excellent preparation for treating various kinds of burns. Burns treated quickly with Pheno-Isolin show very little blistering as a rule. It is also widely used for treating sunburns. I have seen it used a number of times in treating poison ivy with splendid results. I have personally used it as well as many others for athlete's foot. It certainly makes short work of this condition in most instances.

As an adjunct for the relief of boils and carbuncles, apply freely on a pad, keeping the parts well covered with Pheno-Isolin.

For minor cuts, apply the Pheno-Isolin freely twice daily. For bruises, sprains, muscular pains or soreness, apply the Pheno-Isolin frequently.

Pheno-Isolin, being an oil, combines with all other oils and greases, and quickly penetrates to all the injured parts and so helps to destroy bacteria and promote healing.

I consider Pheno-Isolin a decided aid in cases of infection, including carbuncles, boils, abscesses, or a dressing on surgical wounds.

We have had a severe epidemic of flu, sore throat and Pheno-Isolin gave good results. Have just finished a very aggravated case of varicose ulcers, and it acted like a charm. I have also been getting very good results in a case of Ankylosis, following inflammatory rheumatism.

I know of no remedy that will clear up old, chronic, secondarily infected sores and ulcers so quickly and permanently as will Pheno-Isolin.

(With respect to Dialin)

The chemical formula of glucose or "grape sugar" ( $C_6H_{12}O_6$ ) is just double that of lactic acid ( $C_3H_6O_3$ ). If the chemical formula of lactic acid can be changed, its conversion into glucose will be prevented. Dialin, a safe colloidal alkaline product, is designed to effect this change. It helps eliminate thirst and reduce sugar in the blood in most cases.

Dialin has reduced the sugar in many cases of diabetes. It helps the pancreas to produce insulin in the natural way.

Diabetes is the result if the pancreas does not produce sufficient insulin. Dialin is made to try and correct this condition by giving certain elements in small doses. The first result noticed is the elimination of thirst, showing that the chemical reaction which

took place to cause the thirst has been checked. This would indicate that the pancreas is producing an increased quantity of insulin.

PAR. 4. Through the use of the foregoing representations, and others not specifically set out herein, the respondents have represented, directly or through inference, that their preparations Pheno-Isolin and Pheno-Isolin Ointment constitute competent and effective antiseptics and germicides; that they prevent infection and destroy bacteria; that said preparations possess substantial therapeutic value in the treatment of skin infections generally, ulcers, sores, boils, carbuncles, abscesses, wounds, burns, cuts, bruises, athlete's foot, eczema, gangrenous conditions, ankylosis, sore throat, nasal catarrh, infected tonsils, diphtheria, influenza, peritonitis and hemorrhoids.

PAR. 5. The preparation Pheno-Isolin is a mixture of essential oils such as pine oil, thymol, eucalyptus and camphor, in a base of linseed oil and resin, or resin oils. Pheno-Isolin Ointment is Pheno-Isolin made into an ointment by the addition of a base, such as paraffin, lanolin or petrolatum.

Respondents' representations with respect to the preparations Pheno-Isolin and Pheno-Isolin Ointment are grossly exaggerated, false and misleading. In truth and in fact, said preparations do not constitute competent or effective antiseptics or germicides. They are incapable of preventing infection or destroying bacteria. They do not possess any generally recognized material therapeutic value in the treatment of skin infections generally, ulcers, sores, boils, carbuncles, abscesses, wounds, burns, cuts, bruises, athlete's foot, eczema, gangrenous conditions, ankylosis, sore throat, nasal catarrh, infected tonsils, diphtheria, influenza, peritonitis or hemorrhoids.

PAR. 6. Through the use of the aforesaid representations with respect to the preparation Dialin, and other representations not specifically set out herein, the respondents have represented, directly or through inference, that said preparation Dialin constitutes a cure or remedy and a competent and effective treatment for diabetes; that it effects a chemical change in the blood so as to reduce the quantity of sugar in the blood; that it assists the pancreas to produce insulin in the natural way; that it eliminates the unnatural thirst of victims of diabetes and corrects other abnormal conditions of the body caused by diabetes.

PAR. 7. The preparation Dialin is represented by respondents to be a compound of magnesium carbonate, bicarbonate of soda, citric acid, rhubarb, ipecac, peppermint, glycerin, alcohol and small quantities of sodium sulphate, phosphate of iron, and sodium phosphate.

Said preparation does not constitute a cure or remedy for diabetes, nor does it possess any therapeutic value in the treatment of diabetes. It does not effect any chemical change in the blood with respect to the reduction of the quantity of sugar in the blood or with respect to any other condition of the blood. It is wholly incapable of assisting the pancreas to produce insulin. It does not eliminate the thirst of victims of diabetes, nor does it correct any other condition of the body caused by diabetes.

PAR. 8. Among the various pieces of advertising literature used by the respondents as aforesaid is a circular or leaflet captioned "What The Profession is Doing With Pheno-Isolin," and another circular or leaflet captioned "What They Say About Dialin." There appear in

such circulars purported statements or testimonials from physicians recommending respondents' preparations, each of such statements being preceded by some legend purporting to refer to a designated physician, as "Dr. F., Philadelphia, Pa." Through the use of such circulars and the purported testimonials contained therein, the respondents represent that their said preparations are used and recommended by the medical profession generally.

Such representations are grossly exaggerated, false and misleading. In truth and in fact, respondents' preparations are not used or recommended by the medical profession generally.

PAR. 9. The use by the respondents of the foregoing false, deceptive and misleading statements, representations and advertisements, disseminated as aforesaid, with respect to their said products, 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 such false statements, representations and advertisements are true, and to induce such portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said products.

PAR. 10. 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 April 5, 1941, issued and subsequently served its complaint in this proceeding upon the respondents, Scientific Manufacturing Company, Inc., a corporation, and Howard J. Force, an individual, 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, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, on June 12, 1942, the Commission issued and subsequently served an amended and supplemental complaint in this proceeding upon the respondents, Scientific Manufacturing Company, Inc., a corporation, and Howard J. Force, Lawson H. Force, and Lillian S. Force, individually, and as copartners, trading as The Force Company, 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 amended and supplemental complaint and the filing of respondents' answer thereto, additional testimony and other evidence in support of and in opposition to the allegations of said amended and supplemental complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and said additional testimony and other evidence were duly recorded and filed in the office of the Commission. Subsequent thereto, a stipulation was entered into between William L. Pencke, counsel for the Commission, and George W. Ellis, counsel for the respondents, dated October 30, 1943, which stipulation was subsequently approved and filed by the Commission on De-

ember 24, 1943. By the terms of said stipulation it was agreed that certain exhibits enumerated therein had been disseminated in commerce during the period from March 21, 1938, to October 1, 1941, by the respondent, Scientific Manufacturing Company, Inc., a corporation, and it was further agreed that the testimony and other evidence adduced at the hearings held in support of the allegations of the original complaint be received and considered, in so far as the same are material and competent and applicable to the parties respondent to the amended and supplemental complaint, in like manner and to the same effect as though said testimony and other evidence had been received at hearings held upon the charges contained in said amended and supplemental complaint and further reserving to the respondents all exceptions and objections to be considered in the final consideration of the matter by the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission upon the complaint and amended and supplemental complaint, answers filed thereto, testimony and other evidence, report of the trial examiner upon the evidence, briefs filed in support of the complaint and in opposition thereto, and stipulation as to the facts entered into between counsel for the Commission and counsel for the respondents dated October 30, 1943; 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, Howard J. Force, is an individual, with his office and principal place of business at 426 Prescott Avenue, Scranton, Pa. On or about October 13, 1919, said respondent, Howard J. Force, together with J. C. Fritts, organized the Scientific Manufacturing Company under the Fictitious Names Act of the State of Pennsylvania. Subsequent thereto, on December 24, 1919, the respondent, Scientific Manufacturing Company, Inc., was incorporated under the laws of the State of Pennsylvania, with its principal office and place of business located at 426 Prescott Avenue, city of Scranton, State of Pennsylvania.

Respondent, Howard J. Force, was at all times from the time of its incorporation until it ceased doing business on September 24, 1941, president and manager of the Scientific Manufacturing Company, Inc., a corporation, and formulated the policies and directed and controlled the practices and methods of said corporation. J. C. Fritts for a time was a stockholder and director of said corporation but did not take an active interest in the management of said corporation and subsequently sold his stock to the respondent, Howard J. Force, leaving as stockholders and directors of said corporation, respondents, Howard J. Force, Lawson H. Force, and Lillian S. Force. Respondent, Lillian S. Force, who is the wife of respondent, Howard J. Force, took no active interest in the business, and respondent, Lawson H. Force, who is the son of respondent, Howard J. Force, acted as secretary of the corporation and helped his father in office work, manufacture, packing, and shipping.

On September 24, 1941, by reason of a fraud order issued by the United States Post Office Department against the Scientific Manufacturing Company, Inc., a corporation, business under that identity was dis-

continued and the assets transferred to The Force Company, a co-partnership, consisting of respondents, Howard J. Force, Lillian S. Force, and Lawson H. Force. The Force Company was subsequently registered under the Fictitious Names Act of the State of Pennsylvania on November 19, 1941. Respondent, Lillian S. Force, continued to take no active interest in the business, and the duties of respondent, Lawson H. Force, continued the same as hereinabove described. Respondent, Howard J. Force, continued to manage the business conducted under the name of The Force Company, formulated its policies, and directed and controlled its activities.

In his management and domination of the Scientific Manufacturing Company, Inc., a corporation, and its successor, The Force Company, respondent, Howard J. Force, acted with the same freedom as though no corporation or partnership existed, and the Commission finds that the acts and practices hereinafter described were the acts and practices of the respondent, Howard J. Force, individually, performed by him through and by means of the corporate entity Scientific Manufacturing Company, Inc., and the subsequent partnership entity, The Force Company.

PAR. 2. In the course and conduct of his business as hereinbefore described, respondent, Howard J. Force, was engaged in the manufacture and in the sale and distribution of certain medicinal preparations, including "Pheno-Isolin," "Pheno-Isolin Ointment," and "Dialin," by and through the corporate entity Scientific Manufacturing Company, Inc., and in the manufacture, sale, and distribution of Pheno-Isolin and Pheno-Isolin Ointment by and through the partnership entity The Force Company. Respondent caused said products when sold to be transported from his place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in 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 his business in the manner and form as hereinabove described, the respondent, Howard J. Force, has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products by United States mails and by various other means in commerce as "commerce" is defined in the Federal Trade Commission Act; and in the course and conduct of his business in the manner and form as hereinabove described said respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said products by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of his 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 regarding Pheno-Isolin, Pheno-Isolin Ointment, and Dialin disseminated and caused to be disseminated by the respondent, Howard J. Force, by and through the corporate entity Scientific Manufacturing Company, Inc., prior to October 1, 1941, and by and through the partnership entity The Force Company regarding Pheno-Isolin and Pheno-Isolin Ointment subsequent to October 1, 1941, as hereinabove set forth were the following, which were disseminated by the United States mails, by advertise-

ments in newspapers and periodicals, by testimonials, circulars, and by other advertising literature:

1. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment are powerful germicides and antiseptics and will prevent infection and destroy bacteria.

2. That the germicidal and antiseptic properties of respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment are sufficient to be of value in surgery and as surgical dressings and that said preparations are effective in the treatment of peritonitis, gangrene, and ulcerated cancer.

3. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment are effective in the treatment of ankylosis, or stiffening of the joints.

4. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment have therapeutic value in the treatment of coughs, colds, sore throat, sinus conditions, influenza, and other respiratory diseases.

5. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment have therapeutic value in the treatment of diphtheria and septic sore throat and will cure such diseases and conditions.

6. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment have therapeutic value in the treatment of infections and infectious conditions, such as ulcers, sores, boils, carbuncles, and abscesses.

7. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment have therapeutic value in the treatment of athlete's foot and will relieve the burning and itching inflammation caused by this condition and help heal the irritated tissues.

8. That respondent's preparations Pheno-Isolin and Pheno-Isolin Ointment are effective in the treatment of skin infections, eczema, and second-degree burns.

9. That respondent's preparation Pheno-Isolin is effective in the treatment of hemorrhoids and piles.

10. That respondent's preparation Dialin is a competent and effective treatment for diabetes, that it assists the pancreas to produce insulin in the natural way, corrects abnormal conditions of the body caused by diabetes, and that its use eliminates the necessity for the use of insulin where the condition of diabetes exists.

PAR. 4. Said respondent's representations with respect to the preparations Pheno-Isolin and Pheno-Isolin Ointment are grossly exaggerated, false, and misleading. The preparation Pheno-Isolin is composed of thymol, pine oil, oil eucalyptus, oil sassafras, oil peppermint, camphor, linseed oil, and rosin. Pheno-Isolin Ointment is Pheno-Isolin made into an ointment by the addition of a wax or paraffin base.

Based upon the testimony of expert witnesses and upon tests made of said products which show that neither the undiluted liquid nor the ointment will kill the germ staphylococcus aureus in less than from 21 to 24 hours at 30° C., the Commission finds that under conditions of use these preparations have no germicidal or antiseptic value and are incapable of preventing infection or destroying bacteria. These preparations do not have sufficient antiseptic or germicidal properties to make them of value in surgery or as surgical dressings and have no therapeutic value whatsoever in the treatment of peritonitis, gangrene, ulcerated cancer, and other infectious conditions. There is nothing inherent in these preparations or their ingredients that has any intrinsic value in

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breaking up adhesions or changes which have taken place in a joint, producing ankylosis, and they have no value in the treatment of such condition other than the benefit that might be received from massaging in the application of the preparation. Neither of these preparations has any therapeutic value whatsoever in the treatment of coughs, colds, sore throat, sinus conditions, influenza, or other respiratory diseases. Pheno-Isolin and Pheno-Isolin Ointment have no therapeutic value in the treatment of diphtheria and septic sore throat, and it would be dangerous to use or recommend them for use in such conditions. These preparations do not have any therapeutic value in the treatment of ulcers, sores, carbuncles, boils, or abscesses. These preparations do not have any therapeutic value in the treatment of athlete's foot but, instead, because of their oily content, might supply moisture, which would help multiply the fungus associated with and causing athlete's foot. They do not constitute a competent or effective treatment for skin diseases generally and are of no value in the treatment of eczema, as they would not reach the underlying cause of this condition. These products have a mild rubefacient value and are contraindicated in the treatment of burns. Pheno-Isolin has no value in the treatment of hemorrhoids.

PAR. 5. Said respondent's representations with respect to the preparation Dialin are grossly exaggerated, false, and misleading. The preparation Dialin is composed of magnesium carbonate, bicarbonate of soda, citric acid, rhubarb, ipecac, peppermint, glycerine, alcohol, and small quantities of sodium sulphate, phosphate of iron, and sodium phosphate.

The Commission finds that respondent's preparation Dialin is not a competent or effective treatment for diabetes mellitus, commonly known as diabetes, and has no therapeutic value in the treatment of this condition. It will not assist the pancreas to produce insulin in the natural way, correct abnormal conditions of the body caused by diabetes, or eliminate the necessity of the use of insulin where the condition of diabetes exists.

PAR. 6. Diabetes mellitus is a disturbance of carbohydrate metabolism in which the blood sugar is elevated to abnormally high levels due to a decrease in the internal secretions of the pancreas.

Diabetes is diagnosed by proper tests made under appropriate conditions to determine the blood-sugar level and also by the appearance of sugar in the urine. The treatment consists of administration of proper diet. If that is insufficient to reduce the blood-sugar level to normal, insulin is given, which is administered by hypodermic injection. There is no accepted treatment for diabetes other than diet and insulin adjusted properly to meet the needs of each patient.

Said respondent's product Dialin has no effect on the essential diabetic disturbance. As it has a mild diuretic action, it may, by increasing the flow of urine, dilute the amount of sugar which has been discovered and by increasing the amount of urine the percentage of sugar would necessarily drop; but this would not affect the blood-sugar level. The use of this preparation may be definitely harmful to a patient suffering from diabetes, in that it would give a false sense of security and delay the inauguration of effective treatment.

The pancreas is a secreting gland which secretes certain enzymes into the digestive tract for the digestion of fat and protein and secretes chemical insulin into the blood stream for the handling of carbohydrates through all the body. Failure of the pancreas to secrete a sufficient amount of

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insulin for the purposes of the body results in the condition known as diabetes, and where there has been a deterioration in the pancreas it is necessary that needed insulin be supplied artificially.

Insulin is extracted from the pancreatic glands of animals. Its action, when administered hypodermically, is to supplement the insulin of the pancreas. In some cases it helps to revive the pancreas where no deterioration has taken place. In those cases where diet alone is not effective in restoring action of the pancreas, the failure to give insulin increases the severity of the diabetic condition. In such conditions there is nothing known to modern medicine which will supplant or replace the use of insulin.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid with respect to his said products 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 such false statements, representations, and advertisements are true, and has the capacity and tendency to induce such portion of the purchasing public, because of such erroneous and mistaken belief, to purchase such products.

## CONCLUSION

The aforesaid acts and practices of the respondent, Howard J. Force, 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 and amended and supplemental complaint of the Commission, answers of the respondents filed thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint and amended and supplemental complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, briefs filed in support of the complaint and amended and supplemental complaint and in opposition thereto, and stipulation as to the facts entered into between counsel for the Commission and counsel for the respondents dated October 30, 1943; and the Commission having made its findings as to the facts and its conclusion that respondent, Howard J. Force, has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That the respondent, Howard J. Force, an individual, and his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of his medicinal preparations designated "Pheno-Isolin," "Pheno-Isolin Ointment," and "Dialin," or any other preparation of substantially 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 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 Pheno-Isolin or his preparation Pheno-Isolin Ointment is a powerful germicide or antiseptic or that its use will prevent infection or destroy bacteria.

b. That the germicidal and antiseptic properties of respondent's preparations Pheno-Isolin or Pheno-Isolin Ointment are sufficient to be of value in surgery or as surgical dressings or that said preparations have any therapeutic value in the treatment of peritonitis, gangrene, or ulcerated cancer.

c. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment has any therapeutic value in the treatment of ankylosis, or stiffening of the joints.

d. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment has any therapeutic value in the treatment of coughs, colds, sore throat, sinus conditions, influenza, or other respiratory diseases.

e. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment has any therapeutic value in the treatment of diphtheria or septic sore throat.

f. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment has any therapeutic value in the treatment of infections or infectious conditions, such as ulcers, sores, boils, carbuncles, or abscesses.

g. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment has any therapeutic value in the treatment of athlete's foot or that its use will relieve the burning and itching inflammation caused by such condition or help heal the irritated tissues.

h. That respondent's preparation Pheno-Isolin or his preparation Pheno-Isolin Ointment constitutes a competent or effective treatment of skin infections, eczema, or burns.

i. That respondent's preparation Pheno-Isolin has any therapeutic value in the treatment of hemorrhoids or piles.

j. That respondent's preparation Dialin constitutes a competent or effective treatment for diabetes or has any therapeutic value in the treatment of diabetes.

k. That the use of respondent's preparation Dialin will assist the pancreas to produce insulin, correct abnormal conditions of the body caused by diabetes, or eliminate the necessity for the use of insulin where the condition of diabetes exists.

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 preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

*It is further ordered,* That this matter be, and the same hereby is, closed as to the corporate respondent, Scientific Manufacturing Company, Inc., and the individual respondents, Lillian S. Force and Lawson H. Force, without prejudice to the right of the Commission, should the facts so warrant, to reopen the same and resume trial thereof in accordance with its regular procedure.

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

## Complaint

IN THE MATTER OF  
AMERICAN ART CLAY COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (a) AND SUBSEC. (d) OF SECTION 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT APPROVED JUNE 19, 1936

*Docket 5049. Complaint, Sept. 17, 1948—Decision, May 12, 1944*

Where a corporation engaged in the manufacture and competitive interstate sale and distribution of crayons, chalk, paint sets, art materials, educational supplies and allied products to customers—

- (a) Discriminated in price between different purchasers by selling to some customers at higher prices than those at which it sold products of like grade and quality to others competitively engaged therewith, through granting, in addition to the general 50 per cent trade discount from list price, a 10 per cent discount to customers designated by it as "wholesalers" and "jobbers":

Effect of which discrimination in price had been and might be substantially to lessen competition in the line of commerce concerned; and to injure, destroy and prevent competition with it in the sale and distribution of said products, and to injure, destroy and prevent competition in the resale thereof between said favored customers and those to whom such discount was denied:

*Held*, That under said facts and circumstances, it discriminated in price in the sale of its products between different purchasers in violation of subsection (a) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act; and

Where said corporation, engaged as aforesaid—

- (b) Granted and allowed to certain customers designated by it as "promotional distributors" an additional 10 per cent discount in consideration of merchandising and selling services furnished by them in connection with the sale of its products, without making said secret discount or allowance available on proportionally equal terms to other customers who competed therewith and were able and willing to furnish same services and facilities:

*Held*, That such granting to favored customers of promotional allowances without making same available to competing customers on proportionally equal terms was in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

*Mr. John T. Haslett* for the Commission.

*Wise, Corlett & Canfield*, of New York City, for respondent.

## COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has, since June 19, 1936, violated and is now violating the provisions of subsections (a) and (d) of section 2 of the Clayton Act (U.S.C., title 15, section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows: