

Order

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IN THE MATTER OF
U. S. PRINTING & NOVELTY CO., INC., ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 5647. Order, Feb. 5, 1954

Order, following per curiam decision of the Court of Appeals and order of said Court dated June 4, 1953, 204 F. 2d 737, modifying the Commission's order issued on Sept. 4, 1952, Docket 5647, 49 F. T. C. 190, by substituting the words "*which are to be used, or which, due to their design, are suitable for use*" for the words "*which are designed or intended to be used*" in the sale or distribution of merchandise to the public by means of a game of chance, etc.

Before *Mr. Clyde M. Hadley* and *Mr. Abner E. Lipscomb*, hearing examiners.

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

Nash & Donnelly, of Washington, D. C., for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by a hearing examiner of the Federal Trade Commission upon the complaint of the Commission and respondents' substituted answer waiving the taking of testimony and other procedure; and said hearing examiner having filed his initial decision; and counsel for respondents having filed with the Commission an appeal from said initial decision; and the Commission having considered the proceeding upon the record herein, including briefs in support of and in opposition to the appeal; and the Commission, after granting said appeal in part and denying it in part, having made its findings as to the facts and conclusion drawn therefrom and on September 4, 1952, issued an order to cease and desist against respondents U. S. Printing & Novelty Co., Inc., Benjamin Blush, and Jack Blush, and an order dismissing the complaint as to respondent Hyman Abramowitz; and

Respondents U. S. Printing & Novelty Co., Inc., Benjamin Blush, and Jack Blush, having filed in the United States Court of Appeals for the District of Columbia Circuit their petition to review and set aside said order to cease and desist; and the Court having heard the matter on briefs and oral argument and having thereafter, on October 22, 1953, served upon the Commission an order dated June 4, 1953 (petition for writ of certiorari filed by respondents having been denied by the Supreme Court of the United States on October 12, 1953), modifying said order to cease and desist, and having thereafter, on November 18, 1953, entered another order enforcing, as modified, said order to cease and desist; and

The Commission being of the opinion that its order should be modified so as to accord with the aforesaid orders of the United States Court of Appeals for the District of Columbia Circuit:

It is ordered, Therefore, that respondent U. S. Printing & Novelty Co., Inc., a corporation, its officers, and respondents Benjamin Blush and Jack Blush, individually and as officers and directors of said corporate respondent, U. S. Printing & Novelty Co., Inc., and their respective representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, push cards, punchboards, or other lottery devices which are designed or intended to be used in the sale or distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That within thirty days after 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.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondent Hyman Abramowitz.

IN THE MATTER OF
I. Z. HARRIS AND PAULINE D. HARRIS DOING BUSINESS
AS VELTEX COMPANY

DECISION IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL
TRADE COMMISSION ACT

Docket 6125. Complaint, Oct. 13, 1953—Decision, Feb. 7, 1954

Where two partners engaged in the interstate sale and distribution of their "V-T" drug or medicinal preparation; in advertising, in newspapers, and by radio—

- (a) Represented that said preparation, taken as directed, was an adequate and effective treatment for and gave fast relief from symptoms and conditions of aches and pains;

The facts being it possessed no analgesic properties; the only type of ache or pain for which it would have any value would be one caused by a deficiency of Vitamin B₁ or Vitamin B₂, niacinamide, or iron, in which event the deficiency and its resultant symptoms, including aches and pains, would not be corrected until after days or even weeks of administration of the preparation according to directions;

- (b) Represented falsely that said preparation was an effective treatment for and gave fast relief from the symptoms and conditions of weakness, tiredness, loss of pep, nervousness, sleeplessness, nausea, headaches, and gas pains;
- (c) Represented as aforesaid that it would cause the rebuilding of rich red blood and red blood cells, and that it was an adequate vitamin and mineral dietary supplement which provided all the essential vitamins and minerals;

The facts being that the formation of red blood and red blood cells would be stimulated by it only where such a deficiency resulted solely from iron deficiency anemia; it did not supply the adult minimum daily requirements or calcium or phosphorus, did not supply the required minerals, iodine, or such essential vitamins as A, C, or D, and could not therefore be properly characterized as such a supplement; and

- (d) Falsely represented through reference to the yeast and liver extracts as ingredients, that the preparation contained sufficient quantities thereof to be of substantial therapeutic value;
- (e) Failed to reveal with equal conspicuousness and in immediate connection with the symptoms and conditions enumerated that their preparation was of value only when the symptoms were caused by deficiencies of Vitamins B₁, B₂, niacinamide, or iron:

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. Everett F. Haycraft*, hearing examiner.

Mr. Joseph Callaway for the Commission.

Leader, Tenenbaum, Perrine & Swedlaw, of Birmingham, Ala., for respondents.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated February 7, 1954, the initial decision in the instant matter of hearing examiner Everett F. Haycraft, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 13, 1953, issued and subsequently served its complaint in this proceeding upon 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. On November 12, 1953, respondents filed their answer through their attorneys, Leader, Tenenbaum, Perrine and Swedlow, in which answer they admitted all the material allegations of facts charged in the complaint and reserved the right to submit proposed findings and conclusions of fact or law and the right to appeal. Respondents stated in their answer that they had ceased from using the advertisements described in the complaint and had not used some of the same for a period of three years and others for a period of eighteen months. Thereafter, the proceeding regularly came on for final consideration by the above-named hearing examiner, therefore duly designated by the Commission, upon said complaint and answer thereto, proposed findings and conclusions submitted by counsel in support of the complaint, no proposed findings and conclusions having been filed by respondents although an opportunity was given them to do so, and said hearing examiner having duly considered the record herein finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents I. Z. Harris and Pauline D. Harris are individuals and copartners trading and doing business under the name of Veltex Company, with their office and principal place of business located at 1811 First Avenue North, Birmingham, Alabama.

PAR. 2. Respondents are now and, for several years last past have been, engaged in the business of selling and distributing a drug preparation as "drug" is defined in the Federal Trade Commission Act.

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The designation used by respondents for said preparation, and the formula and directions for use thereof, as furnished by them, are as follows:

Designation: "The New Improved V-T Preparation"

Formula:

Makes 500 Gallons.

Ferrous Gluconate.....	120 lbs.
Manganese Citrate.....	8 lbs., 13 ozs., 263 grains.
Calcium Hypophosphite.....	75 lbs., 9 ozs., 263 grains.
Copper Proteinate.....	3 ozs., 288 grains.
Liver Fraction, #1.....	10 lbs.
Yeast Extract, powd.....	10 lbs.
Thiamine Hydrochloride, (B ₁).....	759.0 GRAMS.
Riboflavin, (B ₂).....	166.1 GRAMS.
Niacinamide.....	1100.0 GRAMS.
Glycerine.....	2 Gals., 28½ fl. ozs.
Propylene Glycol.....	21 Gallons, 3 pints.
Citric Acid.....	32 lbs., 3 ozs., 88 grains.
Saccharine Soluble.....	1 lb., 11 ozs., 243 grains.
Caramel Color.....	6 Gallons, 12.8 fl. ozs.
Oil Sweet Orange Peel.....	25 fl. ozs.
Benzaldehyde.....	12 fl. ozs.
Butyl Parasept.....	8 ozs., 372 grains.
Methyl Parasept.....	22 ozs., 57 grains.
Hydrochloric Acid, Conc.....	113.5 c. c.
Distilled Water q. s. ad. 500 gallons.	

pH. 3.2 to 3.5

Directions for use: One tablespoonful three times daily, preferably taken in a little water, before meals. This will provide 10 milligrams of Vitamin B₁ and 145 milligrams of Iron (from Ferrous Gluconate). Suitable for use by both adults and children.

Shake well—Keep in a cool place.

Note: Iron preparations can darken the teeth.

Be sure to brush your teeth after taking.

PAR. 3. Respondents cause said preparations, when sold, to be transported from their place of business in the State of Alabama 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 substantial 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. 4. In the course and conduct of their aforesaid business, the respondents, for several years last past, have disseminated and have caused the dissemination of advertisements concerning their said preparation by United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, includ-

ing but not limited to newspapers of general circulation and radio continuities, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and respondents have also disseminated and caused the dissemination of advertisements concerning said preparation by various means including, but not limited to, the media aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical, but not all inclusive of the statements and representations disseminated and caused to be disseminated, as hereinabove set forth, are the following:

IS YOUR BODY
DRAINED OF PEP
FEEL WEAK, ½ SICK,
TIRED, NERVOUS?

THEN TRY V-T.

Medical science knows certain vitamins and minerals are necessary for the body to function its best. You must have iron for the building of rich, red blood. You must have vitamins B-1, and B-2, copper for stimulation of red blood cells, phosphorous for metabolism of carbohydrates. Well, wonderful V-T contains all these PLUS yeast and liver extract, niacin, calcium, and manganese. When your system lacks its minerals and iron, and you feel pepleless, have aches and pains, are nervous, can't sleep or eat, feel half sick, weak and rundown, the V-T balanced formula is your guarantee there's nothing finer nor faster.

ACHES, PAINS
FEELS
WEAK
RUNDOWN

It is a fact that the body must have the vitamins and minerals of V-T in sufficient amount to function properly. Lack of B-1 can cause weakness. Lack of B-2 may impair generally good health. Lack of niacin may bring nausea, headaches, nerves. Lack of iron prevents building of sufficient rich red blood. Now V-T contains not only these (including yeast and liver extract) but manganese, copper, calcium and phosphorous as well. V-T as you see is not a patent medicine, it is a most modern and efficient dietary supplement that has brought great hope to many sufferers. G. M. McCullum writes, "For several years I suffered from a weak and rundown condition. I suffered from gas pains and headaches. Nothing seemed to help me until I started taking V-T. Now I feel fine again". If your condition, like Mr. McCullum's is due to lack of V-T's vitamins and minerals, try V-T today on the guarantee of satisfaction or money back. There's nothing FINER or FASTER. That's why thousands say, "It's V-T for me".

	FOR RUNDOWN
NEW	TIRED, NERVOUS
HOPE	WEAK, SICKLY

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FIRST FEW DOSES MUST OVERJOY OR
MONEY BACK

Here is why the wonderful V-T offers you so much new hope when your condition is due to the lack of V-T's great vitamins and minerals. V-T is not a patent medicine. Neither is it just an ordinary dietary supplement. In the scientifically balanced V-T formula are niacin, B₁, B₂, yeast and liver extract, rich red blood building, iron, calcium, phosphorus, manganese and copper. Compare this with whatever you are taking and you can see for yourself why V-T is used by thousands. Reverend E. E. Jones of Attala, Alabama, writes, "V-T has pepped me up so much I feel like a new person. I cannot praise V-T enough." Now why don't you too try V-T if you suffer from lack of V-T's vitamins and iron. You owe it to yourself and family to feel as fit as you can.

PAR. 6. Through the use of the statements and representations contained in the advertisements hereinabove set forth and others of similar import and meaning, but not specifically set out herein, respondents have represented directly and by implication:

That said preparation, taken as directed, is an adequate and effective treatment for and gives fast relief from the symptoms and conditions of aches, pains, weakness, tiredness, loss of pep, nervousness, sleeplessness, nausea, headache and gas pains; that it will cause the rebuilding of rich red blood and red blood cells; that it is an adequate vitamin and mineral dietary supplement, providing all the essential vitamins and minerals. By the reference to yeast and liver extract in the advertising as ingredients of the preparation, respondents have represented that the preparation contains sufficient quantities of these ingredients to be of substantial therapeutic value.

PAR. 7. The aforesaid statements and representations are misleading in material respects and constitute "false advertisements", as that term is defined in the Federal Trade Commission Act. In truth and in fact, respondents' preparation possesses no analgesic properties and the only type of ache or pain for which it would have any value whatsoever is one caused solely by a deficiency of Vitamin B₁ or Vitamin B₂, niacinamide, or iron and in these cases the deficiency and its resultant symptoms, including aches and pains, would not be corrected until after days or even weeks of administration of the preparation according to directions. The preparation would have no value whatsoever in the vast majority of aches and pains. Said preparation, taken as directed, is of no therapeutic value in the treatment of weakness, tiredness, loss of pep, nervousness, sleeplessness, nausea, headache or gas pains except in those instances when such symptoms or conditions are the result of Vitamin B₁, Vitamin B₂, niacinamide or iron deficiencies. Even in those cases, the preparation would not give fast relief from the symptoms and conditions enumerated and if any benefit is to be derived from taking the preparation, it must be administered over a

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considerable period of time. Each of the above symptoms and conditions may result from a number of causes having no connection with such deficiencies.

Said preparation does not supply the adult minimum daily requirements of calcium or phosphorus. It does not supply iodine, a required mineral, or such essential vitamins as A, C, or D. Said preparation cannot, therefore, be properly characterized as an adequate vitamin and mineral dietary supplement. The formation of red blood and red blood cells would be stimulated by the preparation only where a deficiency of such blood and cells results solely from iron deficiency anemia. The yeast and liver extract in the preparation are not in sufficient quantities to be of any substantial therapeutic value.

PAR. 8. The use by the respondents of the foregoing false advertisements and the false, misleading and deceptive statements and representations contained therein, 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 said statements and representations are true and into the purchase of substantial quantities of said preparation because of said erroneous and mistaken belief.

Furthermore, failure of respondents to reveal, with equal conspicuousness and in immediate connection with the symptoms and conditions named in the advertisements, that their preparation is of value for the treatment of those symptoms and conditions only when they are caused by deficiencies of Vitamin B₁, B₂, niacinamide or iron, has the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that respondents' preparation is an adequate and effective treatment for such symptoms and conditions, regardless of the cause.

CONCLUSION

The aforesaid acts and practices as hereinabove set out 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

It is ordered, That the respondents I. Z. Harris and Pauline D. Harris, individually and as copartners, trading and doing business under the name of Veltex Company, their officers, representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of a drug preparation known and designated as "The New Improved

V-T Preparation" or any other similar drug in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. 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 by implication:

(a) That said preparation is of any therapeutic value in the treatment of aches, pains, weakness, tiredness, loss of pep, nervousness, sleeplessness, nausea, headache or gas pains, unless it is revealed with equal conspicuousness and in immediate connection with any reference to the aforesaid symptoms or conditions, that said preparation is of value for such symptoms or conditions only when they are caused by deficiencies of Vitamins B₁, B₂, niacinamide, or iron;

(b) That said preparation gives fast relief from any of the symptoms or conditions enumerated in subparagraph (a) hereof;

(c) That said preparation is an adequate vitamin or mineral supplement, or provides all the essential vitamins or minerals;

(d) That the quantities of yeast or liver extract contained in said preparation are sufficient to be of substantial therapeutic value;

(e) That the formation of red blood, or red blood cells, will be stimulated by said preparation, unless the representation be expressly limited to cases where a deficiency of such blood or blood cells has resulted solely from iron deficiency anemia;

II. Disseminating or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph I above, or which fails to comply with the affirmative requirements set forth in subparagraphs (a) and (e) of Paragraph I above.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall within sixty (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 the order to cease and desist [as required by said declaratory decision and order of February 7, 1954].

Consent Settlement

IN THE MATTER OF

JOE FRIED WOOLEN CORPORATION ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND THE WOOL PRODUCTS LABELING ACT

Docket 6144. Complaint, Nov. 18, 1953—Decision, Feb. 9, 1954

Where a corporation and its president, engaged in jobbing and selling at wholesale wool fabrics purchased from manufacturers in other states—

- (a) With intent to violate the provisions of the Wool Products Labeling Act, participated in and caused the removal of stamps, tags, labels, or other means of identification which had been affixed to certain of said woolen fabrics which purported to contain the information required by the said Act and the Rules and Regulations promulgated thereunder to be affixed thereto, and
- (b) Misbranded certain of said wool products in that, following the receipt and removal of the original manufacturer's tags, etc., as aforesaid, they falsely and deceptively labeled and tagged the same with respect to the character and amount of the constituent fibers contained therein and thus misbranded woolen fabrics or piece goods containing substantial quantities of fibers other than wool as "100% Wool":

Held, That such acts and practices and methods, under the circumstances set forth, were in violation of the Wool Products Labeling Act and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. John Lewis*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

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

CONSENT SETTLEMENT ¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission, on November 18, 1953, issued and subsequently served its complaint upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in violation of the provisions of said Acts.

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on February 9, 1954 and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.