

IN THE MATTER OF
PHOENIX PHARMACEUTICAL COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 8397. Complaint, May 15, 1961—Decision, Oct. 5, 1961

Consent order requiring two associated concerns in Hartford, Conn.—one the retail outlet for the other—to cease representing falsely in advertising in newspapers, circulars, magazines, etc., that their various vitamin preparations were U.S. Government standard formulations, and that they would be beneficial in the treatment of such conditions as excessive fatigue, nervous irritability, low resistance, etc., as in the order below in detail set out.

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 Phoenix Pharmaceutical Company, a corporation, The Vitamin Center, Inc., a corporation, and Aaron Honiberg and Julian Gross, individually and as officers of both of the aforesaid corporations, 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 public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Phoenix Pharmaceutical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut with its principal office and place of business located at 1001 Albany Avenue in the City of Hartford, Connecticut.

Respondent The Vitamin Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1001 Albany Avenue in the City of Hartford, Connecticut. This said corporate respondent is a subsidiary of corporate respondent Phoenix Pharmaceutical Company, and is a distributor and retail outlet for corporate respondent Phoenix Pharmaceutical Company in connection with the advertising and sale of various preparations described below.

Respondents Aaron Honiberg and Julian Gross are officers of both corporate respondents. They formulate, direct and control the acts and practices of both of the corporate respondents, including the acts and practices hereinafter set forth. The address of respondent Aaron Honiberg is the same as that of corporate respondents Phoenix Pharmaceutical Company and The Vitamin Center, Inc. The address of respondent Julian Gross is 770 Asylum Avenue, Hartford, Connecticut.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the sale and distribution of various preparations containing ingredients which come within the classification of food, as the term "food" is defined in the Federal Trade Commission Act.

The designations used by respondents for certain of their said preparations, the formulas thereof and directions for use are as follows:

1. Designation: "Vitagran-Formulation No. 115"

Formula: Each capsule contains:

Vitamin A----- 25,000 USP Units

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Vitamin D.....	1,000 USP Units
Thiamine Chloride.....	10 mg.
Riboflavin	5 mg.
Ascorbic Acid.....	150 mg.
Niacinamide	150 mg.

Directions: Average adult dose. One capsule daily or as directed by a physician.

2. Designation: "Phoenix No. 215 Vitagran-Forte"

Formula: Each capsule contains:

Vitamin A (Palmitate).....	25,000 USP Units
Vitamin D (Irradiated Ergosterol).....	1,000 USP Units
Vitamin B ₁ (Thiamine Mononitrate).....	10 mg.
Vitamin B ₂ (Riboflavin).....	10 mg.
Vitamin C (Ascorbic Acid).....	200 mg.
Niacinamide	100 mg.
Vitamin B ₆ (Pyridoxine HCl).....	5 mg.
Calcium Pantothenate.....	20 mg.
Vitamin B ₁₂ (Cobalamin Conc. N.F.).....	5 mcg.

Directions: Adults—One capsule daily, or as directed by physician.

3. Designation: "Phoenix No. 116 Multi-Thera"

Formula: Each tablet contains:

Vitamin A (Acetate).....	25,000 USP Units
Vitamin D (Calciferol).....	1,000 USP Units
Vitamin B ₁ (Thiamine Mononitrate).....	10 mg.
Vitamin B ₂ (Riboflavin).....	10 mg.
Niacinamide	100 mg.
Vitamin B ₆ (Pyridoxine HCl).....	5 mg.
Vitamin B ₁₂ (Cobalamin Conc.).....	5 mcg.
Vitamin C (Ascorbic Acid).....	200 mg.
d-Calcium Pantothenate.....	20 mg.
Vitamin E (d- α -Tocopherol Acid Succinate).....	5 Int. Units
Vitamin K (Menadione).....	1 mg.
Calcium (as Carbonate).....	105 mg.
Iron (Ferrous Sulfate Exsiccated).....	15 mg.
Copper (as Sulfate).....	1 mg.
Manganese (as Sulfate).....	1 mg.
Magnesium (as Sulfate).....	6 mg.
Potassium (as Sulfate).....	5 mg.
Zinc (as Sulfate).....	1.5 mg.

Directions: Adults—One tablet daily, or as directed by physician.

4. Designation: "#110 Vegerol", a combination preparation consisting of (a) "Phoenix No. 110A Vegerol Vitamin Capsules" and (b) "Phoenix No. 110B Vegerol Mineral Tablets"

Formula: (a) "Phoenix No. 110A Vegerol Vitamin Capsules."

Each capsule contains:

Vitamin A (Acetate).....	12,500 USP Units
Vitamin D (Calciferol).....	1,250 USP Units
Vitamin B (Thiamine HCl).....	12.5 mg.
Vitamin B ₂ (Riboflavin).....	5.0 mg.
Vitamin B ₆ (Pyridoxine HCl).....	2.5 mg.

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Vitamin B ₁₂ (Activity)-----	2.5 mcg.
Vitamin C (Ascorbic Acid)-----	100 mg.
Vitamin E (Wheat Germ Oil)-----	5.0 mg.
Niacinamide -----	79.1 mg.
Folic Acid-----	0.4 mg.
Calcium Pantothenate-----	12.5 mg.
Liver Desiccated-----	25 mg.
Brewers Yeast-----	21 mg.
dl-Methionine -----	3.34 mg.
Choline Bitartrate-----	32.5 mg.
Inositol and Vegerol Conc. of Watercress, Parsley and Alfalfa-----	25 mg.

Directions: Adults—One or two Vegerol Vitamin Capsules with one or two Vegerol Mineral Tablets daily taken at breakfast with fruit juice or water.

Formula: (b) "Phoenix No. 110B Vegerol Mineral Tablets"

Each tablet contains:

Calcium (Dicalcium Phosphate)-----	66 mg.
Phosphorus (Dicalcium Phosphate)-----	47 mg.
Iodine (Potassium Iodide)-----	.033 mg.
Iron (Ferrous Sulfate)-----	6.7 mg.
Copper (as Sulfate)-----	.34 mg.
Magnesium (as Sulfate)-----	5.84 mg.
Potassium (as Sulfate)-----	21 mg.
Biotin -----	4.2 mg.
Betaine -----	3.34 mg.
Manganese (as Sulfate)-----	.5 mg.
Rutin -----	8.3 mg.
Zinc (as Sulfate)-----	.34 mg.
Vitamin B ₁₂ (Activity)-----	4.1 mcg.
Vitamin K (Menadione)-----	.17 mg.
Niacinamide -----	0.8 mg.
dl-Methionine -----	3.34 mg.
Para Aminobenzoic Acid-----	3.3 mg.
Liver Desiccated-----	8.34 mg.
Brewers Yeast and Vegerol Conc. of Watercress, Parsley and Alfalfa-----	21 mg.

Directions: Adults—One or two Vegerol Vitamin Capsules with one or two Vegerol Mineral Tablets daily taken at breakfast with fruit juice or water.

5. Designation: "#114 Stressvite"

Formula: Each Stressvite supplies:

Thiamin HCl-----	10 mgm.
Riboflavin -----	10 mgm.
Niacinamide -----	100 mgm.
Calcium Pantothenate-----	20 mgm.
Ascorbic Acid-----	300 mgm.
Pyridoxine HCl-----	2 mgm.
Folic Acid-----	1.5 mgm.
Vitamin B ₁₂ (Oral Conc. from streptomyces fermentation extractives)-----	4 mcgm.

Directions: Adults—One tablet daily, or as directed by physician.

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6. Designation: "Phoenix #117 B-Plexol"

Formula: Each B-Plexol tablet supplies:

Vitamin B ₁	15 mg.
Vitamin B ₂	6 mg.
Vitamin B ₆	0.5 mg.
Vitamin B ₁₂	3 mcg.
Vitamin C.....	30 mg.
Vitamin E.....	5 mg.
Niacinamide	10 mg.
Calcium Pantothenate.....	3 mg.
Folic Acid.....	0.1 mg.
Whole Dried Liver.....	100 mg.
Yeast	100 mg.
Choline.....	20 mg.
Inositol.....	20 mg.
dl-Methionine	20 mg.
Dicalcium Phosphate.....	200 mg.
Ferrous Gluconate.....	30 mg.
Potassium Iodide.....	0.15 mg.
Magnesium Sulfate.....	7.2 mg.
Copper Sulfate.....	5.0 mg.
Manganese Sulfate.....	3.4 mg.
Cobalt Sulfate.....	0.2 mg.
Potassium Chloride.....	1.3 mg.

Directions: Adults—One tablet daily, or as directed by physician.

7. Designation: "#119 Super-Plex"

Formula: Each Super-Plex supplies:

Thiamine Mononitrate (B ₁).....	25.0 mg.
Riboflavin (B ₂).....	12.5 mg.
Nicotinamide	75.0 mg.
Pyridoxine HCl (B ₆).....	3.0 mg.
Calcium Pantothenate.....	10.0 mg.
Absorbic Acid (C).....	250.0 mg.
Vitamin B ₁₂ Crystalline with Intrinsic Factor Concentrate	0.11 USP Units

Directions: Adults—One tablet daily, or as directed by physician.

8. Designation: "#310 Vegerol Plus B-Plexol"

Formula: (This preparation is a combination of three (3) preparations: (1) "Phoenix No. 110A Vegerol Vitamin Capsules" and (2) "Phoenix No. 110B Vegerol Mineral Tablets", the formulas and directions for use of which are set out on pages 758 and 759 supra, and (3) "Phoenix #117 B-Plexol", the formula and directions for use of which are set out above supra).

9. Designation: "#50 Gerichol"

Formula: Each capsule contains:

Vitamin A (Palmitate).....	12,500 USP Units
Vitamin D (Irradiated Ergosterol).....	1,000 USP Units
Thiamine Mononitrate.....	5 mg.
Riboflavin	2.5 mg.
Niacinamide	40 mg.
Pyridoxine Hydrochloride.....	0.5 mg.
Calcium Pantothenate.....	4 mg.
Folic Acid.....	0.5 mg.

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Vitamin B ₁₂	1 mcg.
Ascorbic Acid.....	75 mg.
Vitamin E (from d-Alpha Tocopherol Acetate Conc.)	2 Int'l. Units
Choline Bitartrate.....	31.4 mg.
dl-Methionine	10 mg.
Inositol	15 mg.
Calcium (from Dicalcium Phosphate).....	75 mg.
Phosphorus (from Dicalcium Phosphate).....	58 mg.
Iron (from Ferrous Sulfate).....	30 mg.
Cobalt (from Cobalt Sulfate).....	0.04 mg.
Copper (from Copper Sulfate).....	0.45 mg.
Iodine (from Potassium Iodine).....	0.075 mg.
Magnesium (from Magnesium Sulfate).....	3 mg.
Molybdenum (from Sodium Molybdate).....	0.1 mg.
Manganese (from Manganese Sulfate).....	0.5 mg.
Potassium (from Potassium Sulfate).....	2 mg.
Zinc (from Zinc Sulfate).....	0.5 mg.
Safflower Oil.....	340 mg.

Directions: One or two daily at breakfast—or as directed by physician.

10. Designation: "Geri-Aids—Formulation No. 108"

Formula: Each Geri-Aids contains:

Thiamin Chloride.....	15 mgm.
Riboflavin	6 mgm.
Pyridoxine HCl.....	0.5 mgm.
Ascorbic Acid.....	30 mgm.
Calcium Pantothenate.....	3 mgm.
Niacinamide	15 mgm.
Alpha Tocopherol Acetate.....	0.8 mgm.
Liver Whole Desiccated.....	100 mgm.
Brewer's Yeast.....	15 mgm.
Vitamin B ₁₂ Oral Conc. (from streptomyces fer- mentation extractives).....	5 mcgm.
Dicalcium Phosphate.....	300 mgm.
Choline Dihydrogen Citrate.....	20 mgm.
Inositol	20 mgm.
dl-Methionine.....	20 mgm.
Folic Acid.....	0.1 mgm.
Rutin	10 mgm.
Cobalt Sulphate.....	0.2 mgm.
Potassium Iodide.....	0.14 mgm.
Magnesium Sulfate dried.....	8 mgm.
Copper Sulfate dried.....	5 mgm.
Potassium Sulfate.....	5 mgm.
Sodium Molybdate.....	0.5 mgm.
Ferrous Gluconate.....	30 mgm.

Directions: One Geri-Aids daily or as directed by physician.

PAR. 3. Respondents cause the said preparations, when sold, to be transported from their place of business in the State of Connecticut to purchasers thereof located in various other states of the United States

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and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparations by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in circulars, brochures, newspapers, magazines and other advertising media, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said preparations; and have disseminated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated, as hereinabove set forth, are the following:

VITAMINS FOR YOUNG AND OLD * * * ON GUARANTEED GOVERNMENT STANDARD FORMULATIONS

For years, all the formulations below have been prescribed by physicians for vitamin deficiencies symptomatized by EXCESSIVE FATIGUE, NERVOUS IRRITABILITY, RESTLESS SLEEP, LOW RESISTANCE, LOSS OF APPE-TITE— * * *

#115 VITAGRAN
#215 VITAGRAN FORTE
#116 MULTI-THERA

The formulations below * * * are generally prescribed by physicians for B-Complex deficiencies resulting in LACK OF PEP, WEAKNESS OR TIRED-NESS, NERVOUSNESS, DIGESTIVE DIFFICULTIES. * * *

#114 STRESSVITE
#117 B-PLEXOL
#119 SUPER-PLEX
Underweight? Exhausted? Aging?
Special Combination Offer
#310 VEGEROL PLUS B-PLEXOL
* * *

Contains high potencies of the lipotropic and other factors which help to restore * * * youthful vitality and appearance.

The formulation below * * * can contribute greatly in cases of vitamin deficiency exhibiting such symptoms as:

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PREMATURE AGING
 RESTLESS SLEEP
 NERVOUS IRRITABILITY
 LOSS OF STRENGTH
 POOR DIGESTION
 #110 VEGEROL
 * * *

It also provides desirable potencies of Choline and Inositol for helping improve liver function and fat metabolism.

#50 Gerichol. * * * Gerichol is a dramatic contribution to the fields of geriatric and heart medicine. * * * helps the blood keep its cholesterol level low. In addition to lowering blood cholesterol levels * * *.

#108 Geri-Aids * * * Contains Choline and Inositol for improved liver function and fat metabolism.

PAR. 6. Through the use of the said advertisements and others similar thereto not specifically set out herein, respondents have represented, and are now representing, directly and by implication:

(a) That their preparations are United States Government standard formulations.

(b) That "Vitagran- Formulation No. 115," "Phoenix No. 215 Vitagran-Forte" and "Phoenix No. 116 Multi-Thera" will be of benefit in the treatment of excessive fatigue, nervous irritability, restless sleep, low resistance and loss of appetite.

(c) That "#114 Stressvite," "Phoenix #117 B-Plexol" and "#119 Super-Plex" will be of benefit in the treatment of lack of pep, weakness, tiredness, nervousness and digestive difficulty.

(d) That "#310 Vegerol Plus B-Plexol" will be of benefit in the treatment of underweight, exhaustion, premature aging and loss of youthful vitality and appearance.

(e) That "#110 Vegerol":

(1) Will be of benefit in the treatment of premature aging, restless sleep, nervous irritability, loss of strength and poor digestion; and

(2) Will improve liver function and fat metabolism.

(f) That "#50 Gerichol" will be of benefit in the treatment of cardiac conditions, and will lower the blood cholesterol level.

(g) That "Geri-Aids—Formulation No. 108" will improve liver function and fat metabolism.

PAR. 7. The said advertisements were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

(a) None of respondents' preparations are United States Government standard formulations.

(b) Neither "Vitagran—Formulation No. 115", "Phoenix No. 215 Vitagran-Forte" nor "Phoenix No. 116 Multi-Thera" will be of benefit

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in the treatment of excessive fatigue, nervous irritability, restless sleep, low resistance or loss of appetite except in a small minority of persons whose excessive fatigue, nervous irritability, restless sleep, low resistance and loss of appetite are symptoms of an established deficiency of one or more of the nutrients provided by these said preparations.

Furthermore, the statements and representations have the capacity and tendency to suggest and do suggest to persons who suffer excessive fatigue, nervous irritability, restless sleep and loss of appetite, and who have low resistance, that there is a reasonable probability that they have symptoms which will respond to treatment by the use of "Vitagran—Formulation No. 115," "Phoenix No. 215 Vitagran-Forte" or "Phoenix No. 116 Multi-Thera." In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material fact that in the great majority of persons who suffer excessive fatigue, nervous irritability, restless sleep and loss of appetite, and who have low resistance, these symptoms are not caused by an established deficiency of one or more of the nutrients provided by "Vitagran—Formulation No. 115", "Phoenix No. 215 Vitagran-Forte" or "Phoenix No. 116 Multi-Thera," and that in such cases these said preparations will be of no benefit.

(c) Neither "#114 Stressvite," "Phoenix #117 B-Plexol" nor "#119 Super-Plex" will be of benefit in the treatment of lack of pep, weakness, tiredness, nervousness or digestive difficulty, except in a small minority of persons whose lack of pep, weakness, tiredness, nervousness and digestive difficulty are symptoms of an established deficiency of one or more of the nutrients provided by these preparations.

Furthermore, the statements and representations have the capacity and tendency to suggest and do suggest to persons who suffer lack of pep, weakness, tiredness, nervousness and digestive difficulty that there is a reasonable probability that they have symptoms which will respond to treatment by the use of "#114 Stressvite," "Phoenix #117 B-Plexol" or "#119 Super-Plex". In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material fact that in the great majority of persons who suffer lack of pep, weakness, tiredness, nervousness or digestive difficulty, these symptoms are not caused by an established deficiency of one or more of the nutrients provided by "#114 Stressvite,"

"Phoenix #117 B-Plexol" or "#119 Super-Plex", and that in such cases these said preparations will be of no benefit.

(d) "#310 Vegerol Plus B-Plexol" will not be of benefit in the treatment of underweight, exhaustion, premature aging or loss of youthful vitality or appearance except in a small minority of persons whose underweight, exhaustion, premature aging or loss of youthful vitality or appearance are symptoms of an established deficiency of one or more of the nutrients provided by this said preparation.

Furthermore, the statements and representations have the capacity and tendency to suggest and do suggest to persons who are underweight and exhausted and who suffer premature aging and loss of youthful vitality and appearance that there is a reasonable probability that they have symptoms which will respond to treatment by the use of "#310 Vegerol Plus B-Plexol". In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material fact that in the great majority of persons who are underweight and exhausted and who suffer premature aging and loss of youthful vitality and appearance these symptoms are not caused by an established deficiency of one or more of the nutrients provided by "#310 Vegerol Plus B-Plexol" and that in such cases this said preparation will be of no benefit.

(e) "#110 Vegerol"—

(1) Will not be of benefit in the treatment of premature aging, restless sleep, nervous irritability, loss of strength or poor digestion except in a small minority of persons whose premature aging, restless sleep, nervous irritability, loss of strength and poor digestion are symptoms of an established deficiency of one or more of the nutrients provided by this said preparation.

Furthermore, the statements and representations have the capacity and tendency to suggest, and do suggest, to persons who suffer premature aging, restless sleep, nervous irritability, loss of strength and poor digestion that there is a reasonable probability that they have symptoms which will respond to treatment by the use of "#110 Vegerol". In the light of such statements and representations, said advertisements are misleading in a material respect and therefore constitute "false advertisements" as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material fact that in the great majority of persons who suffer premature aging, restless sleep, nervous irritability, loss of strength and poor digestion, these symptoms are not caused by an established deficiency of one or more of the nutrients provided by "#110 Vegerol", and that in such cases this said preparation will be of no benefit; and

- (2) Will not improve liver function or fat metabolism.
- (f) "#50 Gerichol" will not be of benefit in the treatment of cardiac conditions, and will not lower the blood cholesterol level.
- (g) "Geri-Aids—Formulation No. 108" will not improve liver function or fat metabolism.

PAR. 8. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Berryman Davis for the Commission.

Gersten, Butler & Gersten, Hartford, Conn., for respondents.

INITIAL DECISION BY RAYMOND J. LYNCH, HEARING EXAMINER

The complaint in this proceeding, issued May 15, 1961, charges the above-named respondents with violation of the provisions of the Federal Trade Commission Act.

On July 18, 1961, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint, and that the complaint may be used in construing the terms of the order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent Phoenix Pharmaceutical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of busi-

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ness located at 1001 Albany Avenue, in the City of Hartford, Connecticut.

Respondent The Vitamin Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1001 Albany Avenue, in the City of Hartford, Connecticut. This said corporate respondent is a subsidiary of corporate respondent Phoenix Pharmaceutical Company, and is a distributor and retail outlet for corporate respondent Phoenix Pharmaceutical Company in connection with the advertising and sale of various preparations.

Respondents Aaron Honiberg and Julian Gross are officers of both corporate respondents. They formulate, direct and control the acts and practices of both of the corporate respondents. The address of respondent Aaron Honiberg is the same as that of corporate respondents. The address of respondent Julian Gross is 770 Asylum Avenue, Hartford, Connecticut.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is ordered, That Phoenix Pharmaceutical Company, a corporation, and its officers, and Aaron Honiberg and Julian Gross, individually and as officers of this said corporation, and The Vitamin Center, Inc., a corporation, and its officers, and Aaron Honiberg and Julian Gross, individually and as officers of this said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparations designated "Vitagran—Formulation No. 115," "Phoenix No. 215 Vitagran-Forte," "Phoenix No. 116 Multi-Thera," "#110 Vegerol," "#114 Stressvite," "Phoenix #117 B-Plexol," "#119 Super-Plex," "#310 Vegerol Plus B-Plexol," "#50 Gerichol," and "Geri-Aids—Formulation No. 108," or any other preparations of substantially similar composition or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist, directly or indirectly:

1. Disseminating, or causing to be disseminated, by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) That their preparations, or any of them are United States Government standard formulations;

(b) That "Vitagran—Formulation No. 115," "Phoenix No. 215 Vitagran-Forte" or "Phoenix No. 116 Multi-Thera" will be of benefit in the

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treatment of excessive fatigue, nervous irritability, restless sleep, low resistance or loss of appetite, unless such advertisement expressly limits the effectiveness of the preparations to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparations and, further unless the advertisement clearly and conspicuously reveals the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparations, and that in such persons the preparations will not be of benefit.

(c) That “#114 Stressvite”, “Phoenix #117 B-Plexol” or “#119 Super-Plex” will be of benefit in the treatment of lack of pep, weakness, tiredness, nervousness or digestive difficulty, unless such advertisement expressly limits the effectiveness of the preparations to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparations, and, further, unless the advertisement clearly and conspicuously reveals the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparations, and that in such persons the preparations will not be of benefit.

(d) That “#310 Vegerol Plus B-Plexol” will be of benefit in the treatment of underweight, exhaustion, premature aging or loss of youthful vitality or appearance unless such advertisement expressly limits the effectiveness of the preparation to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparation, and, further, unless the advertisement clearly and conspicuously reveals the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation and that in such persons the preparation will not be of benefit.

(e) That “#110 Vegerol”:

(1) Will be of benefit in the treatment of premature aging, restless sleep, nervous irritability, loss of strength or poor digestion, unless such advertisement expressly limits the effectiveness of the preparation to those persons whose symptoms have been caused by an established deficiency of one or more of the nutrients provided by the preparation, and, further, unless the advertisement clearly and conspicuously reveals the fact that in the great majority of persons these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation, and that in such persons the preparation will not be of benefit.

(2) Will improve liver function or fat metabolism.

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(f) That “#50 Gerichol” will be of benefit in the treatment of cardiac conditions, or will lower the blood cholesterol level.

(g) That “Geri-Aids—Formulation No. 108” will improve liver function or fat metabolism.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as “commerce” is defined in the Federal Trade Commission Act, of said preparations, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission’s Rules of Practice, the initial decision of the hearing examiner shall, on the 5th day of October 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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.