

COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY 13609

UNITED STATES DEPARTMENT OF JUSTICE,
Washington, D.C., March 25, 1969.

Re Syntex Laboratories, Inc., F.D.C. No. 53222—Federal Food, Drug, and Cosmetic Act. Your Ref: MG:ch 748447.

Mr. WILLIAM W. GOODRICH,
Assistant General Counsel, Food, Drug, and Environmental Health Division,
Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. GOODRICH: We note that you have been furnished with a copy of the United States Attorney's letter to us declining prosecution in the above matter. We have carefully considered whether this office should persevere in its effort to persuade the United States Attorney to agree to prosecution of the above-captioned matter. Mr. Satz has filed criminal informations in two similar cases on previous occasions and is, therefore, familiar with such prosecutions and sympathetic to the enforcement efforts of the Food and Drug Administration. It has been noted that in the *Abbott* case the court seemed to feel that some editorializing was permissible under the regulations then in effect, and in the *Ciba* and *Armour* cases very small fines were imposed upon the defendants for violations similar to those reported in the instant matter. Also we have observed that new and more comprehensive regulations are about to be adopted in the field of advertising and that the industry seems to have accepted the ruling of the *Abbott* case that the Physician's Desk Reference constitutes labeling.

For the above reasons, we do not believe that any useful purpose will be served by directing the United States Attorney to institute a prosecution which is contrary to his best judgment. Prosecution is, therefore, declined.

Sincerely,

WILL WILSON,
Assistant Attorney General,
Criminal Division.
By HAROLD P. SHAPIRO,
Chief, Administrative Regulations Section.

UNITED STATES DEPARTMENT OF JUSTICE,
UNITED STATES ATTORNEY,
FOR THE DISTRICT OF NEW JERSEY,
Newark, N.J., March 28, 1969.

Attention Alvin L. Gottlieb,
Re Syntex Laboratories, Inc., Federal Food, Drug, and Cosmetic Act. Your Ref: 53222.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Office of the General Counsel,
Washington, D.C.

DEAR MR. GOTTLIEB: In view of the fact that prosecution has been declined in the above-captioned matter, we are returning herewith all exhibits furnished to this office.

Please be advised that we are closing our file in this matter.

Very truly yours,

DAVID M. SATZ, Jr.,
U.S. Attorney.
By MARLENE GROSS,
Assistant U.S. Attorney.

MAY 25, 1967.

In Reply Refer to F.D.C. No. 53548.
Hon. RAMSEY CLARK,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. CLARK: We request the institution of criminal proceedings under the Federal Food, Drug, and Cosmetic Act, against Warner-Lambert Pharmaceutical Company, a corporation trading as Warner-Chilcott Laboratories, at Morris Plains, New Jersey.

The offenses complained of occurred during the period from about February 4, 1966, to about April 22, 1966, and involved the introduction into interstate