

IN THE MATTER OF

B. D. RITHOLZ, M. I. RITHOLZ, S. J. RITHOLZ, F. RITHOLZ,
ANTE RITHOLZ, COPARTNERS, DOING BUSINESS
UNDER THE TRADE NAME AND STYLE OF CLEAR
SIGHT SPECTACLE COMPANY

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

Docket 1554. Complaint, Jan. 2, 1929—Decision, Feb. 15, 1930

Where a firm engaged in the manufacture of spectacles and in the sale thereof directly to the purchasing public, in advertising their said product in circulars and other advertising matter included such statements as "Special ten-day offer," "Get your spectacles free without cost," "Special big advertising offer—100 people—only one in a community to receive our wonderful spectacles free without cost," the facts being that the so-called special or free offer was not limited as to time or to a particular number of persons or to one person in a community and that the pretended opportunity to get said spectacles "Free" or "Free without cost" or "Free without a cent of cost," consisted, in effect, of an offer by said firm to pay the particular purchaser a commission for cash orders secured for two or more pairs from other customers:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Richard P. Whiteley for the Commission.

Mr. John A. Nash, of Chicago, Ill., for respondents.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent individuals, partners engaged in the manufacture of spectacles and in the sale and distribution thereof directly to the purchasing public, in various States, generally by mail, and with principal place of business in Chicago, with advertising falsely or misleadingly as to prices and free goods in violation of the provisions of section 5 of such act prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, engaged as above set forth, made such statements in letters or circulars sent to prospective purchasers in the various States as "We'll send you spectacles on trial and give you a chance to get yours *free without a cent of cost*," "To ward off the simply

curious and insincere people who would order spectacles and keep them without paying for them if sent free, it is necessary that our \$15 value spectacles at only \$3.98 be sent C. O. D.", "Special ten-day offer" "Get your spectacles free without cost", "Special big advertising offer—100 people—Only one in a community to receive our wonderful spectacles free without cost. We have decided that we must have a person in your community wearing our spectacles for the large advertising benefits we will obtain from it. For that reason we are going to give a pair free without a cent of cost." "Only one free pair of spectacles will be sent into a community." "You simply can't and won't miss this chance to get your glasses free"; it appearing from other parts of the advertising that the prospective purchaser was merely offered an opportunity to apply commissions earned on orders secured by him from others for the purchase of said concern's spectacles against the price of a pair for himself.¹

In truth and in fact the spectacles so offered and represented to be given free to those persons answering said letters are not given free by respondents but the persons to whom the respondents' letters are addressed, acting upon said offers and representations, by accepting the offers contained therein, are required by respondents to solicit and to induce others to purchase from respondents a certain number of spectacles at a price to the purchasers which covers the cost of the spectacles thus sold and of the spectacles offered and represented to be given free, and the spectacles offered, to be given free are, in fact, given as payment for the work and services required by respondents

¹ The matter referred to reads as follows:

"As a special offer to you, we will make it possible for you to get your own spectacles free. Take the scientific self-tester you now have to your friends. Ask them to make a test of their eyes as you have done. They too should have the benefit of our expert service and low price. Tell them you are going to order a pair for yourself and that they might as well send their orders with yours. Collect \$1 deposit from them and they can pay the balance to the mailman upon delivery. They will receive the same, strong iron-clad guarantee of satisfaction for 5 years to come. You may keep the \$1 deposit you collect as your pay. Take only four orders and you will earn more than enough to pay for your own glasses. Take as many orders as you can. You make \$1 on each."

"Do you want to save \$11 or more on your glasses?"

"Make the test to-day if you have not already done so, then hurry in your order. Call on your friends if you wish them to receive the same benefits. Make \$1 on each of their orders by collecting \$1 deposit and keeping it as your pay. In this way you can, no doubt, get your own glasses without cost."

"Now, here's the way to get your own glasses free. Take the 'Scientific self-tester' to two of your friends. Ask them to make the scientific test as explained in the direction sheet. Take their orders, collect a deposit of \$1 on each, send the two orders to us with the \$2 you collect. Send along your own order on the special order coupon, the top one in the book, at the same time, marked 'free.' We'll ship the spectacles to you without a cent of cost, Guaranteed to please you in every respect. We'll also ship the two orders for your friends direct to them, C. O. D. for the balance due, containing the strong guarantee you will receive. Remember, you don't send a penny for your own glasses. They're free to you for sending in two orders with the \$2 deposit you collect."

Findings

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to be performed, and actually performed by the persons receiving said spectacles, as aforesaid; and it further being the fact that the offers in question, which were contrary, confusing, and misleading, were not limited to a ten-day period, were not special but regular, and were not restricted to 100 persons, and to one person in a community.

Said acts and practices, as alleged, have the tendency and capacity to mislead and deceive the recipients into believing the spectacles in question to be given free, under limited and special offers as above indicated, and to confuse and mislead the purchasing public into believing said products to be in fact given free or as a gratuity, acquired without consideration; all to the prejudice of the public and respondents' competitors who sell and offer spectacles at reasonable prices to the purchasing public without offering, in connection therewith, to give such articles or other merchandise free.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the respondents, B. D. Ritholz, M. I. Ritholz, S. J. Ritholz, F. Ritholz, and Ante Ritholz, copartners, doing business under the trade name and style of Clear Sight Spectacle Co., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondents having filed answer herein, a hearing was had and evidence was thereupon introduced on behalf of the Commission and the respondents before an examiner of the Federal Trade Commission duly appointed.

Thereupon this proceeding came on for a final hearing on the briefs and oral argument, and the Commission having duly considered the record and being fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, B. D. Ritholz, M. I. Ritholz, S. J. Ritholz, F. Ritholz, and Ante Ritholz, are, and have been for more than two years last past, copartners, doing business until August, 1928, under the trade name and style of Clear Sight Spectacle Co. and, since August, 1928, under the trade name and style of Self-

Test Optical Co., having at all said times their principal place of business in the city of Chicago, State of Illinois.

PAR. 2. Respondents are and have been for some years engaged in the manufacture of spectacles and in the sale of said spectacles to various individuals located in the several States of the United States other than in the State of Illinois, and have caused and still cause the said spectacles when so sold by them to be transported, in commerce, from respondents' principal place of business in the city of Chicago, State of Illinois, to, into, and through said other States and the District of Columbia to the said individuals to whom said spectacles were sold by respondents.

PAR. 3. During the times above mentioned and referred to, other partnerships, individuals, and corporations, located in the various States of the United States have been engaged in the manufacture and in the sale of spectacles, which they have sold and still sell to individuals located in the various States of the United States and in the District of Columbia. Respondents, during the aforesaid times, were and still are in competition in commerce in the sale of their spectacles with said other partnerships, individuals, and corporations likewise engaged in the manufacture and sale of spectacles.

PAR. 4. Respondents in the course and conduct of their business sell and distribute their spectacles directly to the purchasing public, generally by means of the United States mail. Customers are secured through advertising inserted in various magazines having a circulation throughout the United States. Respondents also use for the purpose of obtaining customers, mailing lists which they compile, and which mailing lists contain many thousands of names of persons located throughout various localities in the United States and from which lists letters are sent out by respondents to prospective customers from names appearing on said lists. In addition to letters which respondents mail out to their prospective customers said customers are mailed also circulars and other advertising matter containing among others the following statements:

CLEAR SIGHT SPECTACLE COMPANY

Largest Mail Order Spectacle House in the World

We'll send you spectacles on trial and give you a chance to get yours

FREE WITHOUT A CENT OF COST

SPECIAL TEN DAY OFFER

GET YOUR SPECTACLES FREE WITHOUT COST

Conclusion

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As a special offer to you, we will make it possible for you to get your own spectacles free. Take the scientific self-tester you now have to your friends. Ask them to make a test of their eyes as you have done. They too should have the benefit of our expert service and low price. Tell them you are going to order a pair for yourself and that they might as well send their orders with yours. Collect \$1 deposit from them and they can pay the balance to the mailman upon delivery. They will receive the same, strong iron-clad guarantee of satisfaction for 5 years to come. You may keep the \$1 deposit you collect as your pay. Take only four orders and you will earn more than enough to pay for your own glasses. Take as many orders as you can. You make \$1 on each.

Do you want to save \$11 or more on your glasses?

Make the test to-day if you have not already done so, then hurry in your order. Call on your friends if you wish them to receive the same benefits. Make \$1 on each of their orders by collecting \$1 deposit and keeping it as your pay. In this way you can, no doubt, get your own glasses without cost.

Special big advertising offer—100 people—Only one in a community to receive our wonderful spectacles free without cost.

We have decided that we must have a person in your community wearing our spectacles for the large advertising benefits we will obtain from it. For that reason we are going to give a pair free without a cent of cost.

Now, here's the way to get your own glasses free. Take the Scientific Self-Tester to two of your friends. Ask them to make the scientific test as explained in the direction sheet. Take their orders, collect a deposit of \$1 on each, send the two orders to us with the \$2 you collect. Send along your own order on the Special Order Coupon, the top one in the book, at the same time, marked "free." We'll ship the spectacles to you without a cent of cost. Guaranteed to please you in every respect. We'll also ship the two orders for your friends direct to them, C. O. D. for the balance due, containing the strong guarantee you will receive. Remember, you don't send a penny for your own glasses. They're free to you for sending in two orders with the \$2 deposit you collect.

Only one free pair of spectacles will be sent into a community.

You simply can't and won't miss this chance to get your glasses free.

PAR. 5. Despite the statements contained in respondents' advertisements as set out in paragraph 4 hereof to the effect that the special offers giving special benefits were limited to ten days, or to a particular number of persons, such as a hundred persons altogether or one person only, in a community, the said restrictions as to time and number of persons were not carried into effect by respondents. The business of respondents in the sale of spectacles direct to the public has been quite extensive, amounting to several hundred thousand dollars annually.

CONCLUSION

The practices of the respondents under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce and constitute a violation of section 5

of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and upon the answer of the respondents filed herein, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes",

It is now ordered, That the respondents above named, B. D. Ritholz, M. I. Ritholz, S. J. Ritholz, F. Ritholz, Ante Ritholz, copartners, formerly doing business under the trade name and style of Clear Sight Spectacle Co., and now doing business under the trade name and style of Self-Test Optical Co., their officers, agents, representatives, and employees in connection with the sale or distribution in interstate commerce of spectacles, do cease and desist—

(a) From representing directly or indirectly, by advertisements, by circular letters or otherwise, that the spectacles sold by them direct to the purchasing public can be obtained at the prices stated for a limited period of time only, or that said spectacles can be purchased by a limited or restricted number of persons only.

(b) From representing directly or indirectly, by advertisements, by circular letters or otherwise, that the spectacles sold by them direct to the purchasing public can be obtained "free", or "free without cost", or "free without a cent of cost", when in fact said spectacles are not given free or as a gratuity but are given in consideration of personal services rendered or performed by certain customers in securing for respondent cash orders for two or more pairs of its spectacles from other customers.

It is further ordered, That the respondents, B. D. Ritholz, M. I. Ritholz, S. J. Ritholz, F. Ritholz, and Ante Ritholz, copartners, formerly doing business under the trade name and style of Clear Sight Spectacle Co., and now doing business under the trade name and style of Self-Test Optical Co., shall, within 60 days after the service on them of this order, file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which they have complied with the above order to cease and desist.

Complaint

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IN THE MATTER OF
PHILIP SHLANSKY & CO., INC.

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

Docket 1748. Complaint, Dec. 21, 1929—Decision, Mar. 3, 1930

Where a corporation engaged in the manufacture and sale of women's coats made entirely of material other than the pelt or skin of the lamb, represented and designated the same as "Silverlamb" and featured said word in its advertisements thereof and upon the labels attached thereto, with the capacity and tendency to mislead, deceive, and confuse the purchasing public as to the composition thereof:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Robert H. Winn for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in the manufacture and sale of women's coats, and with principal place of business in New York City, with naming product misleadingly, advertising falsely or misleadingly, and misbranding or mislabeling in regard thereto, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, represented, designated, and described its said women's coats as "Silverlamb," featured said word in the advertisements thereof, and so branded and labeled the same, notwithstanding the fact that the product in question was not made in whole or in part of wool or of the pelt or skin of the sheep but entirely of other material.

The use by respondent, as alleged, "of the word 'Silverlamb' to represent, designate, describe, and refer to its products in the manner hereinbefore set out has the capacity and tendency to mislead and deceive and to confuse the purchasing public into the belief that its said products so represented, designated, described, and referred to are made in whole or in part of the wool or of the pelt or skin of sheep"; to the prejudice of the public and respondent's competitors.