

IN THE MATTER OF  
DOMINO HOUSE, INCORPORATED, AND MARGARET  
SULLIVAN

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED  
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914

*Docket 1718. Complaint, Oct. 31, 1929—Decision, Feb. 17, 1931*

Where a corporation engaged under the trade name "Beauty Arts Society" in the sale of a course in permanent and marcel waving and hair cutting, together with a curling iron, as a part thereof, and an individual, its president, in direct charge and control thereof; in soliciting sale of said course and iron through circular letters, advertising circulars, pamphlets, and application blanks, and in other advertising literature,

- (a) Represented said supposed society as a national organization composed of beauty specialists, experts, and a faculty, and with openings for new members and purported to offer the prospective purchaser or pupil membership in such supposed organization, through aforesaid application blanks, with advantage of becoming one of its resident marcel waving specialists, privilege of permanent consultation with society's experts, a membership certificate, right to use of name "Beauty Arts Society" as a member in full standing, and active backing of said society, and placed on the title page of the course in marcel waving the words, "Prepared by the faculty of the Beauty Arts Society" and represented the lessons as so prepared that they proceeded logically through the art and technique of said trade or occupation, and that lists of answers sent in by pupils were examined carefully by the teachers and returned with corrections, facts being that the supposed society was fictitious and nothing more than a trade name employed as above set forth, and aforesaid offers, promises, statements and representations were false and misleading; and
- (b) Represented in circular letters, etc., that the regular price of the membership fee including said course in marcel waving was \$10, but that for a limited time and as part of a special offer said membership was being sold for the reduced price of \$9.85 and each person would be given free the complete \$10 course in hair cutting and a professional waving iron, making such statements as "You actually save half the regular fee by becoming a member now", "Professional waving iron absolutely free", "Free course in hair cutting for ten days only—regular price \$10", "This letter can be worth \$19.15 to you", facts being that \$9.85 was the regular price for everything and the so-called special offer was not limited nor in fact a special offer, but open for acceptance at any time by sending in the application blanks and \$9.85, and said statements and representations were false, deceptive and misleading;

With tendency and capacity to mislead the public and prospective purchasers and induce the purchase of said course and article in reliance upon the truth of aforesaid offers, promises, statements and representations and thereby divert trade to said corporation and individual from competitors, and with effect of so misleading and deceiving such public and purchasers:

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

*Mr. G. Ed. Rowland* for the Commission.

*Felix & Felix* of Philadelphia, Pa., 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 Domino House, Inc., a Pennsylvania corporation, engaged under the trade name Standard Specialty Co., in the sale of perfumes, face powders, facial preparations, toilet preparations, patent medicines and other merchandise, and under the trade name "Beauty Arts Society" in the sale of curling irons for marcel waving, together with certain beauty culture courses relating to permanent waving, marcel waving, and hair cutting, and with principal place of business in Philadelphia, and respondent Margaret Sullivan, its president, principal stockholder and manager, with advertising falsely or misleadingly as to business status, nature of product or service offered, prices and pretended free goods or services, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent corporation, as charged, engaged as above set forth, in the leaflets, price lists, circular letters and other trade literature used by it in connection with the offer and sale of its waving or curling iron, and course, as above set forth, "offers to the public and its prospective customers a membership in the 'Beauty Arts Society', which respondent represents to be a national organization with a membership composed of beauty specialists and experts and with a faculty, which faculty it represents prepared the courses of instruction. Such membership, including a pamphlet comprising all of the courses of instruction, is offered for a so-called membership fee of \$9.85, which amount is represented to be a reduced price from the regular price of \$19. Such offer includes a 'Professional waving iron', or curling iron, which is represented to be 'absolutely free' to the customer, and a 'complete hair cutting course' which is represented to be, in case the offer be promptly accepted, absolutely free to the customer, and to be of the regular price of \$10."

Said offer, as alleged, "is sham and fraudulent, and the representations therein made are false and misleading in that there is no such society as the Beauty Arts Society, as represented by respondent, and that the amount of \$9.85 represented to be a fee is actually

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the price of all the courses of instruction sold by respondent, and the so-called professional waving iron. Said price of \$9.85 is and has been since the incorporation of respondent, Domino House, Inc., the regular and standard and inclusive price charged and received by said respondent for all of said articles," and said false and misleading offers and representations "have the capacity and tendency, and have caused many persons residing in various States of the United States, to purchase respondents' said courses and waving iron in and on account of a belief in the truth of such representations."

Said alleged acts and practices of respondents, as charged, "are all to the prejudice of the public and respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of section 5."

Upon the foregoing complaints 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 above named, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondents having entered their appearance, and having filed their answers herein, hearings were had and evidence was thereupon introduced before an examiner of the Federal Trade Commission theretofore duly appointed.

Thereupon this proceeding came on for final hearing, and counsel for the Commission having submitted a brief and having argued the case before the Commission, counsel for respondents failing to file brief or appear for argument, and the Commission having duly considered the record, and being now fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Domino House, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business at 317 North Seventh Street, in the city of Philadelphia, in said State.

Respondent, Margaret Sullivan, is president of respondent, Domino House, Inc., and is in direct charge and control of the business

of said corporation. The only other officer of said respondent corporation is Jacob Slavin, secretary-treasurer.

PAR. 2. Respondent, Domino House, Inc., was incorporated in September, 1927, and is engaged and has been engaged since that time in the sale of poultry remedies, cosmetics, books, and household supplies, by means of agents located in various parts of the United States, and also through the United States mails. Said respondent, Domino House, Inc., has been at all times since its incorporation in 1927, also engaged in the sale in interstate commerce, under the trade name and style of "Beauty Arts Society," of a course of instruction in beauty culture, relating to permanent waving and Marcel waving, and a course of instruction in hair cutting, and a curling iron for use in connection with said course in Marcel waving.

Said correspondence courses sold by respondents under the trade name and style of "Beauty Arts Society," together with the curling iron supplied with said courses, are transported by respondent, Domino House, Inc., when sold, by mail, express or otherwise, from its principal place of business in the city of Philadelphia, State of Pennsylvania, into and through States other than Pennsylvania, in interstate commerce to the purchasers thereof at their respective points of location in the various States of the United States. In the course and conduct of its said business respondent corporation is and has been in competition with other individuals, firms, and corporations, some of whom are engaged in the business of selling courses in beauty culture, including Marcel waving and hair cutting, and others engaged in the business of selling the same kind of merchandise as those sold by respondents, all of such competitors being also engaged in the transportation of the merchandise sold by them in interstate commerce between and among the various States of the United States.

PAR. 3. Respondent, Margaret Sullivan, was connected with E. J. Reefer for several years prior to 1926, in connection with the operation of certain mail order businesses by said E. J. Reefer. At that time the said Reefer's business was located at 269 South Ninth Street, in the city of Philadelphia. In 1926 respondent, Margaret Sullivan, left the employ of said Reefer, and in the summer of 1927, the said Reefer went into bankruptcy and his business was bought by Russell Hughes. Respondent, Margaret Sullivan, purchased the said business from the said Russell Hughes in 1927, and incorporated respondent, Domino House, Inc., for the purpose of conducting the said business, and remained at 269 South Ninth Street, in the city of Philadelphia, until September 1928, when respondent's business was removed to its present location, 317 North Seventh Street, in the city

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of Philadelphia, State of Pennsylvania. Among the assets acquired by respondent, Margaret Sullivan, when the aforesaid purchase of the business was made was the correspondence courses of study in Marcel waving and hair cutting.

PAR. 4. Respondents solicit the sale of the said correspondence courses in Marcel waving and hair cutting, together with the curling iron accessory thereto, by means of circular letters, advertising circulars, pamphlets, and application for membership blanks, and other advertising literature, under the name "Beauty Arts Society." Said circular letters and advertising literature is sent by respondents through the United States mail to prospective purchasers located in various States of the United States. In all of such circular letters, advertising circulars, pamphlets, application for membership blanks, and other advertising literature, respondents make many offers, promises, statements and representations regarding the said correspondence courses in Marcel waving and hair cutting. Among said offers, promises, statements and representations are the following:

(1) That the said Beauty Arts Society is a national organization with a membership composed of beauty specialists and experts, and with a faculty, which faculty prepared the courses of instruction sold by said respondents under said trade name. In said circular letters sent to prospective purchasers of said correspondence course in Marcel waving respondents, under the trade name "Beauty Arts Society," state:

All over the country, the Beauty Arts Society now has openings for new members—to fill places in its national organization of home specialists in Marcel Waving.

The regular membership fee in the Beauty Arts Society (a fee that is necessary solely to cover the cost of your instruction in the work) is \$19.

This fee covers the entire cost of your training by mail \* \* \*. It entitles you to a Certificate of Membership—the privilege of using the name of the Beauty Arts Society (this alone should be worth many dollars to you).

But, in order to become an accredited member, with the prestige and backing of this great organization as a guarantee of your success, you must be prompt.

In the application for membership blank appears the following:

I hereby apply for Membership in the Beauty Arts Society and Appointment to a place in your organization as one of your resident Marcel Wave specialists. I understand that you will provide me with everything necessary for Marcel Waving, including the following:

\* \* \* \* \*

(3) Full Services and Privileges of Membership, including

(A) Permanent Consultation Privilege with the experts of the Society on any question in connection with the work;

(B) Membership Certificate of the Society;

(C) Right to the use of the name Beauty Arts Society, as a member in full standing.

In an advertising pamphlet distributed by said respondents under the name "Beauty Arts Society," it is said:

The Beauty Arts Society does much more for its Members than simply give them a course of instruction and An Outfit and then leave them to their own resources to earn money as best they can.

Once you join the Society, you become part of its organization. You are a Member of its staff, carrying on its work in your own particular community.

On the title page of the course of instruction in Marcel waving sold by said respondents under the name "Beauty Arts Society," appears the following statement:

Prepared by the faculty of  
THE BEAUTY ARTS SOCIETY

In the first lesson of said course of instruction appears the following:

Our teachers here at the Beauty Arts Society have so prepared the lessons that they proceed logically step by step through the art and technique of Marcel Waving. \* \* \*

In said lesson 1 also is the following:

We want you to know that all students of the Beauty Arts Society are requested and urged to get in touch with their teachers at any time they like for advice, suggestions, help, information. We have here at the Society a competent staff of teachers and advisers who are ready and eager to help you. If at any time you feel that you would like personal help and suggestions, do not hesitate to write. Every list of answers sent in by you (examination papers are sent to you throughout the course for instance) is examined carefully by the teachers and returned to you with corrections.

All of the above offers, promises, statements and representations are false and misleading, because in truth and in fact there is no such "society" as said "Beauty Arts Society," said name being a trade name used by respondents, and a purchaser of the course of instruction in Marcel waving does not become a member of any national organization; respondents do not maintain a staff of teachers and advisers to answer questions sent in by purchasers of the said course of instruction, and the lessons included in said course of instruction were not prepared by the faculty of the said Beauty Arts Society, because there is no such society in existence.

(2) Respondents in aforesaid circular letters, advertising circulars, pamphlets, application for membership blanks, and other advertising literature, represent that the regular price of the membership fee which includes the said course in Marcel waving, is \$19, but

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that for a limited time, and as part of a special offer, said membership is being sold for the reduced price of \$9.85, and that as part of the said special limited offer respondents, under the name "Beauty Arts Society," will give each person who enrolls as a member in the so-called "Beauty Arts Society" absolutely free a complete course in hair cutting, the regular price of which is \$10, and a professional waving iron.

In a circular letter sent out by respondents, under the trade name "Beauty Arts Society," they state as follows:

The regular membership fee in the Beauty Arts Society (the fee that is necessary solely to cover the cost of your instruction in the work) is \$19. *But now, for a very short time, we are going to enroll new members for only \$9.85—no further payments to be made at any time!* \* \* \* And then you will receive, absolutely free, a professional Marcel Waving Iron—just the kind in use in the best beauty parlors everywhere. \* \* \*

But, \* \* \* you must be prompt. Because of this special low price, in effect for a short time only, we expect to be flooded with applications.

Simply fill in your name and address and get it in the mail at once. When it arrives, your instructions and free *Marcel Waving* iron and your Certificate of Membership will go forward to you immediately. You can pay the postman the special reduced price of only \$9.85 \* \* \*.

As a postscript to this circular letter appears the following:

**SPECIAL FOR TEN DAYS ONLY—Complete Course in Hair Cutting FREE.** To supplement your course in Marcel Waving, to add to your profits, we make you this amazing **FREE** offer of a professional Course in Hair Cutting. This complete, simplified course of lessons has always sold for \$10 \* \* \*.

In the application for membership blank sent out by respondents to prospective purchasers, it is stated:

*Special Offer* if you are prompt: \$10 Course in Hair Cutting **FREE**.

I hereby apply for Membership in the Beauty Arts Society and for Appointment to a place in your organization as one of your resident Marcel Wave specialists. I understand that you will provide me with everything necessary for Marcel Waving, including the following:

- (1) Complete \$19 course of instruction in marcel waving \* \* \*.
- (2) One Professional Waving Iron absolutely **FREE**.
- (4) Your complete Hair Cutting Course—regular Price \$10.—Absolutely **FREE**.

It is also agreed that you are to send as an appreciation of my prompt acceptance of this offer, your complete course in Hair Cutting (Regular Price \$10) without additional cost. I enclose no money, but will pay to postman the special low fee of only \$9.85 plus postage on delivery for *both* courses (instead of the regular fee of \$19). \* \* \*

Then appears, printed in red ink:

(NOTE.—This extra special reduction from the regular price is for a short time only. To take advantage of it you must mail this Application at once.)

In an advertising circular sent out and distributed by respondents, it is stated:

Was \$19.00 Now Only \$9.85.

The regular price of the course in Marcel Waving is \$19.00. This is the first time it has ever been offered at the sensationally low price of \$9.85.

\* \* \* \* \*

Save one-half.

You actually SAVE HALF the regular fee by becoming a member NOW.

And on the back of the said advertising circular appears:

FREE! Course in Hair Cutting For 10 days only.—Regular Price \$10.00.

In another circular letter sent out by said respondents, under the trade name "Beauty Arts Society," they state:

This letter can be worth \$19.15 to you!

For the application blank attached entitles you to a FREE course in Hair Cutting (regular price \$10.00) as well as a reduction of \$9.15 on the complete Marcel Waving course of the Beauty Arts Society.

The statements and representations quoted above are false, deceptive and misleading, because in truth and in fact the said course of instruction in Marcel waving never was sold by respondents for \$19, and the price of \$9.85 is not a special, reduced price, but is the regular price at which said course of instruction has been at all times sold by said respondents; said course in hair cutting which respondents, under the trade name "Beauty Arts Society," offer to give free to purchasers of the course in Marcel waving, was never sold by said respondents separately from the said course of instruction in Marcel waving and was never sold at a price of \$10, or any other price, but has always been included as part of the course of instruction in Marcel waving at the regular price of said course of \$9.85; the professional waving iron which respondents, under the trade name "Beauty Arts Society," offer free to purchasers of the said course of instruction in Marcel waving is not in fact given free, but the price of the said waving iron is included in the said price of \$9.85, which is and has been at all times, since the incorporation of respondent, Domino House, Inc., the regular standard and inclusive price charged by respondents, under the trade name "Beauty Arts Society," for all of the items referred to heretofore; and the so-called special offer, limited in time, is not in fact a special offer, but is open for acceptance by purchasers at any time that they send in the application for membership blanks, and pay the said regular price of

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\$9.85, for the several courses of instruction, and the professional waving iron.

The records of the United States Post Office of the City of Philadelphia, State of Pennsylvania, show that respondents, under the trade name "Beauty Arts Society," during the period from September, 1927, to October, 1928, sold and distributed by United States parcel post the aforesaid courses of instruction, and waving iron, to purchasers in the States of Kentucky, South Dakota, Texas, Ohio, Arkansas, California, and other States of the United States, and that on or about March 1, 1929, said respondents advised the U. S. Post Office, in the City of Philadelphia, that the name "Beauty Arts Society" was in use by them at that time.

PAR. 5. The offers, promises, statements and representations set forth in paragraph 4 herein are false, deceptive, and misleading, and the use of said offers, promises, statements and representations by respondents, Domino House, Inc., and Margaret Sullivan, in the manner and form above alleged has a tendency and capacity to and does mislead and deceive the public and prospective purchasers into the erroneous belief that said offers, promises, statements, and representations, are true, and to induce persons to purchase the course of instruction in Marcel waving and hair cutting, and the professional waving iron, in reliance upon and by reason of their belief in the truth and accuracy of said respondents' offers, promises, statements, and representations, and thereby to divert trade to respondents, Domino House, Inc., and Margaret Sullivan, from competitors of said respondents engaged in the sale of courses of instruction in Marcel waving and hair cutting.

#### CONCLUSION

The acts and practices of said respondents, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and respondents' competitors, and constitute unfair methods of competition within the intent and meaning of section 5 of an act of Congress 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 on the complaint of the Commission, the answers of respondents, the testimony taken, and brief filed and oral argument by counsel for the Commission, and the Commission having made its

findings as to the facts and conclusion that 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 respondent, Domino House, Inc., its officers, agents, representatives and employees, and respondent, Margaret Sullivan, an individual, her agents, representatives and employees, cease and desist from making statements and representations in circular letters, advertising circulars, pamphlets, booklets, and other advertising literature, circulated and distributed in connection with the offering for sale and sale in interstate commerce of a course or courses of instruction in Marcel waving and hair cutting, under the trade name "Beauty Arts Society," or any other name, as follows:

(1) That the regular and usual price of said course of instruction in Marcel waving is \$19, or any other price, when such is not the fact;

(2) That the regular and usual price of said course of instruction in hair cutting is \$10, or any other price, when such is not the fact;

(3) That prospective purchasers are being offered the said course of instruction in Marcel waving at a specially reduced price for a limited period of time, unless said offer is actually limited in point of time for acceptance at such reduced price, and unless said alleged specially reduced price is in fact a lower price than the regular and usual selling price of said course of instruction;

(4) That the said course of instruction in hair cutting, and the professional waving iron, or any other article of merchandise or course of instruction, is furnished free to purchasers, when the price or value of such article of merchandise or course of instruction is included in the price specified as the price of the course of instruction being sold;

(5) That a purchaser of the said course of instruction in Marcel waving becomes a member of a national society or organization of hair waving experts, or any other society or organization, when such is not the fact.

*And it is further ordered*, That respondents shall, within 30 (30) days after the service upon them of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with and conformed to.

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IN THE MATTER OF  
TARBELL SYSTEM, INCORPORATED, AND T. G. COOKE

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

*Docket 1721. Complaint, Nov. 12, 1929—Decision, Feb. 17, 1931*

Where a corporation engaged in the sale of a course in magic, together with supplies and accessories thereto, and an individual, treasurer and general manager thereof, owner of the majority of its stock, in direct and active charge of its business, and responsible for its policy and advertising literature; in advertising circulars and circular letters sent in response to inquiries from periodical advertisements, and to mailing list names,

- (a) Represented that it was making a special offer of \$69.50 to prospective pupils in place of its regular and full price of \$90 and drew a red line through figures setting forth the larger price and payments and substituted or added the lower figures and urged prompt action before closing of offer, facts being that price of \$69.50 was its regular, permanent, and full price for the course and accessories included therewith;
  - (b) Represented that its diploma was so highly prized that graduates could secure big bookings and enjoy handsome incomes and earned from \$250 to \$1,000 a month, and informed the prospective pupil through said circulars, etc., and magazine advertising that he would be in demand at his club, lodge and social functions and would soon be a semi-professional, making big money "on the side", facts being that during most of the time concerned said corporation had issued no diplomas, the art or profession was only seasonal, those engaged therein did not give performances majority of nights during the year, and amateurs and semi-professionals devoting their attention to exhibitions at church socials, lodges and similar gatherings received from \$15 to \$100 for exhibitions, depending upon nature thereof, and no graduate averaged from \$250 to \$1,000 a month as a result of having completed its said course; and
  - (c) Represented that it would make pupils proficient and expert magicians almost immediately through such statements as "You can become an amazing magician not in a year or six months but almost at once," " \* \* \* inside of a week you can have friends standing around you with their mouths open and their eyes bulging with amazement at your apparently supernatural powers," and guaranteed that "Dr. Tarbell can make you a master magician," facts being that to become expert in such art or profession requires continuous practice, many enrolling for the course in reliance upon such statements and representations are naturally awkward or otherwise unable to become proficient therein, and it is impossible to guarantee even so much, since natural aptitude for the art can not be known nor whether instructions given have been followed;
- With tendency and capacity to mislead and deceive the public and prospective pupils into enrolling in reliance upon the erroneous belief that such statements, etc., were true and thereby divert trade to said corporation or individual, from competitors and with effect of so doing;