

IN THE MATTER OF
NATURAL EYESIGHT INSTITUTE, 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 1838. Complaint, May 27, 1930—Decision, June 9, 1933

Where a corporation engaged in the sale and distribution of its so-called "Natural Eyesight System", or course of instruction (including advice as to hygienic living and mental science), and "Natural Eye Normalizer", for cure of defects of vision, so that customer might avoid purchase and use of glasses,

- (a) Included the word "Institute" in its corporate name and thereby and through constant use thereof represented itself to be an institute, notwithstanding fact it carried on no clinic, research work, or experimentation, had no optical equipment, gave same advice and directions, irrespective of particular type of defect of particular individual, to all customers, and seldom learned what defects of vision any customer had or believed himself to have, never made diagnoses of defects of the eyes, had no medical advisor or oculist in its organization or employ, bore no relation to its customers of a professional character, or other than a commercial one, and was not an organization for the promotion of learning, art or science, nor organized for work of a scientific or literary character, and was not an "Institute";
- (b) Made such representations in its advertisements in periodicals of national circulation, circulars, etc., as "Millions of people are wearing glasses, but you don't have to wear them to see with, *unless you want to*", " * * * Specifically speaking, glasses are unnecessary because there is nothing that glasses do that the eyes cannot be taught to do better * * * " *"Divorce your spectacles! See without glasses! The Natural Eyesight System makes them unnecessary. Thinking thousands are using this New Knowledge of the Eye, discarding their glasses and having more satisfactory vision without them than they ever had with them * * *", "The Natural Eyesight System corrects eye defects—simply, safely, satisfactorily—without glasses", "Science has solved the Seeing Problem * * * and it is no longer necessary to wear glasses * * *", and " * * * most people can practically restore their eyes and get rid of glasses in 90 days or less, if they will give a little time daily to the work", and asserted that its said system accomplished "its results through the removal of the causes of defective eyesight", and thereby corrected nearsightedness, farsightedness, astigmatism, old age eyes, and numerous other specified defects and ailments of the eye, notwithstanding the fact that in a substantial majority of cases it is not possible for patients, theretofore users of glasses for defects due to nearsightedness, farsightedness, astigmatism, advancing years, and other conditions, through aforesaid "natural" methods to remove such defects or so far alleviate them, as to make it possible successfully to remove glasses, and its customers, in attempting to apply to themselves its aforesaid system, under the same instructions regardless of their particular defects, could not obtain by a substantial margin, the benefit and improvement obtainable from the so-called "natural" methods of treatment, when administered by skilled practitioners, who adapt the same to the specific ocular conditions of the individual patient; and*

(c) Represented its so-called "*natural eye normalizer*" as "a highly scientific, hand-operated instrument for self-applied treatment of the eyes, for the correction of all eye defects, such as nearsightedness, farsightedness", and various other ailments and defects referred to, and as marking "the dawn of the age of real vision and the passing of the age of spectacles", and asserted that with such "wonderful instrument * * * included in the Natural Eyesight System, now available for home use, no individual needs to face a future of steadily failing vision, with possible helplessness as an ultimate consequence of loss of eyesight", facts being said instrument was not of great therapeutic value, but merely a means of mechanical massage, effects of which were inferior to skilled massage by hand;

With result that such untrue, misleading and deceptive representations led to purchase of said "system" by customers who would not otherwise have bought the same, and who might and in numerous instances would have purchased either competitive courses of instruction, advertised and sold by others, to professional and lay customers, for relief through "natural" methods of defects of refraction, or original or replacement glasses or lenses, for which said system was offered as a substitute:

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. Eugene W. Burr for the Commission.

Mr. Urbane L. Barrett of Santa Monica, Calif., for respondent.

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 California corporation engaged in sale and distribution of a system of training for improving eyesight, to purchasers in various States, and with principal office and place of business in Los Angeles, with advertising falsely or misleadingly as to the nature and results thereof, and with using misleading corporate name and misrepresenting business status, 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 in the sale of its said system, which it designates as "Natural Eyesight System", and which includes a device by it designated as "Natural Eye Normalizer", in advertising said system in magazines and periodicals of national circulation, and in booklets and other literature distributed by it to prospective customers, makes such representations as that said system "saves sight, rebuilds eyes, and makes victory over glasses possible", and that said "Normalizer is a revolutionary invention which makes it easy to use the National Eyesight System in your home", and that the system is a home course of "self-applied eye

treatment" for conserving and restoring eyesight and discarding glasses, which "accomplishes its results through removal of the causes of defective vision, thus correcting nearsightedness, farsightedness, astigmatism", etc.; the facts being it is impossible for said system, used as directed, to change defects of refraction and remove cause of defective eyesight.

Respondent further, as charged, "in order to aid in the sale and distribution of its system and appliance * * * has adopted as its corporate name, 'Natural Eyesight Institute, Inc.,' the facts being, it "is not an institute, in that it does not conduct a place where research or scientific investigation is conducted or where instruction is given; nor is there connected with respondent any person who has had training for the diagnosis or treatment of abnormal eye conditions."

Said acts and things done by respondent, as charged, "in connection with the representations, designation and description of its system, appliance and status, as hereinbefore set out, have the capacity and tendency to mislead and deceive the purchasing public into the belief that the respondent's system and appliance will obtain the results claimed for it by respondent, and that respondent is an institute wherein scientific investigation and research covering abnormal eye conditions is carried on"; all to the prejudice of the public, and respondent's competitors.

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, the Federal Trade Commission issued and served a complaint upon the respondent, Natural Eyesight Institute, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. Respondent entered appearance and filed its answer. Thereafter hearings were held at the city of Los Angeles, Calif., and evidence, both in support of the complaint and in defense, was introduced before a trial examiner duly appointed by the Commission, beginning July 25 and closing August 4, 1932. All of the evidence was recorded, duly certified and transmitted to the Commission. The respondent waived oral argument. The proceeding has been submitted on briefs in support of the complaint and on behalf of respondent and has been brought on for final determination.

Now, therefore, the Commission having duly considered the pleadings, the report of the trial examiner and exceptions thereto, the

briefs and the record herein and, being duly advised in the premises, makes this its report stating its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal place of business is in the city of Los Angeles in said State. For five years respondent has been, and now is, engaged in the sale and distribution of a course of instructions in seven pamphlets and certain charts, and a piece of apparatus designated by respondent as the "Natural Eye Normalizer", which course of instructions and apparatus are together known and sold by respondent as its "Natural Eyesight System", for cure of defects of vision. More than five thousand sales of the said "system" have been made by respondent to both professional and lay buyers. The price thereof is \$25 and is paid subject either (1) to refund by respondent on customer's demand made, with the return of the "system", not later than 30 days after delivery, (2) to refund four months after delivery upon assurance that customer has used the "system" at least 15 minutes daily for 4 months and has failed to discard his glasses, or (3) to refund between 12 and 15 months after the delivery thereof to the customer, upon return of the system. Refunds made have been less than 9 percent of the total sales of the system. The advice and directions contained in the pamphlets forming part of the said Natural Eyesight System, including those for the use of the Natural Eye Normalizer, are precisely the same irrespective of the particular type of defect of vision the individual customer may have. Respondent does not give advice to customers purporting to adapt or adapting its system to any individual ocular need of individual customers. The said system includes advice as to hygienic living in general and mental science.

PAR. 2. In the ordinary course and conduct of its said business respondent, as a means of obtaining customers for the said Natural Eyesight System, has caused advertising matter to be inserted in magazines and other periodicals having a national circulation. Also in order to obtain customers for said system respondent sends circular and other advertising matter from its office in California to persons located in all parts of the country who answer said magazine and periodical advertisements. Upon making sales of the said system respondent transports, or causes to be transported, its said Natural Eyesight System from its said place of business to other

localities, partly within the said State, but chiefly in States other than California, in all parts of the country.

PAR. 3. Respondent in its said advertising so issued to secure customers informs the public that by the purchase and use of its Natural Eyesight System customers will be enabled to avoid the purchase and use of glasses stating, among other numerous similar representations, as follows:

Millions of people are wearing glasses, but you don't have to wear them to see with, *unless you want to*.

Why Glasses are Unnecessary * * * Specifically speaking, glasses are unnecessary because there is nothing that glasses do that the eyes cannot be taught to do better. All that glasses do is to relieve the eye muscles and eye lenses of their job of focusing light rays upon the retina of the eyes. * * *

The Unanswerable Argument—Divorce your spectacles! See without glasses! The Natural Eyesight System makes them unnecessary. Thinking thousands are using this New Knowledge of the Eye, discarding their glasses and having more satisfactory vision without them than they ever had with them. Skeptics may say "Bunk", but they said the same thing to the man who was born blind 2,000 years ago, but he came at them with an unanswerable argument when he said "One thing I know, that whereas I was blind, now I see" (John 9:25).

The Natural Eyesight System makes glasses unnecessary.

The positive proof is now before your very eyes *Read on!* * * *

The Natural Eyesight System corrects eye defects—simply, safely, satisfactorily—*without glasses*.

Science has solved the Seeing Problem, just as it has solved so many other problems, and it is no longer necessary to wear glasses. There is a better way to see and this "better way" is found in the Natural Eyesight System.

In fact, most people can practically restore their eyes and get rid of glasses in 90 days or less, if they will give a little time daily to the work.

When we say that the Natural Eyesight System saves sight, rebuilds eyes and makes glasses unnecessary, we mean just what we say. We mean that the Natural Eyesight System gives you a better pair of eyes—eyes that see better, look better and feel better.

PAR. 4. Moreover, in its advertising so issued to secure customers, respondent states with respect to specific defects of the eye, among numerous similar representations, as follows:

The Natural Eyesight System accomplishes its results through the removal of the *causes* of defective eyesight, thus correcting nearsightedness, farsightedness, astigmatism, old age eyes, weak eyes, undeveloped eyes, squint, cross-eyes, muscle imbalance, eye muscle trouble, and other eye defects. The system is used for the various eye defects for which spectacles are usually fitted and worn.

We realize that we are making some startling statements when we say that Nearsightedness no longer is necessary; that astigmatism is no longer necessary; that eyestrain is no longer necessary; that farsightedness is no longer necessary; that weak eyes are no longer necessary; that eye muscle trouble is no longer necessary; and that even failing vision due to advancing age is no longer necessary. * * *

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This system overcomes—

Nearsight	Undeveloped eyes
Farsight	Failing vision due to age
Astigmatism	Squinting
Eyestrain	Eye muscle trouble
Weak eyes	Cross-eyes, etc., etc.

Buy the Natural Eyesight System Once and You Solve Your Eye Problem for Life.

PAR. 5. Furthermore in its advertising so issued to secure customers, respondent states with respect to its said Natural Eye Normalizer, among numerous similar representations, as follows:

It marks the dawn of the Age of Real Vision and the passing of the Age of Spectacles.

Send for *free* information for telling how Revolutionary Invention makes it easy to correct Nearsightedness, Farsightedness, Astigmatism, Eye Strain, Weak Eyes, Failing Vision, Old Age Sight, Eye Muscle Trouble, Etc., *at home without glasses.*

The *natural eye normalizer* is a highly scientific, hand-operated instrument for self-applied treatment of the eyes, for the correction of all eye defects, such as nearsightedness, farsightedness, astigmatism, old-age eyes, eye muscle trouble, eye strain, etc., and for conserving natural eyesight and keeping good eyes fit.

With this wonderful instrument, which is included in the Natural Eyesight System, now available for home use, no individual needs to face a future of steadily failing vision, with possible helplessness as an ultimate consequence of loss of eyesight.

SEE WITHOUT GLASSES!

Natural Eyesight System Makes Them Unnecessary—Now Used in Over Thirty Countries—Send for information *free* for telling how Revolutionary Invention makes it easy to correct Nearsight, Farsight, Astigmatism, Eye Strain, Weak Eyes, Failing Vision, Old Age Sight, Eye Muscle Trouble, etc., *at home without glasses.*

PAR. 6. There are at least two schools of theory and professional practice in the treatment of defects of vision, according to the record herein, namely, the so-called orthodox school of medicine and ophthalmology and the so-called school of "natural" methods. Counsel supporting the complaint herein called to the stand oculists, practitioners of the former school, and respondent called osteopathic doctors and optometrists, practitioners in the main of the latter school; certain of respondent's expert witnesses are also licensed to practice medicine and surgery. The respondent's said Natural Eyesight System follows mainly the theory, and advises in several respects the use by its customers of the methods, of the latter school. The evidence as to the merits of the methods of treating defects of vision set forth in respondent's course of instructions, is radically conflicting. Witnesses belonging to the "orthodox" school testified

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that there is merit in the hygienic and psychological advice given in respondent's system, but that defects of refraction cannot be removed by the methods advised by respondent's system, that the latter methods cannot remove necessity for the use of glasses caused by these defects, and that massage by the Natural Eye Normalizer or otherwise will not alleviate these defects. Witnesses for the defense testified to the contrary as to the benefit of natural methods in cases of defects of refraction and declared that in numerous cases of such defects the need for glasses can be obviated by treatment, adapted to the needs of the individual patient, by practitioners of the school of so-called natural methods. They testified that by these methods the vision of patients generally can be improved and both professional and lay witnesses for the defense cited instances of great improvement from natural methods including cases of defects of refraction. Witnesses supporting the complaint declared that many instances of apparent improvement in refraction are due to the patient's recovery from physical disease or disability and the restoration of vision incident to a return to normal health. Other numerous instances of successful removal of glasses, they testified, are due to an improvident previous sale of glasses to persons for whom glasses should not have been prescribed.

PAR. 7. The Commission finds it unnecessary to decide the differences of opinion between the experts of the two schools of theory and practice described hereinabove in paragraph 6. The testimony for the defense admitted, and to such extent corroborated the evidence in support of the complaint herein and accordingly the Commission finds, as follows:

(a) That in a substantial majority of cases, where patients have used glasses for defects due to nearsightedness, farsightedness, astigmatism, advancing years or cross-eyed conditions, it is not possible through said "natural" methods to remove these defects or so far to alleviate them as to make it possible successfully to remove glasses;

(b) That the customers of respondent, in attempting to apply to themselves the Natural Eyesight System under the same instructions, regardless of the respective causes of their various defects of vision, can attain a substantially smaller average benefit and improvement than are obtainable from so-called natural methods of treatment, when these methods are administered by skilled practitioners adapting them to the specific individual ocular conditions of the patient; and

(c) That the respondent's Natural Eye Normalizer is not an instrument of great therapeutic value but one merely of mechanical massage giving results inferior to skilled massage by hand.

PAR. 8. Respondent by its corporate name and constant use thereof represents itself to be an institute. No clinic, research work, or experimentation, however, is carried on by respondent, nor does it have any optical equipment. Respondent seldom learns what defects of vision any customer has or believes himself to have and never makes diagnosis of defects of the eyes. Its officers and employees do not come into contact with its customers nor has respondent any medical advisor or oculist in its organization or employ. Respondent bears no relation to its customers of a professional, or other than commercial, character. Respondent is not an organization for the promotion of learning, art, or science, and is not organized for work of a scientific or literary character. Respondent is not an institute.

PAR. 9. There are various concerns other than respondent which advertise and sell courses of instruction for the relief, through so-called "natural" methods, of defects of refraction, partly to professional and partly to lay customers in the regular course of interstate commerce. These concerns and respondent are in substantial competition. There are also concerns which manufacture and sell optical lenses for fitting into glasses and still others which sell glasses without themselves manufacturing, in the regular course of both interstate and intrastate commerce. In its representations to the general public and to prospective customers, as hereinabove in paragraphs 2 to 5, inclusive, set forth, respondent seeks to secure as customers those who need, or believe themselves to need, original or replacement glasses. Respondent and concerns vending glasses seek many of the same customers and cannot simultaneously make sales to them. Respondent offers its course as a substitute for the purchase of original or replacement glasses and offers substantial competition to concerns selling lenses.

PAR. 10. The representations described and partly set forth hereinabove in paragraphs 2 to 5, inclusive, and 8 are issued by respondent to the public and to prospective customers for the purpose of inducing the public to buy respondent's Natural Eyesight System in lieu of purchasing glasses. These representations are untrue and misleading and deceptive to the public. They result in the purchase by customers of respondent's said system on the part of persons who would not otherwise purchase it, and might and in numerous instances would purchase other courses of instruction or glasses in lieu of respondent's system.

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CONCLUSION

The acts and practices of respondent under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in interstate commerce 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 DESIST¹

This proceeding having been considered by the Federal Trade Commission upon the pleadings, the oral and documentary evidence received, the report of the trial examiner, the exceptions of respondent to said report and the briefs, and the Commission having made its findings as to the facts and conclusion that respondent has 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", and the Commission having issued an order to cease and desist on the 9th day of June 1933, and it now appearing desirable to modify in some respects the prohibitions of the said order to cease and desist,

It is now ordered, That said order of June 9, 1933, be and the same is hereby set aside and vacated; and

It is further ordered, That respondent, Natural Eyesight Institute, Inc., its agents, representatives, and employees, in offering for sale or selling its system for correcting defects of vision, now designated by respondent as its Natural Eyesight System, in interstate commerce, shall cease and desist from representing orally or in writing as follows:

(1) That there is nothing which glasses do that the eyes cannot be taught to do better; and

(2) That respondent's Natural Eye Normalizer has therapeutic value other than that of a mechanical means for the massage of the eyes; and from making representations of the same meaning and effect; and

(3) That, as a result of the purchase and use of respondent's Natural Eyesight System or its Natural Eye Normalizer, those who have used glasses for defects due to nearsightedness, farsightedness, astigmatism, advancing years, or cross-eyes, can, in general or in the majority of instances, remove these ocular defects or can thereby be relieved of the necessity for wearing glasses, or that most people

¹ Substitute order.

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suffering from said defects can get rid of glasses in 90 days or any other period; and from making representations of the same meaning and effect;

Provided, however, that, Inasmuch as the question whether such defects can be removed and such relief obtained in certain instances through the use of respondent's Natural Eyesight System is a matter upon which expert opinion differs, as is shown in the evidence in this proceeding, nothing in this order contained forbids respondent from representing that in certain instances such defects have been or can be corrected and glasses discarded as a result of the use of respondent's Natural Eyesight System.

It is further ordered, That respondent shall, within 90 days after the service upon it of a copy of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with and conformed to the order to cease and desist hereinabove set forth.

IN THE MATTER OF
HOWARD B. DROLLINGER

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

Docket 1868. Complaint, Oct. 23, 1930—Order, June 16, 1933

Consent order requiring respondent, his agents, employees, etc., in connection with the advertising, offering for sale, and sale, in interstate commerce or in the District of Columbia, of a Solenoid belt or device known as Ion-I-Zer, to cease and desist from representing in any manner whatsoever that the said belt or device or any similar device or appliance designed or intended to operate through exposure of a human subject to a low-frequency alternating magnetic field, without any physical conductive connection of such subject in the circuit, has any physical therapeutic effect upon the subject by reason of the said magnetic field, or that it is calculated or likely to aid in the prevention, treatment or cure of any human ailment, weakness, or disease through the application of such low-frequency alternating magnetic field.

Mr. E. J. Hornibrook for the Commission.

Mr. Arthur E. Cook, of Washington, D.C., for respondent.

COMPLAINT

Acting in the public interest and pursuant to 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"; the Federal Trade Commission charges that Howard B. Drollinger, hereinafter referred to as respondent, has been and is using unfair methods of competition in violation of the provisions of section 5 of said act, and states charges in that respect as follows:

PARAGRAPH 1. Respondent, Howard B. Drollinger, is an individual and is now and for several years last past has been carrying on the business of manufacturing and selling an electrical device, which device consists of coils of wire in circular formation and covered with cloth or rubber and when attached to an ordinary alternating household electrical current is and was claimed by respondent to create a magnetic field, and such magnetic field so alleged to be created is and was purported by him to have curative and therapeutic value and action in the treatment of diseases and ailments of the human body when applied to the same.

The said device was manufactured, advertised and sold by respondent in and from Los Angeles, Calif., under the name of "Life Saver" from about the year 1925 to about the year 1928, and was