

IN THE MATTER OF
G. LINDHOLM COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 2809. Complaint, May 18, 1936—Decision, Nov. 4, 1936

Where a corporation, engaged in sale and distribution to dealers, users, and consumers of a comb product for the treatment of the hair and scalp, designated, branded, and advertised by it as "Evans Dermectro Electric Comb"; in soliciting sale of its said product in radio broadcasts, advertisements, and advertising matter in newspapers and periodicals having interstate circulation—

- (a) Represented that said product constituted an "Amazing Invention", use of which would check dandruff and falling hair in a few days, impart new life to dry, dull hair and cause it to become wonderfully lustrous, thick and wavy, and use of which would arrest growing baldness, or tend to restore gray hair to its original color, and that new hair had started to grow in cases of premature baldness, as though a miracle, according to many users, by reason of the asserted scientific action of the electric current, as explained by European doctors, etc.; and
 - (b) Represented that "A thousand-dollar guarantee goes with every comb," and that "If after seven days' usage you are not satisfied, just return the comb and your money will be cheerfully refunded," and included in its magazine advertisement a coupon or blank, to be filled out by the prospective purchaser, bearing the legend "\$1,000 GUARANTEE COUPON," and assurance similar to that hereinabove set forth, and to the effect that purchase price, in event of dissatisfaction, would be returned "without question or quibble";
- The facts being said representations, statements, and assertions were false, misleading, and deceptive, in that use of product would not check dandruff and falling hair, etc., as above set forth, or cause it to become wonderfully lustrous, etc., or arrest growing baldness, or tend to restore gray hair to its original color, and product did not possess therapeutic value and properties claimed for it, and as respects alleged guarantee said sum had not actually been posted or deposited as collateral security with any individual or concern as depository, so as to make it properly available to any purchaser as good and sufficient security in the event that such alleged guarantee was breached by it, and guarantee was vague, misleading, and deceptive, in that it did not actually go with every comb;

With capacity and tendency to mislead and deceive the purchasing public into buying its said product under the erroneous belief that such statements and representations were true, and that use thereof would accomplish results claimed for it therein, and with result that trade was unfairly diverted to it from its competitors who truthfully represent their respective products and the benefits to be obtained from the use thereof; to the substantial injury of competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Before *Mr. John J. Keenan*, trial examiner.

Mr. John Darsey for the Commission.

COMPLAINT

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 having reason to believe that G. Lindholm Company, Inc., hereinafter referred to as respondent, has been and now is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said 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, G. Lindholm Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its office and place of business located at 316 Flatbush Avenue, Borough of Brooklyn, city and State of New York.

PAR. 2. Respondent is now and has been for more than one year last past, engaged in the business of selling and distributing to dealers, users, and consumers in various parts of the United States, a comb product for use in treating the hair and scalp of men and women which it designates, brands, and advertises as "Evans Dermectro Electric Comb", and has caused said product, when sold, to be shipped and transported from its place of business in the State of New York to purchasers thereof located in many other States of the United States. In the course and conduct of its business as aforesaid, respondent is in competition with corporations, partnerships, firms, and individuals, engaged in interstate commerce, in the business of selling and distributing like and similar electric combs; and also with corporations, partnerships, firms, and individuals engaged in the business of selling and distributing, in interstate commerce, medications and preparations for use in the treatment of dandruff, falling hair, early baldness, and other related hair and scalp complaints; and also with corporations, partnerships, firms, and individuals engaged in the business of selling and distributing, in interstate commerce, hair dyes and hair coloring products.

PAR. 3. In the course and conduct of its said business, as aforesaid described and alleged, respondent, in soliciting the sale of and sell-

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ing its said product, "Evans Dermectro Electric Comb," has made, and caused to be made, false and misleading statements and representations in and by means of advertisements in magazines and newspapers having interstate circulation, other advertising matter, and radio broadcasts, and has pursued methods and practices, in substance as follows:

(a) In said radio broadcasts, advertisements, and advertising matter, said product was represented and referred to by such statements as an "amazing invention" and that "it does wonders for your hair"; and that by its use: "dandruff and falling hair have been checked in a few days", "dry, dull hair gained new life", "became wonderfully lustrous", "straight and thin hair became thick and wavy", "new hair has started to grow in cases of premature baldness, as though a miracle, many users write", "it strokes new life and vigor into your hair", "gray hair has come in darker at the roots"; and that "European doctors explained this miraculous phenomena thus: that the gentle, shockless electric current, passing from the battery in the handle of the comb through its teeth to your hair and scalp, is able to reach the weakened hair roots—literally pouring its life-giving energy over them, waking them up and stimulating them"; and many other statements of similar import and character.

(b) In connection with the sale of said product, as aforesaid described and alleged, respondent in its said radio broadcasts, advertisements, and advertising matter stated and represented a purported guarantee as follows: "A thousand-dollar guarantee goes with every Comb. If after seven days' usage you are not satisfied, just return the Comb and your money will be cheerfully refunded"; and also in the order or coupon blank, contained and set forth in a magazine advertisement concerning said product, the said coupon or order blank, which is to be filled out by the prospective purchaser when ordering said product, bears the legend, "\$1,000 GUARANTEE COUPON" and an assurance to any such purchaser in language similar in import to that next hereinabove immediately quoted, and to the effect that the purchase price in the event of dissatisfaction will be returned "without question or quibble".

PAR. 4. In truth and in fact the said representations, statements and assertions described, alleged and set forth in paragraph numbered 3 hereof are false, misleading, and deceptive in that the use of said product will not check dandruff and falling hair in a few days, or impart new life to dry, dull hair, or cause it to become wonderfully lustrous, thick and wavy, or arrest growing baldness, or tend to restore gray hair to its original color, or perform any function or use other than that which may be accomplished by the ordinary

celluloid, rubber or bone hair comb. Said product does not possess the therapeutic value and properties claimed for it; and, insofar as the alleged guarantee of \$1,000 is concerned, said sum has not actually been posted or deposited by the respondent as collateral security with any individual, firm, partnership, or corporation, as depository, so as to make it properly available to any purchaser as good and sufficient security in the event that said alleged guarantee is breached by the respondent. Further, said guarantee is vague, misleading, and deceptive in that a thousand-dollar guarantee does not actually go with every comb.

PAR. 5. Said statements and representations, as heretofore alleged and set forth, have the capacity and tendency to mislead and deceive the purchasing public into buying said product under the erroneous belief that they are true and that the use of said product will accomplish the results claimed for it in said radio broadcasts, advertisements, and advertising matter.

PAR. 6. In the course and conduct of its business as aforesaid, respondent is in competition with the various classes of competitors named in paragraph 2 hereof, which said competitors, singly and respectively, in no wise make the same or similar false and misleading representations or guarantees as made by the respondent, as hereinbefore set forth, but who truthfully and accurately state the uses for which their said respective products may be used and the effects obtained from a use thereof. The aforesaid representations and statements made by the respondent about its product and the use of its purported "\$1,000 Guarantee", as hereinbefore stated and alleged, in its radio broadcasts, advertisements and advertising matter, have the capacity and tendency to deceive and mislead the purchasing public, and to induce purchasers to buy the product of the respondent in and on account of the belief that said representations are true, and thus unfairly divert trade to respondent from its said competitors, who truthfully represent their respective products and the benefits to be obtained from a use thereof. As a result thereof, substantial injury has been, and is being, done by respondent to competition in commerce as hereinabove set out.

PAR. 7. The acts and things done by respondent as hereinabove alleged, described and set forth, are to the injury and prejudice of the public and to competitors of respondent, 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," approved September 26, 1914.

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REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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, on May 18, 1936 issued, and on May 19, 1936 served, its complaint in this proceeding upon respondent, G. Lindholm Company, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel having been waived, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. G. Lindholm Company, Inc., hereinafter referred to as respondent, is a corporation organized and existing by virtue of the laws of the State of New York. It has an office and principal place of business at 316 Flatbush Avenue, Borough of Brooklyn, city and State of New York.

PAR. 2. Respondent is engaged in the business of selling and distributing to dealers, users, and consumers in various parts of the United States, a comb product for use in treating the hair and scalp of men and women, which product it designates, brands and advertises as "Evans Dermectro Electric Comb." The respondent causes the aforesaid product when sold to be shipped and transported from its place of business in the State of New York to purchasers thereof located in many other States of the United States. The respondent has been engaged in the aforesaid business for a number of years. In the course and conduct of its business as aforesaid the respondent is in competition with corporations, partnerships, firms, and individuals, engaged in interstate commerce, in the business of selling and distributing a like and similar electric comb; and also with corporations, partnerships, firms, and individuals engaged in the

business of selling and distributing, in interstate commerce, medications and preparations for use in the treatment of dandruff, early baldness, falling hair, and other related hair and scalp diseases; and also with corporations, partnerships, firms, and individuals engaged in the business of selling and distributing in interstate commerce, hair dyes and hair coloring products.

PAR. 3. In the course and conduct of its business, as described and set forth in paragraph 2 supra, the respondent, in connection with the soliciting of sale and sale of its product, "Evans Dermectro Electric Comb", causes false and misleading statements and representations to be made in radio broadcasts, advertisements, and advertising matter carried in newspapers and periodicals having interstate circulation, in substance as follows:

(a) That its product "Evans Dermectro Electric Comb" is an "Amazing Invention", and that "it does wonders for your hair"; and that by its use: "Dandruff and falling hair have been checked in a few days"; "dry, dull hair gained new life"; "became wonderfully lustrous"; "straight and thin hair became thick and wavy"; "new hair has started to grow in cases of premature baldness, as though a miracle, many users write"; "it strokes new life and vigor into your hair"; "gray hair has come in darker at the roots"; and that "European doctors explained this miraculous phenomena thus; that the gentle, shockless electric current passing from the battery in the handle of the comb through its teeth to the hair and scalp is able to reach the weakened hair roots, literally pouring its life-giving energy over them waking them up and stimulating them"; and many other statements of similar import and character.

(b) That "A thousand-dollar guarantee goes with every comb. If after seven days' usage you are not satisfied, just return the comb and your money will be cheerfully refunded"; and also in the order or coupon blank, contained and set forth in the magazine advertisement concerning said product, the said coupon or order blank which is to be filled out by the prospective purchaser in ordering said product, bears the legend "\$1,000 GUARANTEE COUPON" and an assurance to any such purchaser in language similar in import to that next hereinabove immediately quoted, and to the effect that the purchase price in the event of dissatisfaction will be returned "without question or quibble".

PAR. 4. The representations, statements, and assertions set forth in paragraph 3 supra, are false, misleading, and deceptive in that the use of said product will not check dandruff and falling hair in a few days, or impart new life to dry, dull hair, or cause it to become wonderfully lustrous, thick and wavy, or arrest growing baldness or

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tend to restore gray hair to its original color. The product does not possess the therapeutic value and properties claimed for it; and, insofar as the alleged guarantee of \$1,000 is concerned, said sum has not actually been posted or deposited by the respondent as collateral security with any individual, firm, partnership, or corporation, as depository, so as to make it properly available to any purchaser as good and sufficient security in the event that said alleged guarantee is breached by the respondent. The said guarantee is vague, misleading, and deceptive in that the thousand-dollar guarantee does not actually go with every comb.

PAR. 5. The statements and representations as heretofore set forth, have the capacity and tendency to mislead and deceive the purchasing public into buying respondent's product under the erroneous belief that they are true and that the use of said product will accomplish the results claimed for it in said representations. As a consequence of said false and misleading representations, trade is unfairly diverted to respondent from its competitors who truthfully represent their respective products and the benefits to be obtained from the use thereof. As a result thereof substantial injury is done by respondent to competition in commerce as hereinabove set forth.

CONCLUSION

The aforesaid acts and practices of the respondent G. Lindholm Company, Inc., are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning 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 the answer filed herein on October 13, 1936 by respondent admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said 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."

It is ordered, That the respondent, G. Lindholm Company, Inc., its officers, representatives, agents, and employees, in connection with

the offering for sale, sale and distribution of its product, "Evans Dermectro Electric Comb" in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing, directly or indirectly, through the use of such phrases as "amazing invention", "it does wonders for your hair", "dandruff and falling hair have been checked in a few days", "dry, dull hair gained new life", "became wonderfully lustrous", "straight and thin hair became thick and wavy", "new hair has started to grow in cases of premature baldness, as though a miracle, many users write", "it strokes new life and vigor into your hair", "gray hair has come in darker at the roots", "European doctors explained this miraculous phenomena thus: that the gentle, shockless electric current, passing from the battery in the handle of the comb through its teeth to your hair and scalp, is able to reach the weakened hair roots—literally pouring its life-giving energy over them, waking them up and stimulating them"; or words or phrases of similar import and effect that the use of its product will check dandruff and falling hair; impart new life to dry, dull hair and cause it to become lustrous, thick and wavy; arrest growing baldness or restore gray hair to its original color; or that the use of said product will accomplish similar therapeutic benefits;

2. Representing, directly or indirectly, through the use of such language as "a thousand-dollar guarantee goes with every comb. If after seven days' usage you are not satisfied, just return the comb and your money will be cheerfully refunded", in purported guarantees that each of respondent's products carries with it a guarantee for the benefit of the purchaser in the event of dissatisfaction with said product.

It is further ordered, That the respondent shall, within 60 days after service upon it 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 this order.

IN THE MATTER OF
UTILITIES ENGINEERING INSTITUTE

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

Docket 2896. Complaint, Aug. 11, 1936—Decision, Nov. 4, 1936

Where a corporation engaged in the sale and distribution of a correspondence course in air conditioning and electric refrigeration direct to the purchasing public in the various States and in the District of Columbia, and in connection therewith in advertising, among other things, that prominent officials of leading manufacturing firms served actively as an "Advisory Board" for it, contributing their time and assistance, and using a fictitious name asserted to represent a separate company retained by it to enforce the collection of overdue accounts, and through which it threatened customers, etc.; in competition with those who do not, in the guise of offering employment, advertise their said courses, represent that leading manufacturers are serving actively in an advisory capacity or contributing their time and assistance, or employ dummy trade names in the guise of collection agencies, but accurately advertise and represent their said courses—

- (a) Inserted in the classified advertisements in newspapers and periodicals of general circulation, as a means of contacting prospective customers, and in many instances under such headings as "Help Wanted" or "Male Help Wanted" such statements as "Wanted—Men to Qualify for Good Pay Positions," "We want to interview men willing to qualify for jobs in air conditioning, electric refrigeration. Big pay opportunities for young men in America's fastest-growing businesses * * *," "Reliable young men wanted," and frequently gave a post office box number only in connection therewith, and turned over to its agents and representatives inquiries or replies received in response to such "blind ads," which failed to disclose the actual fact that it was a correspondence course, including shop practice and placement help, that was being offered, and misled and deceived prospect into erroneous belief that advertiser was in a position to offer him employment; and
- (b) Represented that so-called "job tickets" would be furnished applicants or students after a short time, whereby they could earn money, while training, through installation and servicing of electric ice boxes, through including in its application blanks used by it in signing prospects to its refrigeration contracts that it offered the prospect, among other features and services, "A series of Job Tickets to enable me to do spare time servicing, earn extra money, and gain practical experience while training;" facts being it had no jobs or positions to offer, leading manufacturers did not serve it in an advisory capacity or thus contribute their time to the conduct of its activities, and collection agency referred to was merely a trade name employed by it for collecting unpaid accounts and sums of money claimed to be due it from customers;

With capacity and tendency to mislead and deceive those contracting with, or considering contracting with it, and with effect of so doing, and with result that some of prospects thus contacted by it through its advertisements,