

IN THE MATTER OF

OMEGA MANUFACTURING COMPANY, INC., TRADING AS
OMEGA ELECTROLYSIS INSTITUTE, AND MILTON L.
BROWNSHIELD, INDIVIDUALLY AND AS AN OFFICER
THEREOFCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4146. Complaint, May 31, 1940—Decision, June 12, 1941*

Where a corporation, and an individual who was an officer thereof and formulated, controlled, and directed its policies, acts and practices, engaged in interstate sale and distribution of a device or apparatus designated as the "Omega Home Use Portable Machine" and as "Omega Method," for removal of unwanted hair; by advertisements disseminated through the mails, in magazines, circulars, leaflets, pamphlets, and other advertising literature—

- (a) Represented that said device was an effective, efficient, safe and scientific apparatus for the electrolytic removal of superfluous hair by individual self-application at home, that such removal of hair was permanent, and that said device was foolproof, painless, pleasant, quick, simple, and easy to use, and would have no ill effects upon the body;

Facts being its operation required the services of a skilled operator acquainted with anatomy and physiology, particularly of the areas to be covered, and also with bacteriology and sepsis, as well as with the properties of the machine used; proper use by lay person was extremely difficult, while improper use might cause scarring, pitting, or infection, with particular danger where used on pigmented or cancerous moles or syphilitic lesions and possibility of infection leading to abscess of the brain; use thereof was not painless or pleasant, since insertion of the needle and the electric current might be very painful, depending upon the toleration of the individual skin; and it would not remove superfluous hair quickly, but process required a long time, since hairs must be removed individually and care taken not to remove those adjacent because of danger to the tissue; and

- (b) Failed to reveal facts material in the light of aforesaid representations and that use of said device under prescribed or usual conditions might result in permanent disfigurement or cause infections or other irreparable injury to health, and that said device should not be used to remove hair from cancerous or syphilitic lesions, pigmented moles, or other areas showing pathological conditions;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true, and of inducing it, because of such belief, to purchase their said device or apparatus:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Complaint

Before *Mr. Robert S. Hall*, trial examiner.

Mr. William L. Taggart for the Commission.

Mr. Samuel Z. Cohen, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Omega Manufacturing Co., Inc., a corporation, trading as Omega Electrolysis Institute, and Milton L. Brownshield, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the 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. Omega Manufacturing Co., Inc., is a corporation created, organized, and existing under and by virtue of the laws of the State of New York, with its office and principal place of business at 516 Fifth Avenue, New York, N. Y., from which address said corporate respondent also transacts business as Omega Electrolysis Institute. Milton L. Brownshield is an individual, and is also president and treasurer of Omega Manufacturing Co., Inc., with his office and principal place of business at the same address as said corporate respondent.

Respondent, Milton L. Brownshield, as an officer of said corporate respondent, formulates, controls, and directs the policies, acts, and practices of said corporate respondent. Said respondents act in conjunction and cooperation with each other in performing the acts and practices hereinafter alleged.

PAR. 2. The respondents are now, and for more than one year last past have been, engaged in the sale and distribution of a certain device or apparatus, designated as the Omega Home Use Portable Machine, recommended for use in the electrolytic removal of superfluous hair from the human body by individual self-application in the home.

In the course and conduct of their business, the respondents cause said device or apparatus when sold to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain and at all times mentioned herein, have maintained a course of trade in said device or apparatus in commerce between and among the various States of the United States and in the District of Columbia.

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PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of, the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails, by advertisements in magazines, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Unsightly Hair Removed

Don't suffer another minute from the mental agony and embarrassment of superfluous hair. You can remove it quickly, easily, painlessly in the privacy of your own home—never to grow again. Omega Method kills the hair root. It is a thoroughly tested safe way to be rid of unwanted hair. Successfully used by thousands of women and the profession. Write for free information today.

Omega Electrolysis,
19 W. 44th St., N. Y. C.

Unsightly Hair Removed In Your Own Home. New simple modern method will rid you safely and permanently of unpleasant superfluous hair. No longer need you feel self-conscious! See how simple and effective is this new professionally proven successful way. Use it in your own home.

Our experts have designed an instrument that is perfect for self treatment. As manufacturers of electrolysis equipment we recommend it without reservation. Removal of unwanted hair. Permanent, pleasant.

Omega is the Modern Way. Remove unwanted hair—once—never to return! Omega Method is Foolproof—Pleasant—Permanent.

You can use it alone without assistance. It's foolproof.

There is nothing to cause pain—no burn—it is safe—efficient performance.

Designed for perfection. Safe as a flashlight. Can be used on any part of the face or body—remove hair on eyebrows—face—bridge of nose.

Omega is the only scientific electrolysis needle—it is a modern marvel.

Electrolysis has the endorsement of the medical profession.

Respectful of the Codes of Ethics of the Medical Societies.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein,

the respondents represent that their device, designated as Omega Home Use Portable Machine, is an effective, efficient, safe and scientific apparatus for the electrolytic removal of superfluous hair from the human body by individual self-application in the home, that the removal of said hair is permanent; that it is foolproof, painless, pleasant, quick, simple and easy to use, and will have no ill effects upon the human body.

PAR. 5. In truth and in fact, the device or apparatus sold and distributed by the respondents as aforesaid, designated as Omega Home Use Portable Machine, is composed principally of an electric battery to which is attached two cords, one cord terminating in an electrode and the other cord terminating in a needle. The said needle is inserted into the hair follicle for the purpose of destroying the root of the hair by electrolysis, which process may cause serious injury to health. The said device is not an effective, efficient and scientific apparatus for the electrolytic removal of superfluous hair from the human body by individual self-application in the home. Said device will not accomplish the results claimed by the respondents and is not safe, foolproof and painless when used by the unskilled lay public.

PAR. 6. In addition to the representations hereinabove set forth, the respondents have also engaged in the dissemination of false advertisements in the manner above set forth in that said advertisements so disseminated fail to reveal that the use of said device under the conditions prescribed in said advertisements, or under such conditions as are customary or usual, may result in serious and irreparable injury to health.

The use of said device under the conditions prescribed in said advertisements or under such conditions as are customary or usual by persons not trained in the technique of removing superfluous hair from the human body by electrolysis may result in serious or irreparable injury to health or permanent disfigurement.

Such use, as aforesaid, may result in local infections, erysipelas, skin burns, scarring, metallic tattoo marks, pitting and permanent disfigurement. When infection occurs in the nose, on the upper lip or over the glabella, it may be so serious as to cause irreparable injury to health, and in those instances where the device and method are applied to cancerous or syphilitic lesions, which are not recognizable as such by the layman, fatal consequences may result from infection.

The use by the respondents of the foregoing false, deceptive and misleading statements and representations with respect to their device or apparatus, disseminated as aforesaid, has had and now has, the capacity and tendency to, and does, mislead and deceive a sub-

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stantial portion of the purchasing public into the erroneous and mistaken belief that such statements, representations and advertisements are true and induce a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' said device or apparatus.

PAR. 7. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on May 31, 1940, issued and subsequently served its complaint upon the respondents, Omega Manufacturing Co., Inc., a corporation, trading as Omega Electrolysis Institute, and Milton L. Brownshield, individually and as officer of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by William L. Taggart, attorney for the Commission, and in opposition to the allegations of the complaint by Samuel Z. Cohen, attorney for the respondents, before Robert S. Hall, a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, brief in support of the complaint (no brief having been filed by the respondents or oral argument requested), and the Commission having duly considered the matter 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. Omega Manufacturing Co., Inc., is a corporation created, organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business at 516 Fifth Avenue, New York, N. Y., from which address said corporate respondent also transacts business as Omega Electrolysis Institute. Milton L. Brownshield is an individual, and is also president and treasurer of Omega Manufacturing Co., Inc., with his office

and principal place of business at the same address as said corporate respondent.

Respondent, Milton L. Brownshield, as an officer of said corporate respondent, formulates, controls, and directs the policies, acts and practices of said corporate respondent. Said respondents act in conjunction and cooperation with each other in performing the acts and practices hereinafter found.

PAR. 2. The respondents are now, and for more than one year last past have been, engaged in the sale and distribution of a certain device or apparatus, designated as the "Omega Home Use Portable Machine" and as "Omega Method," recommended for use in the electrolytic removal of superfluous hair from the human body by individual self-application in the home.

In the course and conduct of their business, the respondents cause said device or apparatus when sold to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondents maintain and at all times mentioned herein, have maintained a course of trade in said device or apparatus in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said product; and respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said product in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said false advertisements, disseminated and caused to be disseminated, as hereinabove set forth, by United States mails, by advertisements in magazines, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

Unslightly Hair Removed

Don't suffer another minute from the mental agony and embarrassment of superfluous hair. You can remove it quickly, easily, painlessly in the privacy

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of your own home—never to grow again. Omega Method kills the hair root. It is a thoroughly tested safe way to be rid of unwanted hair. Successfully used by thousands of women and the profession. Write for free information today.

Omega Electrolysis,
19 W. 44th St., N. Y. C.

Unsightly Hair Removed In Your Own Home. New simple modern method will rid you safely and permanently of unpleasant superfluous hair. No longer need you feel self-conscious! See how simply and effective is this new professionally proven successful way. Use it in your own home

Our experts have designed an instrument that is perfect for self treatment. As manufacturers of electrolysis equipment we recommend it without reservation. Removal of unwanted hair. Permanent, pleasant.

Omega is the Modern Way. Remove unwanted hair—once—never to return!

Omega Method is Foolproof—Pleasant—Permanent.

You can use it alone without assistance. It's foolproof.

There is nothing to cause pain—no burn—it is safe—efficient performance.

Designed for perfection. Safe as a flashlight. Can be used on any part of the face or body—remove hair on eyebrows—face—bridge of nose.

Omega is the only scientific electrolysis needle—it is a modern marvel.

Electrolysis has the endorsement of the medical profession.

Respectful of the Codes of Ethics of the Medical Societies.

PAR. 4. By the use of the representations hereinabove set forth and other representations similar thereto not specifically set out herein, the respondents represent that their device, designated as Omega Home Use Portable Machine or Omega Method, is an effective, efficient, safe, and scientific apparatus for the electrolytic removal of superfluous hair from the human body by individual self-application in the home; that the removal of said hair is permanent; that it is foolproof, painless, pleasant, quick, simple and easy to use, and will have no ill effects upon the human body.

PAR. 5. The device or apparatus sold and distributed by the respondents as aforesaid designated as Omega Home Use Portable Machine or Omega Method is composed principally of an electric battery to which is attached a cord terminated by a needle. The needle is inserted into the hair follicle, usually from 1/16 to 3/16 of an inch beneath the surface of the skin. The current produced by the device brings about a chemical action which destroys the root of the hair.

The operation of this device requires the services of a skilled operator who must be acquainted with anatomy and physiology, particularly of the areas to be covered, and also with bacteriology and sepsis, as well as the properties of the machine used. The skin must be properly examined and prepared before the use of electrolysis and the operator must be able to determine when enough current has been

used, as the amount of current necessary depends upon differences in response of the hair follicle treated.

It is extremely difficult for a lay person to properly use this device and to insert the needle naturally so as to reach the hair follicle without injury to the surrounding tissue. Improper use of this device might cause scarring, pitting, or infection. There is particular danger in the use of this device on the areas of the upper lip or around the nose by reason of the nature of the blood supply and the lymphatic system in that area, enabling an infection to easily spread up through the nose to the sinuses or the brain, causing abscess of the brain, with very serious results.

The use of this device to remove hairs from some pigmented moles may have very serious consequences, as it might stimulate the pigmented cells to growth terminating in cancer which ordinarily would remain in the quiescent state, and the insertion of this needle into a cancerous mole might cause dissemination of the cancer cells all over the body. The use of this device to remove hairs from syphilitic lesions or other areas showing local pathological conditions might produce serious injury.

Respondents' device is not painless or pleasant to use, as the insertion of the needle as provided in the use of this device, together with the electric current, is very painful, depending upon the toleration of the individual skin upon which the device is used. It will not remove superfluous hair quickly, but is a process requiring a long period of time, as the hairs must be removed individually and care must be taken not to remove adjacent hairs during one operation, because of the danger to the tissue.

PAR. 6. In addition to the representations hereinabove set forth, respondents are also engaged in the dissemination of false advertisements in the manner above set forth, in that said advertisements so disseminated fail to reveal facts material in the light of such representations and fail to reveal that the use of said device or apparatus under conditions prescribed in said advertisements or under such conditions as are customary or usual may result in permanent disfigurement or cause infections or other irreparable injury to health and that said device should not be used to remove hair from cancerous or syphilitic lesions, pigmented moles, or other areas showing local pathological conditions.

PAR. 7. The use by the respondents of the foregoing false, deceptive, and misleading statements and representations with respect to their device or apparatus, disseminated as aforesaid, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and

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mistaken belief that such statements, representations and advertisements are true and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' said device or apparatus.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondents, testimony and other evidence taken before Robert S. Hall, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiner upon the evidence and brief filed in support of the complaint, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Omega Manufacturing Co., Inc., a corporation, trading as Omega Electrolysis Institute or trading under any other trade name, and its officers, and respondent Milton L. Brownshield, an individual and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their device or apparatus designated as "Omega Home Use Portable Machine," or "Omega Method," or of any other device or apparatus of substantially similar composition or construction or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference, that respondents' device "Omega Home Use Portable Machine," or "Omega Method," is a safe device for the electrolytic removal of superfluous hair from the human body by individual self-application in the home; that said device is painless, pleasant, quick or simple and easy to use; that said device will have no ill effects upon the human body, or which advertisement fails to reveal that the use of said device or

apparatus by persons not trained in the technique of removing superfluous hair from the human body by electrolysis may result in permanent disfigurement, cause infections or other irreparable injury to health, and that said device should not be used to remove hair from cancerous or syphilitic lesions, pigmented moles or other areas showing local pathological conditions;

2. Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said device or apparatus designated "Omega Home Use Portable Machine," or "Omega Method," which advertisement contains any of the representations prohibited in paragraph 1 hereof or which fails to reveal that the use of said device or apparatus by persons not trained in the technique of removing superfluous hair from the human body by electrolysis may result in permanent disfigurement, cause infections or other irreparable injury to health, and that said device should not be used to remove hair from cancerous or syphilitic lesions, pigmented moles or other areas showing local pathological conditions.

It is further ordered, That the respondents shall, within 10 days after service upon them of this order, file with the Commission an interim report in writing, stating whether they intend to comply with this order and, if so, the manner and form in which they intend to comply, and that within 60 days after service upon them of this order, said respondents shall file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
MAX COHEN, TRADING AS UNITED SALES COMPANY,
UNITED ART DISPLAY AND SALES COMPANY, ETC.

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

Docket 4161. Complaint, June 13, 1940—Decision, June 12, 1941

Where an individual engaged in interstate sale and distribution of photographic enlargements and frames therefor by house to house canvassing in various states; soliciting orders for enlargements through his "initial salesmen" or "grabbers" who traveled in crews of varying size under crew managers, and whose general plan was to call upon the prospect, usually the woman of the house, making a \$2 charge for an enlargement, with one-half payable as a deposit and retained as the "grabber's" commission, while the balance was payable on delivery of the picture by the second agent or "proof passer" and frame salesman—

- (a) Falsely represented that his business was operated under the sanction of the United States Supreme Court through a statement on the "Authorization and Identification Certificate," supplied its salesmen, reading "The Bearer of This Document is Operating Under the Sanction of THE UNITED STATES SUPREME COURT * * * The bearer of this document is engaged in Interstate Commerce, a field over which only the Federal Government has jurisdiction";
 - (b) Falsely represented on order blanks or "Certificates" and orally through his salesmen, directly or by implication, that its colored or tinted photographic enlargements were paintings;
 - (c) Represented to prospects that said individual, doing business under different trade names, was engaged in procuring pictures for use in art displays and magazine advertisements, that a contest was being conducted at which a number of pictures were to be exhibited and that the customer whose picture was selected would receive from \$100 to \$2,000, dependent upon the revenue obtained from the agency which might use it; advising prospect, after looking over various photographs and selecting one or more, that the picture would certainly win a prize, but that in order to enter it it would be necessary to have an enlargement made at a cost of \$2; and
 - (d) Represented through the second representative or "passer" calling with customer's enlargement, that the picture had been selected in a preliminary contest to compete for first prize or to be put on exhibition at Chicago, Kansas City, or other large city, but that in order to enter it in such final contest or exhibit it would be necessary that the picture be tinted or framed in a certain way, and that said representative or "passer" was in a position to supply the necessary frame, and that individual referred to would pay half the cost thereof, varying from \$6.90 to \$14.90 to the customer, and from 70 cents to \$2 to individual aforesaid;
- Facts being said individual was not engaged in securing photographs for advertising, or in conducting contests or displaying exhibits of them,