

IN THE MATTER OF

KAIDEN-KAZANJIAN STUDIOS, INC., ALSO TRADING AS
KEYSTONE NEWS & PHOTO SERVICE, FRANCES
KAIDEN, AND ARAM KAZANJIAN

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

Docket 4812. Complaint, Aug. 14, 1942—Decision, June 16, 1943

Where a corporation and the two officers in control of its sales policies and practices, engaged in interstate sale and distribution of photographs and so-called "Goldtone Miniatures" made therefrom—

- (a) Made use of words "News and Photo Service" in their trade name which they displayed on their letter heads, together with legend "Supplying Photographs to Newspapers, Magazines, and Trade Publications, including" a list of nearly 60 newspapers published in various cities, and on cards supplied their representatives set forth aforesaid trade name and statement "Photographers of National Personalities," and requested persons, through their agents, on occasion, to sit for photographs which they assertedly desired to have available for publicity purposes;

The facts being they were not one of those associations variously known as "Press," "Press Service," "News Service," etc., which perform distinct and notable public service in the gathering and dissemination of news, and possess valuable good-will and high prestige, and many of which operate photographic departments in connection with their news-gathering functions, but employed aforesaid trade name as a means of enabling them to make contact with prospective purchasers; while they sold glossy prints or supplied them to publications from their "library," said business amounted to only approximately 5 percent of their gross business, was incidental only to business of corporation, i. e., sale of photographs and miniatures to general public, and would not warrant representation they were engaged in business or service of obtaining photographs for use with news articles or publicity items for newspapers or periodicals; and their use on printed matter of names of newspapers was without permission; and

- (b) Represented to prospective purchasers, through letters and circulars, that they had made a "Goldtone Miniature" from one of prospect's negatives, admirably suited for said purpose, which had been entered in an exhibit conducted by the corporation, and that said exhibit having been concluded, miniature in question—regularly priced at \$50—could be purchased for \$12.50;

The facts being that their so-called "Goldtone Miniature" was not a genuine "Goldtone" print, produced by use of a toning paint employing salts of chloride of gold, considerably more expensive than the black and white sepia process; the so-called exhibit consisted of a hundred or more miniatures kept on display in their waiting room, open to the public on Saturday mornings in spring and fall, two larger "exhibitions" including no miniatures of prospective purchasers in other states to whom letters and circulars were mailed; their negatives were largely suitable for miniatures, and those concerned were made to sell, not for \$50, but for \$12.50, their regular price;

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With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, thereby inducing its purchase of their products:

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.

Before *Mr. John L. Hornor*, trial examiner.

Mr. Marshall Morgan for the Commission.

Mr. Herbert A. Kaiden, 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 Kaiden-Kazanjan Studios, Inc., a corporation, also trading as Keystone News & Photo Service, and Frances Kaiden, as president and secretary of Kaiden-Kazanjan Studios, Inc., and also trading individually, as Keystone News & Photo Service, and Aram Kazanjian, as vice president and treasurer of Kaiden-Kazanjan Studios, Inc., and also trading individually, as Keystone News & Photo Service, hereinafter referred to as respondents, have violated the provisions of 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. Respondent, Kaiden-Kazanjan Studios, Inc., hereinafter referred to as corporate respondent, is a corporation, organized and doing business under and by virtue of the laws of the State of New York, having its principal office and place of business at 21 West Forty-sixth Street, New York City, and trading also from said address as Keystone News & Photo Service.

Individual respondents, Frances Kaiden and Aram Kazanjian, are president and secretary, and vice president and treasurer, respectively, of respondent corporation, and they, in conjunction with each other, direct and control the sales policies and practices of the corporate respondent and of Keystone News & Photo Service, each operated as alleged from the same New York address.

PAR. 2. Respondents are engaged in the sale and distribution of photographs, and miniatures made therefrom, designated as "Gold-tone-Miniatures." Respondents sell and distribute such products to customers located in various States of the United States, and cause, and have caused, their said products, when sold, to be transported from their said place of business in New York to the purchasers

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thereof located in various States of the United States other than the State of New York, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said photographs and miniatures 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 said business, as described herein, respondents, for more than 3 years last past, have made, and are now making, various false representations concerning the purpose for which said photographs and negatives are desired to enable them to make original contacts with prospective customers, and as to the quality, merits, and prices of their said miniatures, as hereinafter alleged. Said false representations are, and have been, made by means of letters, circulars, and other printed and written matter distributed among customers and prospective customers, and by oral statements made to customers and prospective customers by respondents and their representatives.

PAR. 4. For the purpose of obtaining negatives from which to produce and sell photographs and miniatures, respondents have falsely represented to numerous members of the purchasing public that they conduct a news and photo service, operating under the name of Keystone News & Photo Service, and that they are in touch with and assist in handling various publicity features for the press. Members of the purchasing public thus contacted by respondents are thereupon requested to sit for photographs under the guise that the organization desires to have pictures of them available for use in connection with the publication of a newspaper or magazine article. Customers and prospective customers are given the general impression that, by reason of the newspaper and magazine connections of Keystone News & Photo Service, they are placed in an unusually favorable position to have their negatives and photographs thereof purchased for publicity purposes. Said approach and sales method are employed particularly in the case of customers who are public officials, or engage in civic or public activities. After the customer is thus induced to sit for a negative, he is then contacted by representatives of corporate respondent, and an effort is made to sell him photographs. Negatives thus obtained are later used by respondent as a basis for circularizing the customer for the purpose of selling him a "Goldtone Miniature."

Across the top of a letterhead employed by respondents, the trade name "Keystone News & Photo Service" appears in conspicuous black type. Further down on the letterhead, at the left margin thereof, in smaller upper and lower case type, appears the following:

Supplying Photographs to Newspapers, Magazines and Trade Publications, including

There follows, under the word "including," and printed in close perpendicular order, along the left margin of the letterhead, a list of nearly 60 newspapers published in various cities of the United States. Said letterhead is employed by respondents not only to impress prospective customers that are being solicited for a sitting for a photograph, but for the purpose of representing to and creating the impression generally that respondents conduct a large and complete news-gathering agency, coupled with a complete news photographic service, and have a large and influential list of patrons and customers.

PAR. 5. The aforesaid representations made by respondents herein employing the name "Keystone News & Photo Service" to obtain negatives of individuals are false, deceptive, and misleading. In truth and in fact, respondents do not own, operate, or conduct any news or press service or association, have no facilities for gathering and disseminating news, and do not do so, and have no facilities or connections which would enable them to obtain or control personal publicity, or to assist in obtaining the same. The publication and use on letterheads of respondents, or on other printed matter of the names of newspapers, magazines, or other periodicals, was done, and is being done, without the knowledge or approval of such publications. Respondents have no connection, direct or indirect, with any newspaper or publication. Respondents have no contractual arrangement with any newspapers, magazines, or other publications to obtain news, news features, or photographs for them, and while respondents from time to time may sell some photographs to some of such publications, all sales of photographs, whether to individuals, firms, or publications, are made and handled by corporate respondent, Kaiden-Kazanjian Studios, Inc., and not by Keystone News & Photo Service. Said Keystone News & Photo Service is, in fact, merely a trade name only, employed by respondents to obtain sittings for photographs, and no business is actually transacted by Keystone News & Photo Service. Respondents, in truth and in fact, do not obtain photographs for their files or for the purpose of servicing the same to newspapers or other publications, but endeavor to obtain sittings for photographs in order to sell photographs to prospective customers at exorbitant prices. Less than 5 percent of respondents' business consists of sales of photographs to newspapers, magazines, and trade papers, such sales being infrequent and sporadic.

PAR. 6. There are located in various States of the United States various corporations and associations which for many years past have operated under the laws of such States as news-gathering organiza-

tions, each with a main office, and with branch offices and correspondents distributed throughout the United States. Said organizations generally have such terms as "Press," "Press Service," "Press Association," "News Service," and "News Association," as part of their respective corporate or trade names. Said organizations perform distinct and notable public service in the gathering and dissemination of the news of the world, of the country at large, and of the communities and territories they serve, and in recording the current history thereof. Said organizations possess valuable good will and high prestige on account of the interest in and accuracy of the news gathered and disseminated by them, and are well and favorably known to the reading public. Many of said news-gathering organizations operate photographic departments and services in connection with and as an adjunct of their news-gathering and disseminating functions, which cooperate with and serve them by taking pictures of persons, scenes, and objects which are the subject of, or connected with, published news articles.

The use by corporate respondent of the trade name "Keystone News & Photo Service," printed on stationery, contract forms, in advertising, or otherwise, is a representation that respondents maintain and operate a genuine news-gathering and news-disseminating agency, enterprise, or service. In truth and in fact, respondents do not have, employ, or control any facilities either for gathering or disseminating news, and do not gather or disseminate news for publication in any daily or other newspaper, magazine, trade paper, or other publication. The use by respondents of the trade name "Keystone News & Photo Service" constitutes, within itself, a false and misleading representation that said respondents gather, disseminate, and sell news in commerce, when such is not the fact.

PAR. 7. Respondents, in the further course and conduct of their said business, have sent representatives into offices and business houses in various cities and towns of the States of the United States for the purpose of there contacting prominent business and professional men. Respondents' representative, on such occasions, again employing the name Keystone News & Photo Service, induces the prospective customer to permit his picture to be taken, "without obligation" on his part. The prospect of using the picture in a news or magazine write-up is from time to time persuasively brought to the attention of the customer. The pictures having been taken, proofs of the same are thereupon sent to the prospective customer, in an effort to sell him pictures made from the sitting.

In circular letters of general distribution, disseminated by respondents to such customers in various States of the United States, the following typical representations, among others, are made:

Complaint

Some time ago we made some very fine photographic studies of you. For the purpose of acquainting our many patrons with our new studio at the address below, we recently held an exhibition of distinctive portraits and miniatures.

We found one of your negatives admirably suited to the purpose and made a Goldtone Miniature of it for this exhibition. This exhibit is now concluded and we will shortly dismantle the miniatures used in this display.

Before doing so, we wish to offer you this handsomely framed miniature at the considerably reduced price of \$12.50. Our regular price for Goldtone Miniatures has been \$50.

In another circular, the prospective customer is advised of a currently held exhibition of unusual distinctive portraits and miniatures for the purpose of acquainting patrons with respondent's new modern studios. The customer is informed that a Goldtone Miniature to be displayed at this exhibition has been made from one of his negatives admirably suited for the purpose and the customer and his friends are cordially invited to "view the many types of unique artistry."

In the event the prospective customer ignores the first circular received by him, a follow-up circular is sent, again referring to the Goldtone Miniature made from one of the customer's negatives, and displayed at respondent's exhibition, and again offering the miniature at \$12.50. If no reply is yet received from the prospective customer, still another circular letter is transmitted, advising that the exhibition has been concluded, again offering the miniature and frame therefor at "the considerably reduced price of \$12.50," and stating that "our regular price for Goldtone Miniatures has been \$50."

PAR. 8. By the use of said representations, and others of similar import and meaning, not herein specifically set forth, the respondents represent, and have represented, that they have made an expensive miniature of the prospective customer from his negative in their possession because it was admirably suited for such purpose, that said miniature has been placed in a legitimate exhibition of photographic art, an exhibition of the kind ordinarily conducted by photographers to which the public has been invited, and largely attended; that the sum of \$12.50 is a greatly reduced price for said miniatures, and constitutes a special offer; and that the regular price at which respondents sell miniatures is \$50.

PAR. 9. The aforesaid representations are false, deceptive, and misleading. Said miniatures are not and have not been displayed at an actual legitimate exhibition of the kind ordinarily conducted by photographers to which the public was invited and which was largely attended, or at any other exhibition. No negative of the prospective customer has been selected for a miniature because it was admirably suited for such purpose. The sum of \$12.50 is not a reduced

price for said miniatures but is the price at which they are usually offered for sale by said respondents and does not constitute a reduced price or a special offer. The regular price at which said miniatures are sold is not \$50 or any sum approaching such amount, and the product represented and sold by respondents as a Goldtone Miniature is not a genuine Goldtone product as such term denotes, but a cheap imitation of the same costing at most about \$2.50 to produce.

PAR. 10. The use by respondents of the aforesaid false and misleading representations, acts, and practices in the sale and offering for sale of pictures and miniatures has had, and now has, the tendency and capacity to and does mislead and deceive, a substantial portion of the purchasing public into the erroneous belief that said representations are true. As a result of such erroneous and mistaken belief so engendered, a substantial number of the consuming public have been and are being induced to purchase respondents' products.

PAR. 11. The aforesaid acts, practices, and methods of 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, MODIFIED FINDINGS AS TO THE FACTS, AND ORDER ¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 14, 1942, issued and subsequently served its complaint in this proceeding upon the respondents, Kaiden-Kazanjan Studios, Inc., a corporation, Frances Kaiden, an individual, as president and secretary of Kaiden-Kazanjan Studios, Inc., and also trading individually, as Keystone News & Photo Service, and Aram Kazanjan, an individual, as vice president and treasurer of Kaiden-Kazanjan Studios, Inc., and trading individually, as Keystone News & Photo Service, 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, a stipulation was entered into upon the record, whereby it was stipulated and agreed by and between counsel for the Federal Trade Commission and counsel for the respondents that the statement of facts entered upon the record might be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto and that said Commission might proceed upon said statement of facts to make its report stating its findings as to the facts (including inferences which it may draw from the said stipulated facts) and its conclusion

¹ Original findings not published.

based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Respondents expressly waived the filing of a trial examiner's report upon the evidence. Thereafter this proceeding regularly came on for final hearing before the Commission upon said complaint, answer, and stipulation, said stipulation having been approved and accepted; and the Commission, having duly considered the matter, on March 5, 1943, issued and subsequently served upon said respondents its findings as to the facts and conclusion based thereon and its order requiring the respondents to cease and desist from the practices charged in the complaint. Subsequent thereto, the respondents filed a petition or motion before the Commission to modify the findings as to the facts, conclusion based thereon, and order to cease and desist entered on March 5, 1943; and the Commission, having duly considered said petition or motion and the record herein and being now fully advised in the premises, makes this its modified findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Kaiden-Kazanjian Studios, Inc., is a corporation, organized and doing business under and by virtue of the laws of the State of New York, having its principal office and place of business at 21 West Forty-sixth Street, New York, N. Y. Keystone News & Photo Service, is a partnership, operating for several years last past from the same address. Respondent, Aram Kazanjian, for many years was a member of said partnership which had a working arrangement with the corporate respondent. Frances Kaiden and Aram Kazanjian, the individual respondents, are president and secretary, and vice president and treasurer, respectively, of the respondent corporation, and they, in conjunction with each other, direct and control the sales policies and practices of the corporate respondent and have directed and controlled the sales policies and practices of the Keystone News & Photo Service.

PAR. 2. Respondents are engaged in the sale and distribution of photographs and miniatures made therefrom designated as "Goldtone Miniatures." Respondents cause said products, 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. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said photographs and miniatures 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 said business, respondents, for more than 3 years last past have been, and are now, making various false, deceptive, and misleading statements and representations concerning the purpose for which said photographs and negatives are desired and as to the quality, merits, and prices of their said miniatures. Said representations are and have been made by means of letters, circulars, and other printed and written matter distributed among customers and prospective customers, and by oral statements made to customers and prospective customers by respondents and their representatives.

PAR. 4. For the purpose of obtaining negatives from which to reproduce and sell photographs and miniatures, respondents have represented to numerous members of the purchasing public that they are conducting a news and photo service operating under the name of "Keystone News & Photo Service." Members of the purchasing public thus contacted by respondents are on occasion requested to sit for photographs by the representation that the organization desires to have pictures of them available for publicity purposes. Respondents' representatives, for use in connection with the making of such initial contacts, have been furnished with business cards reading in part.

Keystone News & Photo Service—Photographers of National Personalities

After the customer is induced to sit for a negative, he is then contacted by representatives of corporate respondent and an effort made to sell him photographs. Some of these negatives are also used to promote the sale of "Goldtone" miniatures, other types of miniatures, and various other kinds of portraiture.

Across the top of a letterhead employed by the respondents, the trade name "Keystone News & Photo Service" appears in conspicuous black type. Further down on the letterhead, at the left margin thereof, in smaller upper and lower case type, appears the following:

Supplying Photographs to Newspapers, Magazines and Trade Publications, including

There follows under the word "including" and printed in close perpendicular order along the left margin of the letterhead a list of nearly 60 newspapers published in various cities of the United States.

PAR. 5. There are located in various States of the United States various corporations and associations which for many years have operated under the laws of such States as news-gathering organizations, each with a main office and branch offices and correspondents distributed throughout the United States. Said organizations are variously known by such terms as "Press," "Press Service," "Press Association," "News Service," and "News Association." Said organ-

izations perform distinct and notable public service in the gathering and disseminating of the news of the world, of the country at large, and of the communities and territories they serve, and in recording the current history thereof. Said organizations possess valuable good will and high prestige on account of the interest in, and accuracy of, the news gathered and disseminated by them, and are well and favorably known to the reading public. Many of said news-gathering organizations operate photographic departments and services in connection with, and as an adjunct to, their news-gathering and disseminating functions, which cooperate with and serve them by taking pictures of persons, scenes, and objects which are the subject of, or connected with, published news articles.

PAR. 6. Respondents do not own, operate or conduct, and have not owned, operated, or conducted, any news or press services or association and have no facilities for gathering and disseminating news, and do not do so.

The Keystone News & Photo Service is employed by the respondents as a trade name to enable them to make original contacts with prospective purchasers. Photographic sales resulting from contacts or sittings are made by the respondent, Kaiden-Kazanjian Studios, Inc. The respondents maintain a file of negatives designated by them as a library, from which glossy print pictures are furnished to newspapers and periodicals from time to time either gratis or at special prices. The income from such glossy print business with newspapers and periodicals amounts to approximately 5 percent of the gross income of the corporate respondent. The Commission finds as a fact that the distribution of glossy prints to newspapers and periodicals is incidental only to the business of the corporate respondent, which is the sale of photographs and miniatures to the general public, and the relationship of such glossy print distribution to respondents' business is not such as will warrant any representation that respondents are engaged in the business or service of obtaining photographs to be used in conjunction with news articles or publicity items by any newspaper, magazine, or other periodical. Such representation serves only as a means of permitting and enabling salesmen to make original contacts and procure pictures of prospective purchasers upon the impression that such pictures are being obtained for publicity purposes.

The publication and use on letterheads of respondents, or on other printed matter, of the names of newspapers and magazines or other periodicals, have been made and done without obtaining the permission of said newspapers and magazines to make use of their said names. Corporate respondent has not, for at least 2 years past, used

the letterhead bearing the name of the aforesaid list of nearly 60 publications as hereinabove described.

PAR. 7. A genuine "Goldtone" print or product is a product resulting from a process involving the use of a toning bath employing salts of chloride of gold. This process produces a much warmer tone than is true in the case of black-and-white or sepia, involves more labor and detail, comprehending the toning of a print or picture a second time, and is considerably more expensive than the process employed in the production of black-and-white or sepia prints or pictures.

PAR. 8. Respondents, since early in the year 1940, have been selling in commerce a product described and represented by them as a "Goldtone Miniature." The product so designated is made by transposing an image or photographic likeness onto sensitized glass, backing the same with a gilded brass plate and then framing the entire structure. No chloride of gold salts are or have been used by respondents in connection with the developing, toning, or coloring of said "Goldtone Miniatures," and said products are not genuine goldtone pictures or miniatures.

PAR. 9. For the purpose of inducing the purchase of its photographic reproductions, the respondents have issued and distributed letters and circulars informing prospective purchasers that the corporate respondent has made a "Goldtone Miniature" from one of the prospective purchaser's negatives admirably suited for the purpose, which has been entered in an exhibit conducted by the corporate respondent. Further letters or circulars advise the prospective purchaser that such exhibit has been concluded and that such miniature, regularly priced at \$50, can be purchased for \$12.50.

The said exhibit or exhibition referred to by respondents in said circular letters consists of a hundred or more miniatures kept on display in respondents' waiting or anteroom. Said display is open to the public Saturday mornings, beginning in the spring, and thereafter until the hot summer months, when it is discontinued until fall, and then resumed in cooler weather.

In 1939, at 32 East Fifty-seventh Street, New York City, where corporate respondent formerly had its place of business, an exhibition of miniatures was held, to which the public at large was invited without charge, and at which approximately 1,000 different types of miniatures and portraits were displayed. A similar such exhibition was held at respondents' present place of business upon the occasion of the opening of the respondents' studios at its present address. These displays constitute the exhibition referred to in corporate respondents' said circulars. Respondents have sent out the above-described letters and circulars to many prospective purchasers residing outside

the State of New York, advising that miniatures of such persons had been in an exhibition and were about to be dismantled, when no miniatures of such persons were actually on exhibition or about to be dismantled.

While respondents are equipped to do, and can do, fine photographic work, including miniatures, and years ago did sell their said miniatures at prices ranging from \$50 to \$100, the miniatures now produced and sold by them are different, less expensive products. No miniatures referred to in said circulars, as made by them today, sell for \$50, but, instead, the regular and customary price asked and received for said products is \$12.50.

About 90 percent of all of the negatives made by them are suitable for, and can be adapted to, miniature purposes after necessary art work on the negatives has been done.

PAR. 10. The use by the respondents of the aforesaid false and misleading representations, acts, and practices in the sale and offering for sale of photographic reproductions and miniatures has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true. As a result of such erroneous and mistaken belief a substantial number of the consuming public are induced to purchase respondents' products.

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 ¹

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into upon the record between counsel for the Federal Trade Commission and counsel for the respondents, which provides among other things that the Commission may proceed upon said statement of facts to make its report stating its findings as to the facts (including inferences which it may draw from said stipulated facts) and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs, and which waives the filing of a report upon the evidence by the trial examiner; and the Commission having made its findings as to the facts and its

¹ Order, not modified, was made as of March 5, 1943. \

conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Kaiden-Kazanjian Studios, Inc., a corporation, its officers, representatives, agents, and employees, and respondents, Frances Kaiden and Aram Kazanjian, individually, and as officers of Kaiden-Kazanjian Studios, Inc., and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of photographs and miniatures in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "News Service" or any other terms of similar import or meaning in any trade name or in any other manner to designate or describe any organization or business which is not engaged in the gathering and disseminating of news for newspapers, magazines, or other periodicals.

2. Representing in any manner, either directly or by implication, that the respondents are engaged in the service of gathering or disseminating news or of photographs to be used in conjunction therewith by any newspaper, magazine, or other periodical unless respondents' business consists in the rendering of such service.

3. The use of the name of any newspaper, magazine, or other periodical upon letterheads or in any other manner without the consent and permission of such magazine, newspaper, or periodical.

4. The use of the term "Goldtone" or any other term of similar import or meaning to designate or describe a photographic reproduction which is not a product resulting from a process involving the use of a toning bath employing salts of chloride of gold.

5. Representing either directly or by implication that respondents have prepared or have placed on exhibit any photograph or miniature of any purchaser or prospective purchaser unless such photograph or miniature has in fact been produced and placed on exhibit.

6. Representing as "special" or "reduced prices," prices which are in fact the regular and customary price charged by respondents for such products.

7. Representing that any photograph or miniature has a retail value or price in excess of the actual value or price at which such products are regularly and customarily offered for sale and sold in the normal and usual course of business.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Complaint

IN THE MATTER OF

M. L. KAY AND HUMBERT O'CAMP, ET AL, TRADING
AS LATTA CREAM

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

Docket 4925. Complaint, Mar. 4, 1943—Decision, June 16, 1943

Where two individuals engaged in interstate sale and distribution of their "Latta Cream" cosmetic, by means of advertisements including depictions in newspapers and other advertising literature, directly and by implication—

Represented falsely that the use of said product would make one look 10 to 15 years younger, that the youthful appearance of motion picture stars was brought about through use thereof, and that it would effectively remove and eradicate wrinkles, lines, baggy eyes, double chin, sagging muscles, and other signs of age, and would bring about a youthful and beautiful appearance;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and into purchase of substantial quantities of its said product:

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.

Mr. J. W. Brookfield, Jr. for the Commission.

Mr. Frederick E. M. Ballon, of New York City, for M. L. Kay.

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 M. L. Kay and Hubert O'Camp, individuals, trading as Latta Cream, hereinafter referred to as respondents, have violated the provisions of 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. Respondents, M. L. Kay and Hubert O'Camp, are individuals, and for some time prior to December 19, 1942, traded and did business under the firm name of Latta Cream, with their principal office and place of business located at 505 Fifth Avenue, New York City, N. Y.

PAR. 2. Said respondents were engaged in the sale and distribution of a cosmetic preparation designated as "Latta Cream." Subsequent to the aforesaid date the business has been carried on under the sole proprietorship of the respondent, M. L. Kay. Respondents caused their said product when sold to be transported from their said place