

Syllabus

IN THE MATTER OF

EDWARD A. HOKE, DOING BUSINESS AS LANZETTE
LABORATORIES

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 5401. Complaint, Nov. 14, 1945—Decision, Sept. 2, 1947

Where an individual engaged in the interstate sale and distribution of a device intended for use in the removal of superfluous hair, designated "Lanzette"—

(a) Represented and implied, through advertisements in newspapers and other periodicals and in circulars, leaflets and other advertising literature, that through use of said device the growth of superfluous hair on the face and body would be permanently terminated and one would obtain a cleaner and lovelier complexion;

The facts being that while, used as directed, it might remove superfluous hair from the face and body, it would not permanently terminate the growth of such hair and would have no beneficial effect upon the skin in excess of producing a transient glow or ruddiness; and

(b) Represented through statements in pamphlets and other advertising literature that he absolutely guaranteed satisfaction to the purchasers of his device or the return of the purchase price; the purchaser to be the sole judge, his use of the device to be the test; and his decision not be questioned, but all money paid by him to be refunded upon the return of the device;

The facts being he did not fulfill his promise, but, in anticipation of demands for refunds, had prepared and printed two different form letters which he sent to dissatisfied purchasers and in which he quibbled and attempted to evade his promises and guarantees; raising various questions in one, and, in the other, seeking to exchange the pad sent for "one especially prepared for you, which I think would overcome your objection to my method"; and while some of the claims were refunded in full, others were subjected to a charge ranging from \$1.50 to \$2, and still others denied with no refund whatever;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and by reason of such belief, into the purchase of substantial numbers of his said device:

Held, That the aforesaid acts and practices were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Clark Nichols for the Commission.

Brown, Fox & Blumberg, of Chicago, Ill., for respondent.

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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 Edward A. Hoke, an individual trading as Lanzette Laboratories, hereinafter referred to as respondent, has 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 Edward A. Hoke is an individual trading and doing business under the name of Lanzette Laboratories, with his principal place of business and office located at 218 South Wabash Avenue, Chicago, Ill.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing a device designated "Lanzette" and designed for the removal of superfluous hair from the face and body. Respondent causes said device, when sold, to be transported from his place of business in the State of Illinois to purchasers thereof, located in various States of the United States other than the State of Illinois and in the District of Columbia. Respondent, at all times mentioned herein, has maintained, and now maintains, a course of trade in such device 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 his aforesaid business, respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning his said device by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of false advertisements concerning his said device by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said device in commerce, as commerce is defined in the Federal Trade Commission Act.

Among and typical of the false, misleading and deceptive representations contained in said false advertisements disseminated and caused to be disseminated as hereinbefore set forth, by the United States mails, by advertisements in newspapers and other periodicals, by circulars, leaflets, pamphlets and other advertising literature, are the following:

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* * * we know through the ages science has been seeking a way of relieving or avoiding ugly superfluous hair on women without the harmful or disagreeable after affects.

A Practical Solution of the Unwanted Hair Problem. LANZETTE!—The really satisfactory method! A product guaranteed to remove every noticeable offending hair—quickly, painlessly, harmlessly, easily and within the means of any woman.

Now a rose tinted, happy future, relieved of unwanted hair troubles, lies before you with LANZETTE.

Decide now to use LANZETTE to solve your hair problem.

One by one, I exhausted every promise of either temporary or permanent relief. * * * Finally, after months of effort, after almost endless disappointments, I found it! Yes, a method which solved my superfluous hair problem * * *. You can understand my heavenly bliss when I *knew* my future was safe from all these soul-rendering horrors. * * * I determined to devote my life to helping all others cursed with superfluous hair—to bring them my proven method of assured satisfaction so they, too, might glory in the revelation of relief from unwanted hair.

* * * and by destroying the hair papillae, it circumvents the growth of hair.

Imagine my ecstasy as I looked into a glorious future, free of worry over unwanted hair.

Removes unwanted hair problem.

Quite the contrary, the skin became softer and cleaner with this treatment.

Leaves skin cleaner, softer, smoother-appearing.

Through the use of the statements and representations hereinbefore set forth, and others similar thereto, not set out herein, all of which purport to be descriptive of respondent's device and of its effectiveness in use, respondent represents and implies that through the use of his device the growth of superfluous hair on the body and face will be permanently terminated and that through the use of said device one will attain a cleaner and lovelier complexion.

PAR. 4. The aforesaid representations and advertisements are grossly exaggerated, false, and misleading. In truth and in fact, the use of said product will not permanently terminate the growth of hair on the face or body and will have no beneficial effect upon the skin, in excess of producing a transient glow or ruddiness.

PAR. 5. In the course and conduct of his aforesaid business and for the purpose of promoting the sale of said device, in commerce, respondent has made other false, misleading, and deceptive representations in pamphlets, circulars, and other advertising literature, circulated among prospective purchasers. Among and typical of such representations are the following:

You take no risk in sending for Lanzette on the 30-day trial offer as we absolutely guarantee satisfaction or refund your money. You are the sole judge—we take your word!

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Lanzette! The real satisfying method. A product guaranteed. Every noticeable, offending hair quickly, painlessly, harmlessly and easily removed, and within the means of any woman.

This money-back guarantee protects you:

We hereby guarantee that the Lanzette outfit will remove your superfluous hair to your complete satisfaction. If it fails you have the privilege of returning it at the end of 30 days and after receiving it we agree to return the purchase price you have paid. You agree to give Lanzette a fair trial during that period. You are the sole judge of satisfaction. (signed) Lanzette Laboratories, Inc.

I offer to send you one of my Lanzette Hair-Removing outfits *and guarantee you satisfaction or your money back.*

Yes, you must be satisfied. This is my personal guarantee, backed by individuals with 27 years business experience. All I ask of you is to use the Lanzette outfit for 30 days in good faith, according to my simple directions. If, after using *Lanzette* for 30 days you no longer wish to keep the set, you may return it to me. Yours is the test. Yours the decision. Yours not a risk of any sort. You have no reason to hesitate as the little book shows you.

PAR. 6. Through the use of the statements and representations above set forth, and others of similar import, not set out herein, respondent absolutely guarantees satisfaction to purchasers of his device or the return of the purchase price; the purchaser is to be the sole judge of satisfaction; the purchaser's use of the device is the test; the purchaser's decision will not be questioned, but all money paid by the purchaser will be returned upon receipt by respondent of the returned device.

PAR. 7. The aforesaid representations and advertisements are false and misleading. In truth and in fact, respondent does not fulfill his promise of returning the money to unsatisfied customers, as he states in the above-quoted representations. In anticipation that some of his customers would want to take advantage of the above promises and guarantees, respondent prepared and had printed two different form letters which he intended to, and did, send to purchasers returning the device and demanding the return of the purchase price because they were unsatisfied. In these letters he quibbles and dissembles and attempts to evade the promises made in the above-quoted representations, and states, in one of said form letters, in part as follows:

Tell me briefly how you used Lanzette; how long each treatment, how often you used it; did you press lightly or heavily; did you rub fast or slowly, over large or small areas; and why you did not find it satisfactory? * * * Please be good enough to answer these questions at your earliest convenience. I am positive it will be to your advantage to do so.

In another of said letters he says:

I note you are dissatisfied with Lanzette, but in justice to my method I would like to have the opportunity of exchanging the pad you had and sending you one

especially prepared for you, which I think would overcome your objection to my method.

Respondent has a policy of making a charge against those returning the device on account of dissatisfaction, for his trouble in making the shipment and handling the same through his office and his loss of the device, because one that has been used cannot be resold. This charge runs from \$1.50 to \$2, if and when any return of money is made. In some instances the use of the above-mentioned form letter discourages the claimant and no refund is necessary.

PAR. 8. The use by the respondent of the aforesaid false, misleading, and deceptive statements and representations has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into an erroneous and mistaken belief that said statements and representations are true, and into the purchase of substantial numbers of respondent's device, by reason thereof.

PAR. 9. The aforesaid acts and practices of respondent 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 November 14, 1945, issued and subsequently served its complaint in this proceeding upon respondent Edward A. Hoke, trading as Lanzette Laboratories, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After respondent filed answer in this proceeding, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent and by Daniel J. Murphy, assistant chief trial counsel for the Commission, subject to the approval of the Commission, may 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 the Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of this matter without any intervening procedure or the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed; and the Commission, having duly con-

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sidered 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. Respondent Edward A. Hoke is an individual trading and doing business under the name of Lanzette Laboratories, with his office and principal place of business at 218 South Wabash Avenue, Chicago, Ill. He is now, and for several years last past has been, engaged in the sale and distribution of a device designated "Lanzette" intended for use in the removal of superfluous hair from the face and body.

PAR. 2. In the course and conduct of his aforesaid business, respondent has caused, and causes, said device, when sold, to be transported from his place of business in the State of Illinois to purchasers thereof located in various States of the United States other than the State of Illinois and in the District of Columbia. At all times mentioned herein respondent has maintained, and now maintains, a course of trade in said device in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In carrying on his aforesaid business, respondent has disseminated, and has caused the dissemination of, false advertisements concerning his said device by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, and respondent has also disseminated, and has caused the dissemination of, false advertisements concerning said device by various means for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said device in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive representations contained in said false advertisements disseminated and caused to be disseminated, as hereinbefore set forth, by the United States mails, by advertisements in newspapers and other periodicals, by circulars, leaflets, and other advertising literature, are the following:

* * * we know that through the ages science has been seeking a way of relieving or avoiding ugly superfluous hair on women without the harmful or disagreeable after effects.

* * * * *

A Practical Solution of the Unwanted Hair Problem. LANZETTE!—The really satisfactory method! A product guaranteed to remove every noticeable offending hair—quickly, painlessly, harmlessly, easily and within the means of any woman.

* * * * *

Now a rose tinted, happy future, relieved of unwanted hair troubles, lies before you with LANZETTE.

* * * * *
Decide now to use LANZETTE to solve your hair problem.

* * * * *
One by one, I exhausted every promise of either temporary or permanent relief. * * * Finally, after months of effort, after almost endless disappointments, I found it! Yes, a method which solved my superfluous hair problem * * *. You can understand my heavenly bliss when I *knew* my future was safe from all these soul-rendering horrors. * * * I determined to devote my life to helping all others cursed with superfluous hair—to bring them my proven method of assured satisfaction so they, too, might glory in the revelation of relief from unwanted hair.

* * * * *
* * * and by destroying the hair papillae, it circumvents the growth of hair.

* * * * *
Imagine my ecstasy as I looked into a glorious future, free of worry over unwanted hair.

* * * * *
Removes unwanted hair problem.

* * * * *
Quite the contrary, the skin became softer and cleaner with this treatment.

* * * * *
Leaves skin cleaner, softer, smoother-appearing.

PAR. 4. Through the use of the foregoing statements and representations, all of which purport to be descriptive of respondent's device and of its effectiveness in use, respondent represents and implies that through the use of said device the growth of superfluous hair on the face and body will be permanently terminated and that through the use of said device one will obtain a cleaner and lovelier complexion. Such representations and advertisements are false and misleading. While the device, if used as directed, may remove superfluous hair from the face and body, in truth and in fact it will not permanently terminate the growth of hair on the face or body and will have no beneficial effect upon the skin in excess of producing a transient glow or ruddiness.

PAR. 5. In the course and conduct of his aforesaid business, and for the purpose of promoting the sale of his said device in commerce, as aforesaid, respondent has made other false, misleading, and deceptive representations in pamphlets, circulars, and other advertising literature circulated among prospective purchasers in the manner aforesaid. Among such representations are the following:

You take no risk in sending for Lanzette on the 30-day trial offer as we absolutely guarantee satisfaction or refund your money. You are the sole judge—we take your word!

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Lanzette! The real satisfying method. A product guaranteed. Every noticeable, offending hair quickly, painlessly, harmlessly and easily removed, and within the means of any woman.

* * * * *

This money-back guarantee protects you.

* * * * *

We hereby guarantee that the Lanzette outfit will remove your superfluous hair to your complete satisfaction. If it fails you have the privilege of returning it at the end of 30 days and after receiving it we agree to return the purchase price you have paid. You agree to give Lanzette a fair trial during that period. You are to be the sole judge of satisfaction. (Signed) Lanzette Laboratories, Inc.

* * * * *

I offer to send you one of my *Lanzette Hair-Removing* outfits and guarantee you satisfaction or your money back.

* * * * *

Yes, you must be satisfied. This is my personal guarantee, backed by individuals with 27 years business experience. All I ask of you is to use the Lanzette outfit for 30 days in good faith, according to my simple directions. If, after using *Lanzette* for 30 days you no longer wish to keep the set, you may return it to me. Yours is the test. Yours the decision. Yours not a risk of any sort. You have no reason to hesitate as the little book shows you.

PAR. 6. Through the use of the statements and representations set forth in the preceding paragraph, and others of similar import not set out herein, respondent absolutely guarantees satisfaction to the purchasers of his device or the return of the purchase price; the purchaser is to be the sole judge of satisfaction; the purchaser's use of the device is the test; the purchaser's decision will not be questioned, but all money paid by the purchaser will be refunded by the respondent upon the return of the device.

PAR. 7. The aforesaid representations and advertisements are false and misleading. In truth and in fact, respondent in some cases did not fulfill his promise of returning money paid for the device to dissatisfied customers. In anticipation that some of his customers would wish to take advantage of the promises and guarantees made, respondent prepared and had printed two different form letters which he sent to purchasers who returned the device and demanded the return of the purchase price because they were dissatisfied. In these letters respondent quibbles and attempts to evade the promises and guarantees made. In one of said form letters respondent states in part as follows:

Tell me briefly how you used *Lanzette*; how long each treatment, how often you used it; did you press lightly or heavily; did you rub fast or slowly, over large or small areas; and *why you did not find it satisfactory?* * * * Please be good enough to answer these questions at your earliest convenience. I am positive it will be to your advantage to do so.

In the other of said letters respondent said, in part :

I note you are dissatisfied with Lanzette, but in justice to my method I would like to have the opportunity of exchanging the pad you had and sending you one especially prepared for you, which I think would overcome your objection to my method.

In some cases respondent made a charge against those who returned the device on account of dissatisfaction. This charge ranged from \$1.50 to \$2, if and when any return of money was made. Some of the claims submitted by purchasers because of dissatisfaction were refunded in full by respondent, some claims were subjected to the aforesaid charge of \$1.50 to \$2, and some were denied and no part of the purchase price refunded.

PAR. 8. The use by respondent of the aforesaid false, misleading, and deceptive statements and representations has, and has had, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and by reason of such belief, into the purchase of substantial numbers of respondent's device.

CONCLUSION

The aforesaid acts and practices of respondent 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, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and Daniel J. Murphy, Assistant Chief Trial Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may make its findings as to the facts and conclusion and enter its order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

I. *It is ordered*, That respondent Edward A. Hoke, trading as Lanzette Laboratories, or under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution

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of his device designated "Lanzette," or any device or substantially similar character, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

A. Disseminating or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or through inference:

1. That said device will permanently terminate the growth of superfluous hair on the face or body of the user.

2. That the use of said device will have any beneficial effect upon the skin of the user in excess of producing a transient glow or ruddiness.

B. Disseminating or causing to be disseminated, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said device in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in paragraph A above.

II. *It is further ordered*, That respondent Edward A. Hoke, trading as Lanzette Laboratories, or under any other name, his representatives, agents, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a device for the removal of superfluous hair from the face or body, do forthwith cease and desist from:

A. Representing that the purchase price of such device will be refunded to any dissatisfied customer unless such refunds are in fact made.

B. Misrepresenting in any manner the terms or conditions upon which refunds of all or any part of the purchase money paid for said device will be made.

III. *It is further ordered*, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

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IN THE MATTER OF

SIEGEL & ALENIKOFF

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 4824. Complaint, Aug. 26, 1942—Decision, Sept. 3, 1947

Where two partners engaged in the manufacture and interstate sale and distribution of coats and other garments for women—

(a) Represented that certain coats, to which they attached labels bearing the words "Alaska Karakul" and which were so manufactured that in outward appearance they resembled lamb peltries, were made of the peltries of the young of the Karakul breed of sheep; and through use of the words "Afghan-Lam" on other coats, that they were made of lamb peltries;

The facts being that the fabrics involved had a mohair pile and a wool pile, respectively, on a cotton back, which was fully covered by the lining of the coat so that only the pile face of the fabric was available for inspection by a prospective purchaser;

(b) Represented through use of the words "Imported Mohair" and a depiction of a shepherd and a sheep on the principal label attached to another type of coat, and through use of words "Exclusive Afghan-Kurl of Imported Wool" on a fourth type, and through failure adequately to disclose otherwise the content of the fabric concerned, that the garment in question was all wool;

When in fact the fabrics concerned were made of mohair pile and wool pile, respectively, on a cotton back and consisted, as disclosed by a separate tag attached to the coats, of about 62 percent mohair and 38 percent cotton in the first case, and about 65 percent wool and 35 percent cotton in the second, the backs concealed, as in the case of the other garments, by the lining;

(c) Represented through designations "Silver-Krimma," and "Marjhan Fabric," respectively, displayed on certain coats, the fabrics of which were so made as to give them the appearance and feel of wool and the composition of which was not disclosed, that garments in question were composed entirely of wool; notwithstanding the fact that fabrics concerned were made of a rayon pile, with the appearance and feel of wool, on a cotton back concealed by the garments' linings;

With effect of misleading and deceiving members of the purchasing public into the erroneous beliefs that garments aforesaid were made of lamb peltries or of fabrics composed entirely of wool, and with the result of inducing their purchase by reason of the erroneous beliefs so engendered:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. Carrel F. Rhodes for the Commission.

Mr. Leopold Bleich, of New York City, for respondents.