

Syllabus

IN THE MATTER OF
SKIN CULTURE INSTITUTE, INC. AND ANTHONY GETZCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5490. Complaint, Apr. 7, 1947—Decision, Jan. 4, 1950*

In a proceeding in which there was coupled with a stipulation of facts which had been agreed upon between opposing counsel, a proposed order to cease and desist, which was likewise thus agreed upon and recommended for adoption by the Commission, and which provided that for a period of eight months from the date of its service, the respondent, as respects its misleading corporate name, might use, parenthetically, and following the word "formerly", its old corporate name after any new name adopted:

The Commission was of the opinion that the proposed order failed to adequately prohibit the acts and practices found to be adverse to the public interest, or to supply a proper remedy such as required by the findings of fact and conclusion in the case; but was of the further opinion, as respects said eight months provision, that while the same did not accord with the general policy of the Commission, it nevertheless appeared that the interest of justice might best be served and the public interest more expeditiously protected by making an exception to said policy and accepting said provision, since to reject it would compel abrogation of the entire agreement as to the stipulation of facts, entered into in good faith by counsel for respondents with the understanding that the order would contain such a provision, and would require a hearing on all issues raised by the complaint and answer, and thereby entail considerable expense to all parties and delay the effective date of any order to cease and desist beyond that contemplated.

Where a corporation and its president, who controlled its policies and practices, engaged in the interstate sale and distribution of certain cosmetic preparations, namely, their "Sulphidol," "Acina Lotion," "Olecerin Emollient," "Spexol Soap," "Liquidol," and "Skin Culture Yeast Masque" which they sold and distributed either as single units or, with the exception of the "Skin Culture Yeast Masque," in a combination designated "Home Routine Method," and with the "Liquidol" or "Spexol Soap" furnished interchangeably, depending upon the oiliness or dryness of the purchaser's skin;

In advertising their said preparations in circulars, issues of the New York Daily Mirror, form letters sent in reply to inquiries from readers of newspaper advertisements, and through a circular which purported to be a reprint of a column written by a so-called beauty editor in a certain issue of said Daily—

(a) Falsely represented that the use of a combination of their said "Acina Lotion", "Sulphidol" and "Olecerin", together with their "Liquidol" or "Spexol Soap", constituted an effective treatment and remedy for pimples, blackheads, enlarged pores, wrinkles, oily skin and dry skin, and would result in a clear, unblemished complexion;

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- (b) Falsely represented that their "Liquidol" or "Spexol Soap", used in combination with "Sulphidol", were effective in normalizing the flow of oil in the skin, in shrinking distended or plugged pores, and in removing impurities from the openings of the skin; and
- (c) Falsely represented that their "Skin Culture Yeast Masque", when compounded with Fleischman's Yeast would refine the texture of the skin and that the vitamins in the yeast would be beneficial thereto;

When in fact said preparation would not, singly or otherwise, accomplish such results, nor would the vitamins in the yeast added to said "Masque", be beneficial to the skin; and

Where said corporation and individual—

- (d) Represented, through use of the word "Institute" as a part of their corporate name, in advertising circulars, on letterheads, and otherwise, that said corporation consisted of a group or association of specialists in the care of the skin, instituted for the purpose of considering the problem of said specialized profession from a scientific and technical standpoint, and to further and promote advancement in knowledge and technique in that field, and to conduct research and experiments in that respect;

Notwithstanding the fact said corporation was a commercial enterprise conducted for profit and was not engaged in the activities of an institute, as described above;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations and advertisements were true, and thereby induce its purchase of aforesaid preparation:

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. W. W. Sheppard*, trial examiner.

Mr. Morton Nesmith for the Commission.

Mr. George Landesman, 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 the Skin Culture Institute, Inc., a corporation, and Anthony Getz, individually and as president of the Skin Culture Institute, Inc., 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. Respondent Skin Culture Institute, Inc., a corporation, chartered and doing business under the laws of the State of New York, having its office and principal place of business at 545

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Fifth Avenue in the city of New York, State of New York. Respondent Anthony Getz, president of Skin Culture Institute, Inc., is an individual whose address is 545 Fifth Avenue, in the city of New York, State of New York. This individual respondent controls and has controlled the policies and practices of the corporate respondent in the performance of the acts and practices hereinafter alleged.

PAR. 2. Said respondents are now, and have been for several years last past, engaged in the business of selling and distributing certain cosmetic preparations as "Cosmetic" is defined in the Federal Trade Commission Act. The designations used by respondents for their preparations and the formulas and directions for their use are as follows:

(1)	Sulphidol	
Colloidol Sulfur.....	800.0	
Silica (Fine Mesh).....	600.0	
Aluminum Hydroxide.....	40.0	
Bentonite.....	50.0	
Propyl-Para Hydroxybenzoate.....	8.0	
Aqua.....	Sufficient quantity to make 4,000.0	

SULPHIDOL

(For External Use Only)

DIRECTIONS: Shake the bottle well before using, allowing no sediment to remain on the bottom of the bottle. Pour on a gauze pad and spread evenly over the entire face from the cheekbones down, keeping it away from the corners of the nose, mouth and from the area of the eyes. This preparation will form a thin coating over the surface and will dry within a few minutes. After the first coat is dry, apply a second coat over the first and when that is dry leave on overnight. In the morning, wet the face with luke-warm water in order to soften the mask and wash the face in the regular manner with the liquid soap keeping the eyes closed during this entire procedure.

(2)	Acina Lotion	
Lime.....	165 gm.	
Sublimed Sulfur.....	250 gm.	
Water.....	Sufficient quantity to make 1,000 cc.	

ACINA LOTION

(For External Use Only)

DIRECTIONS: Dilute one teaspoonful of the Acina Lotion in a full-size drinking glass of luke-warm water. Hold the face over the wash

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basin, close the eyes and mouth. Use a good size piece of cotton, soaked with the solution in the glass and dab on thoroughly over the entire face keeping it away from the area of the eyes. The Solution is not to be rubbed in but dabbed on gently until the face is thoroughly soaked with the solution in the glass. Then allow the excess to drip off the face and mouth and wash the entire face with cold water and dry thoroughly. CAUTION: The eyes are to be kept closed until the face is washed and dried. Use an old spoon and also remove all jewelry from the hands when using this preparation as it has a tendency to turn metal black.

(3) Olecerin Emollient	
Lanolin.....	150.00
Aqua.....	150.00
Aquaphor.....	150.00
Glycerine.....	50.00
Perfume.....	5.00
Cetyl Alcohol.....	5.00

OLECERIN EMOLLIENT

DIRECTIONS: This preparation is used to offset any excessive dryness and does not interfere with the regular routine. After washing the face with the liquid soap, rinse thoroughly with luke-warm water and leave the face wet, then apply OLECERIN EMOLLIENT on the wet face rubbing in thoroughly over the entire face for a few moments, then rinse off again with luke-warm water and wipe the face with a towel removing all the moisture and the excess Emollient. After the face is thoroughly wiped, rinse again with cold water and dry.

(4)

SPEXOL SOAP

(A Soapless Soap Substitute)

DIRECTIONS: The hands are to be thoroughly cleansed with an ordinary soap. Then wet the face with luke warm water, pour the liquid soap in the palm of the hands and rub into the face, wash with luke warm water and rinse with cold. Dry thoroughly. Never use hot water or a complexion brush in washing the face and always wash before retiring, upon arising, and during the day as often as necessary.

(5) LIQUIDOL	
Sulphonated Castor Oil.....	260.00
Sulphonated Olive Oil.....	80.00
Ethylene Glycol.....	15.00
Water	645.00
Tincture Green Soap.....	3000.00

Colored by 3% solution of vegetable coloring F. D. & C. Red #2 purchased from R. F. Revson Co., 144 W. 18th St., New York City.

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LIQUIDOL

(For Oily Skin)

DIRECTIONS: The hands are to be thoroughly cleansed with an ordinary soap. Then wet the face with luke warm water, pour the liquid soap in the palm of the hands and rub into the face, wash with luke warm water and rinse with the cold. Dry thoroughly. Never use hot water or a complexion brush in washing the face and always wash before retiring, upon arising, and during the day as often as necessary.

(6) SKIN CULTURE YEAST MASQUE

Talcum	3	lbs.
Almond Meal.....	1	lb.
Orris Root.....	10	oz.
Oatmeal	$\frac{1}{2}$	lb.
Magnesium Carbonate.....	2	oz.
Oil of Gardenia.....	3	drams
Zine Sterate.....	$1\frac{1}{2}$	lbs.
Zinc Oxide.....	5	lbs.
Boric Acid.....	2	lbs.
Titanium Dioxide.....	$2\frac{1}{2}$	lbs.
Bolted Kaolin.....	$34\frac{1}{4}$	lbs.

DIRECTIONS: Cleanse the skin thoroughly with Spexol soap and water and pat the skin until partly dry. Dissolve one cake of Fleischman's Yeast in 3 teaspoons full of hot water. Pour the entire contents of 1 package of masque into a cup, then pour the solution of the yeast into the powder making a thick smooth paste. Apply the masque evenly over the entire face and allow to dry. When the masque is thoroughly dried on the fact, remove by washing the face with hot water. After the masque is entirely removed, rinse the face with cold water and dry. Finish the treatment by the use of Skin Culture's Cleansing Cream thoroughly massaged into the skin.

For best results, and to retail a glamorous, youthful complexion, apply Skin Culture's Yeast Masque at least three times a week

These preparations are sold and distributed either as single units or in a combination designated "Home Routine Method." When sold in such combination "Skin Culture Yeast Masque" is not included, and "Liquidol Soap" and "Spexol" are furnished interchangeably, depending upon the oiliness or dryness of the purchasers' skin.

Said respondents cause said cosmetic preparations, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States in the United States and the District of Columbia.

PAR. 3. In the course and conduct of their business, respondents, subsequent to March 21, 1938, have disseminated, and caused the dissemination of certain advertisements concerning said cosmetic preparations by the United States mails and by various means in com-

merce as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, circulars and advertisements appearing in the August and November 1943 issues of the New York Daily Mirror, form letters soliciting the purchase of respondents' cosmetic preparations used in replying to inquiries from readers of newspaper advertisements, and a circular purporting to be a reprint of a column written by a so-called beauty editor in the August 1941 issue of the New York Daily Mirror; and respondents have disseminated, and caused the dissemination of, advertisements concerning said cosmetic preparations by various means, including, but not limited to, the advertisements referred to above, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said cosmetic preparations in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among the statements and representations contained in said advertisements disseminated as aforesaid are the following:

PIMPLES Cleared Quickly! Blackheads, Large Pores, Oily, Dry Skin corrected by our proven methods. **MEN! WOMEN! Clear your face NOW!**

PIMPLES. MEN! WOMEN! If Pimples, Black Heads, Muddy, Oily, Dry Complexions of external origin handicap your social or business career, don't tolerate these defects. **N. Y. SKIN CULTURE INSTITUTE**, now makes it possible for you, **QUICKLY AND INEXPENSIVELY** to help obtain a **CLEAR COMPLEXION**, right in **YOUR OWN HOME**, by their modern methods.

Just think, is there anything more distressing, more annoying or more disheartening in both business and social life than days and weeks utterly spoiled by Ugly Facial Blemishes such as Pimples, Blackheads, Oily Skin which shines like the summer sun, Dry Skin which causes premature Wrinkles, Enlarged Pores and Other Complexion Defects.

Why continue the mental agony any longer, when just making up your mind to attend to your complexion **SENSIBLY** can bring you results quickly and inexpensively. Our home routine method was developed so that those who are unable to call at the Institute in person may also have the benefits of obtaining a clear unblemished complexion by this routine.

The skin culture routine begins with a rather astonishing liquid soap substitute, then progresses to a special-formula medication, the combination of the two applications gradually normalizing the oil flow of the plugged pores. Impurities work out of the tiny openings. Finally, as the functioning of the skin glands becomes healthy and normal, this expert is very successful in actually refining the texture of the skin by means of a secret facial pack to which the client adds a cake of Fleischmann's fresh yeast for the powerful vitamin value.

PAR. 5. Through the use of the advertisements containing the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondents represented that the use of a combination of said cosmetic preparations Acina Lotion, Sulphidol and Olecerin Emollient, together with the preparations

Liquidol Soap or Spexol, constitutes an effective treatment and remedy for pimples, blackheads, enlarged pores, wrinkles, oily skin and dry skin and will result in a clear, unblemished complexion; that their preparations "Spexol" or "Liquidol Soap" used in combination with "Sulphidol" are effective in normalizing the flow of oil in the skin, in shrinking distended or plugged pores and in removing impurities from openings of the skin; that their preparation "Skin Culture Yeast Masque" when compounded with Fleischmann's Yeast will refine the texture of the skin and that the vitamins in the yeast will be beneficial to the skin.

PAR. 6. Said advertisements are misleading in material respects and are "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, the use of said cosmetic preparations, when used singly, in combination, or as supplementary to each other, will not constitute an effective treatment or remedy for pimples, blackheads, enlarged pores, wrinkles, oily skin or dry skin, and will not result in a clear or unblemished complexion, regardless of the cause thereof. None of said preparations used alone or any combination thereof will normalize the oil flow of the skin, will not shrink distended or plugged pores or remove impurities from openings of the skin. The use of the "Skin Culture Yeast Masque" will not refine the texture of the skin and the vitamins in the yeast, which is added to said preparation, will not be beneficial to the skin.

PAR. 7. The respondents, by and through the use of the word "Institute" as a part of the corporate name, "Skin Culture Institute, Inc.," in advertising literatures, on letterheads and otherwise, represent that the corporate respondent, Skin Culture Institute, Inc., consists of a group or association of specialists in the care of the skin, instituted for the purpose of considering the problems of said specialized profession from a scientific and technical standpoint and to further and promote advancement in knowledge and technique in that field and to conduct research and experiments in that respect. In truth and in fact, said respondent is a commercial enterprise conducted for profit and is not engaged in the activities of an institute as described above.

PAR. 8. The use by the respondents of the aforesaid statements and representations disseminated as aforesaid, has had, and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such statements and representations are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said cosmetic preparations.

PAR. 9. The aforesaid acts and practices 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, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on April 7, 1947, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After respondents filed their answer, hearings were held before a trial examiner of the Commission theretofore duly designated by it for the purpose of receiving testimony and other evidence in support of and in opposition to the allegations of the complaint. At one of said hearings, held on December 14, 1948, a stipulation of facts was agreed upon between counsel for respondents and counsel in support of the complaint and read into the record in lieu of evidence in support of and in opposition to the allegations of the complaint. At said hearing there was also read into the record a proposed order to cease and desist agreed upon by said counsel and recommended for adoption by the trial examiner and the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon the complaint, the answer thereto, the stipulation of facts, and the recommended decision of the trial examiner (no briefs having been filed and oral argument not having been 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, accepts and approves the stipulation of facts, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Skin Culture Institute, Inc., is a corporation, chartered and doing business under the laws of the State of New York, with its office and principal place of business at 545 Fifth Avenue, New York, N. Y. The individual respondent, Anthony Getz, is president of respondent Skin Culture Institute, Inc., and controls and has controlled its policies and practices.

PAR. 2. (a) Said respondents are now, and for several years last past have been, engaged in the offering for sale, sale, and distribution of

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certain cosmetic preparations, the designations, formulas, and directions for the use of which are as follows:

(1) SULPHIDOL	
Colloidol Sulfur-----	800.0
Silica (Fine Mesh)-----	600.0
Aluminum Hydroxide-----	40.0
Bentonite-----	50.0
Propyl-Para Hydroxybenzoate-----	8.0
Aqua-----	Sufficient quantity to make 4000.0

SULPHIDOL

(For External Use Only)

DIRECTIONS: Shake the bottle well before using allowing no sediment to remain on the bottom of the bottle. Pour on a gauze pad and spread evenly over the entire face from the cheekbones down, keeping it away from the corners of the nose, mouth and from the area of the eyes. This preparation will form a thin coating over the surface and will dry within a few minutes. After the first coat is dry, apply a second coat over the first and when that is dry leave on overnight. In the morning, wet the face with lukewarm water in order to soften the mask and wash the face in the regular manner with the liquid soap keeping the eyes closed during this entire procedure.

(2) ACINA LOTION	
Lime-----	165 gm.
Sublime Sulfur-----	250 gm.
Water-----	Sufficient quantity to make 1000 cc.

ACINA LOTION

(For External Use Only)

DIRECTIONS: Dilute one teaspoonful of the Acina Lotion in a full size drinking glass of lukewarm water. Hold the face over the wash basin, close the eyes and mouth. Use a good size piece of cotton, soaked with the solution in the glass and dab on thoroughly over the entire face keeping it away from the area of the eyes. The Solution is not to be rubbed in but dabbed on gently until the face is thoroughly soaked with the solution in the glass. Then allow the excess to drip off the face and mouth and wash the entire face with cold water and dry thoroughly.

CAUTION: The eyes are to be kept closed until the face is washed and dried. Use an old spoon and also remove all jewelry from the hands when using this preparation as it has a tendency to turn metal black.

(3) OLECERIN EMOLLIENT	
Lanolin-----	150.00
Aqua-----	150.00
Aquaphor-----	150.00
Glycerine-----	50.00
Perfume-----	5.00
Cetyl Alcohol-----	5.00

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OLECERIN EMOLLIENT

DIRECTIONS: This preparation is used to offset any excessive dryness and does not interfere with the regular routine. After washing the face with the liquid soap, rinse thoroughly with lukewarm water and leave the face wet, then apply OLECERIN EMOLLIENT on the wet face rubbing in thoroughly over the entire face for a few moments, then rinse off again with lukewarm water and wipe the face with a towel removing all the moisture and the excess Emollient. After the face is thoroughly wiped, rinse again with cold water and dry.

(4)

SPEXOL SOAP

(A Soapless Soap Substitute)

DIRECTIONS: The hands are to be thoroughly cleansed with an ordinary soap. Then wet the face with lukewarm water, pour the liquid soap in the palm of the hands and rub into the face, wash with lukewarm water and rinse with cold. Dry thoroughly. Never use hot water or a complexion brush in washing the face and always wash before retiring, upon arising, and during the day as often as necessary.

(5)

LIQUIDOL

Sulphonated Castor Oil.....	260.00
Sulphonated Olive Oil.....	80.00
Ethylene Glycol.....	15.00
Water.....	645.00
Tincture Green Soap.....	3000.00

Colored by 3% solution of vegetable coloring F. D. & C. Red #2 purchased from R. F. Revson Co., 144 W. 18th St., New York City.

LIQUIDOL

(For Oily Skin)

DIRECTIONS: The hands are to be thoroughly cleansed with an ordinary soap. Then wet the face with lukewarm water, pour the liquid soap in the palm of the hands and rub into the face, wash with lukewarm water and rinse with the cold. Dry thoroughly. Never use hot water or a complexion brush in washing the face and always wash before retiring, upon arising, and during the day as often as necessary.

(6)

SKIN CULTURE YEAST MASQUE

Talcum.....	3 lbs.
Almond Meal.....	1 lb.
Orris Root.....	10 oz.
Oatmeal.....	½ lb.
Magnesium Carbonate.....	2 oz.
Oil of Gardenia.....	3 drams
Zinc Stereate.....	1½ lbs.
Zinc Oxide.....	5 lbs.
Boric Acid.....	2 lbs.
Titanium Dioxide.....	2½ lbs.
Bolted Kaolin.....	3¼ lbs.

DIRECTIONS: Cleanse the skin thoroughly with Spexol soap and water and pat the skin until partly dry. Dissolve one cake of Fleischmann's Yeast in 3 teaspoons full of hot water. Pour the entire contents of 1 package of masque into a cup, then pour the solution of the yeast into the powder making a thick smooth paste. Apply the masque evenly over the entire face and allow to dry. When the masque is thoroughly dried on the face, remove by washing the face with hot water. After the masque is entirely removed, rinse the face with cold water and dry. Finish the treatment by the use of Skin Culture's Cleansing Cream thoroughly massaged into the skin. For best results, and to retain a glamorous, youthful complexion, apply Skin Culture's Yeast Masque at least three times a week.

(b) The aforesaid preparations are sold and distributed either as single units or in a combination designated "Home Routine Method." When sold in such combination "Skin Culture Yeast Masque" is not included, and "Liquidol Soap" and "Spexol" are furnished interchangeably, depending upon the oiliness or dryness of the purchasers' skin.

PAR. 3. In the course and conduct of their aforesaid business, respondents cause, and have caused, their said products, when sold, to be shipped from their place of business in the State of New York to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia; and maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. (a) In the course and conduct of their aforesaid business, respondents, subsequent to March 21, 1938, have disseminated, and caused the dissemination of certain advertisements concerning said cosmetic preparations by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, circulars and advertisements appearing in the August and November 1943 issues of the New York Daily Mirror, form letters soliciting the purchase of respondents' cosmetic preparations used in replying to inquiries from readers of newspaper advertisements, and a circular purporting to be a reprint of a column written by a so-called beauty editor in the August 1941 issue of the New York Daily Mirror; and respondents have disseminated, and caused the dissemination of, advertisements concerning said cosmetic preparations by various means, including, but not limited to, the advertisements referred to above, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said cosmetic preparations in commerce as "commerce" is defined in the Federal Trade Commission Act.

(b) Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as aforesaid are the following:

PIMPLES Cleared Quickly! Blackheads, Large Pores, Oily, Dry Skin corrected by our proven methods. MEN! WOMEN! Clear your face NOW!

PIMPLES. MEN! WOMEN! If Pimples, Blackheads, Muddy, Oily, Dry Complexions of external origin handicap your social or business career, don't tolerate these defects. N. Y. SKIN CULTURE INSTITUTE, now makes it possible for you, QUICKLY AND INEXPENSIVELY to help obtain a CLEAR COMPLEXION, right in YOUR OWN HOME, by their modern methods.

Just think, is there anything more distressing, more annoying or more disheartening in both business and social life than days and weeks utterly spoiled by Ugly Facial Blemishes such as Pimples, Blackheads, Oily Skin which shines like the summer sun, Dry Skin which causes premature Wrinkles, Enlarged Pores and Other Complexion Defects.

Why continue the mental agony any longer, when just making up your mind to attend to your complexion SENSIBLY can bring you results quickly and inexpensively. Our home routine method was developed so that those who are unable to call at the Institute in person may also have the benefits of obtaining a clear unblemished complexion by this routine.

The skin culture routine begins with a rather astonishing liquid soap substitute, then progresses to a special-formula medication, the combination of the two applications gradually normalizing the oil flow of the plugged pores. Impurities work out of the tiny openings. Finally, as the functioning of the skin glands becomes healthy and normal, this expert is very successful in actually refining the texture of the skin by means of a secret facial pack to which the client adds a cake of Fleischmann's fresh yeast for the powerful vitamin value.

PAR. 5. Through the use of the advertisements containing the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, all of which purport to be descriptive of the therapeutic and cosmetic values and properties of respondents' said preparations, respondents have represented that the use of a combination of said cosmetic preparations "Acina Lotion," "Sulphidol," and "Olecerin Emollient," together with the preparations "Liquidol" or "Spexol Soap," constitutes an effective treatment and remedy for pimples, blackheads, enlarged pores, wrinkles, oily skin, and dry skin and will result in a clear, unblemished complexion; that their preparations "Liquidol" or "Spexol Soap" used in combination with "Sulphidol" are effective in normalizing the flow of oil in the skin, in shrinking distended or plugged pores, and in removing impurities from openings of the skin; that their preparation "Skin Culture Yeast Masque" when compounded with Fleischmann's Yeast will refine the texture of the skin and that the vitamins in the yeast will be beneficial to the skin.

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PAR. 6. Said advertisements containing the statements and representations set forth in paragraphs 4 and 5 above, which are false, misleading, and deceptive in material respects, are "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, the use of said cosmetic preparations, either singly, in combination, or as supplementary to each other, will not constitute an effective treatment or remedy for pimples, blackheads, enlarged pores, wrinkles, oily skin or dry skin, and will not result in a clear or unblemished complexion, regardless of the cause thereof. None of said preparations used alone nor any combination thereof will normalize the oil flow of the skin, shrink distended or plugged pores, or remove impurities from openings of the skin. The use of the "Skin Culture Yeast Masque" will not refine the texture of the skin, and the vitamins in the yeast, which is added to said preparation, will not be beneficial to the skin.

PAR. 7. The respondents, by and through the use of the word "Institute" as a part of the corporate name, "Skin Culture Institute, Inc.," in advertising literatures, on letterheads and otherwise, represent that the corporate respondent, Skin Culture Institute, Inc., consists of a group or association of specialists in the care of the skin, instituted for the purpose of considering the problems of said specialized profession from a scientific and technical standpoint and to further and promote advancement in knowledge and technique in that field and to conduct research and experiments in that respect. In truth and in fact, said respondent is a commercial enterprise conducted for profit and is not engaged in the activities of an institute as described above.

PAR. 8. The use by the respondents of the aforesaid false, misleading, and deceptive statements and representations with respect to their cosmetic preparations disseminated as aforesaid, 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 all of such statements, representations, and advertisements are true, and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said cosmetic preparations.

CONCLUSION

The acts and practices of 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.

The provisions of the proposed order to cease and desist agreed upon by counsel and recommended for adoption by the Commission, as aforesaid, fail to adequately prohibit the acts and practices herein found to be adverse to the public interest or to supply a proper remedy such as is required by the findings of fact and conclusion heretofore set forth. Said order also provides that for a period of eight months from the date of its service the corporate respondent, Skin Culture Institute, Inc., may use, parenthetically, the words "Formerly Skin Culture Institute, Incorporated" after any new name adopted by it. Such a provision does not accord with the general policy of the Commission. However, it appears that counsel for respondents entered into the stipulation of facts in good faith, with the understanding that the order to cease and desist would contain such a provision. To reject this provision would compel abrogation of the entire agreement as to the stipulation of facts and require a hearing on all issues raised by the complaint and answer, which would entail considerable expense to all parties and delay the effective date of any order to cease and desist beyond that contemplated by such a provision. Under these circumstances, it appears that the interest of justice may best be served and the public interest more expeditiously protected by this exception to the general policy.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, a stipulation of facts agreed upon between counsel for respondents and counsel in support of the complaint and read into the record in lieu of evidence, and the recommended decision of the trial examiner (no briefs having been filed and oral argument not having been requested) : and the Commission having accepted and approved said stipulation of facts and having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act :

I. *It is ordered*, That the corporate respondent, Skin Culture Institute, Inc., its officers, the respondent Anthony Getz, acting in his individual capacity or as an officer of the corporate respondent, their agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of their cosmetic preparations designated "Sulphidol," "Acina Lotion," and "Olecerin Emollient," "Spexol Soap," "Liquidol," "Skin Culture Yeast Masque," or any other preparation or preparations of substantially similar composition or possessing sub-

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stantially similar properties, whether sold under the same name or any other name or names, either singly or in combination thereof or as supplementary to each other, do forthwith cease and desist from, directly or indirectly:

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

1. That the preparations "Sulphidol," "Acina Lotion," "Olecerin Emollient," when used singly or by any combination thereof, or when used singly or by any combination in conjunction with the use of either of the preparations "Liquidol" or "Spexol Soap," constitute an effective treatment for pimples, blackheads, enlarged pores, wrinkles, oily skin, or dry skin, or that the use of any of said preparations as aforesaid will result in a clear or unblemished skin.

2. That the use of the preparations "Liquidol" or "Spexol Soap," either alone or in combination with the preparation "Sulphidol," will normalize the oil flow of the skin, shrink distended or plugged pores, or remove impurities from the openings of the skin.

3. That the use of the preparation "Skin Culture Yeast Masque," either alone or compounded with yeast, will refine the texture of the skin or that the vitamins in the yeast will have any value in the treatment of the skin.

B. Disseminating, or causing the dissemination of, 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 any of said preparations which advertisement contains any of the representations prohibited in paragraph A above.

II. *It is further ordered*, That the corporate respondent, Skin Culture Institute, Inc., its officers, the respondent Anthony Getz, acting in his individual capacity or as an officer of the corporate respondent, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of their aforesaid cosmetic preparations or any other preparation, product, commodity, or merchandise, do forthwith cease and desist from, directly or indirectly,

A. Using the word "Institute," or any abbreviation or simulation thereof, as a part of their corporate name or otherwise, to designate, describe, or refer to a commercial enterprise conducted for profit; *Provided however*, That for a period of 8 months from the date of service of this order said corporate respondent may use the words

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"formerly Skin Culture Institute, Incorporated" parenthetically after any name adopted by it which otherwise meets the requirements of this provision.

III. *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 it, and that 6 months thereafter a supplemental and additional report of the same nature be filed as to paragraph II.

of a kit to be thereafter assembled into a finished instrument by the purchaser of the said kit.

PAR. 5. In the course and conduct of their aforesaid businesses and for the purpose of inducing the purchase of their products, the respondents have disseminated and have caused the dissemination of many false, misleading and deceptive statements and representations respecting their said products to be inserted in their catalogs, magazines, and other advertising literature all of general circulation. Among and typical of such false and misleading statements and representations, but not all inclusive, are the following:

To all students, amateurs, radio men, hospitals and schools: RADIO KITS COMPANY offers the various kits described in this circular to fit training programs of schools and hospitals. The kits described herein have been carefully planned by instructors in cooperation with our engineers.

Our kits have been designed by one of the leading instructors of our defense program . . .

Professionally engineered, professionally designed and professional looking . . .

The kits are designed so that an individual working alone at home or in a hospital may be able to build the kits without any outside help providing he follows the diagrams and instructions carefully.

All parts are furnished to build a complete kit, including instructions, pictorial diagram and wiring diagram.

These receivers tune from 550 kc. to 1500 kc. . . .

* * * tunes from 550 kc. to 1600 kc.

Kit manufacturers.

We manufacture complete radio kits.

Four tube TRF kit complete . . .

Build your own radio . . .

PAR. 6. By and through the use of said statements and representations and others similar thereto not specifically set forth herein, respondents have represented and implied that said kits were designed by one of the leading instructors of our national defense program and by graduate professional engineers; that any individual can build or construct a complete radio from the parts contained in said kits without any assistance, provided he follows the diagrams and instructions supplied therewith; that said kits contain all the necessary parts for the building or construction of a radio; that said radio sets of parts when assembled into a radio receiving set will receive the broadcasts of all radios operating on a wave-length frequency of from 550 kilocycles to 1500 kilocycles or on a wave-length frequency of from 550 kilocycles to 1600 kilocycles; and that respondents own, operate or directly and absolutely control, a plant or plants wherein are made or manufactured the radio parts offered for sale and sold by them.

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PAR. 7. In truth and in fact said kits were not designed by one of the leading instructors of our national defense or by professional graduate engineers; all purchasers of respondents' said radio kits cannot build or construct a radio from the radio parts contained therein; said radio kits do not contain all of the radio parts necessary for the building or construction of a complete radio; said radios, when built or constructed, will not receive the broadcasts of all radios operating on wave-length frequency of from 550 kilocycles to 1500 kilocycles or from 550 kilocycles to 1600 kilocycles; and respondents neither own, operate nor directly or absolutely control the plants in which their said products are made or manufactured. All products sold and offered for sale by respondents were and are manufactured in plants owned, operated and controlled by others.

PAR. 8. The acts and practices of respondents in using the foregoing false, deceptive and misleading statements and representations, have had and now have the capacity and tendency to and do mislead and deceive a substantial portion of the purchasing public by creating the erroneous and mistaken belief that said statements and representations were and are true. As a result of such erroneous beliefs, so induced, a substantial number of the purchasing public have purchased substantial quantities of respondents' said products.

PAR. 9. The aforesaid acts and practices 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, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on July 9, 1947, issued and subsequently served its complaint in this proceeding upon the respondents, Radio Kits, Inc., a corporation; Harold Becker, individually and as an officer of Radio Kits, Inc., and formerly trading as Radio Kits Co.; and Irving Becker and Abraham Becker, individually and as officers of Radio Kits, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After respondents filed their answer, testimony and other evidence in support of, and in opposition to, the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission.

Thereafter, the proceeding regularly came on for final hearing before the Commission upon the complaint, the answer thereto, testimony and other evidence, recommended decision of the trial examiner, and brief in support of the complaint (no brief having been filed by the respondents and oral argument not having been 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. Respondent Radio Kits, Inc., is a corporation organized on February 1, 1946, and existing and doing business under and by virtue of the laws of the State of New York. Individual respondents, Irving Becker, Harold Becker, and Abraham Becker, are president, vice president, and secretary-treasurer, respectively, of respondent corporation; and they, acting in their capacities as officers of said corporate respondent, control and direct its acts, practices, and policies. The corporate respondent, on the date of its incorporation, succeeded to the business which had been formerly operated for more than 1 year prior thereto, by the individual respondent Harold Becker, trading and doing business as Radio Kits Co. During all of said period, respondents have maintained their offices and principal places of business at 120 Cedar Street, New York, N. Y. Respondents, during these respective periods, doing business as aforesaid, have been, and are now, engaged in the offering for sale, sale, and distribution of radio parts, assembled and packed into boxes designated as "radio kits."

PAR. 2. Respondents purchase radio parts from various manufacturers throughout the country. These parts are wrapped and labeled as separate items and placed in a package or kit, together with a diagram identifying each part and instructions on how to assemble them into a radio receiving set. Each kit contains 40 to 50 parts, including a metal chassis, tube sockets, condensers, resistors, speakers, coils, and knobs for adjusting switch and volume controls. Said parts, unassembled and packed in a kit or package, are designed to be assembled by the purchaser into a complete, operating radio receiving set.

PAR. 3. In the course and conduct of their aforesaid business, respondents cause, and have caused, their radio kits, when sold, to be shipped and transported from their place of business in the State

of New York to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia; and maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. For the purpose of inducing the purchase of their radio kits, respondents advertise in magazines distributed throughout the United States and in printed circulars, stationery, catalogs, and other advertising material, circulated and distributed, or caused to be circulated and distributed, by them, among the purchasing public throughout the United States and in the District of Columbia. Among and typical of the statements and representations made by such advertising are the following:

To all students, amateurs, radio men, hospitals and schools: RADIO KITS COMPANY offers the various kits described in this circular to fit training programs of schools and hospitals. The kits described herein have been carefully planned by instructors in cooperation with our engineers.

Our kits have been designed by one of the leading instructors of our defense program . . .

Professionally engineered, professionally designed and professional looking . . .

The kits are designed so that an individual working alone at home or in a hospital may be able to build the kits without any outside help providing he follows the diagrams and instructions carefully.

All parts are furnished to build a complete kit, including instructions, pictorial diagram and wiring diagram.

These receivers tune from 550 kc. to 1500 kc. . . .

* * * tunes from 550 kc. to 1600 kc.

Kit manufacturers.

We manufacture complete radio kits.

Four tube TRF kit complete . . .

Build your own radio . . .

PAR. 5. Through the use of the above statements and representations, and others of similar import and meaning not set out herein, respondents represent, and have represented, directly and by implication, that the radio kits sold and distributed by them are designed by one of the leading instructors of the national defense program and by graduate professional engineers; that any individual will be able to, and can, build or construct a complete radio receiving set from the parts contained in each kit, without any assistance, provided the diagrams and instructions supplied therewith are carefully followed;

that said kits contain all the parts necessary or essential for building or constructing a complete radio receiving set; that said kit, when assembled into a radio receiving set, will receive standard broadcasts from radio transmitters operating on a wave-length frequency of from 550 to 1600 kilocycles; and that respondents own, operate, or directly and absolutely control the plant or plants in which are produced, made, or manufactured the radio parts offered for sale and sold by them.

PAR. 6. (a) The aforesaid statements and representations are false misleading, and deceptive in the particulars hereinafter set forth.

(b) There are many persons members of the purchasing public without technical skill or training who cannot build or construct complete radio receiving sets from the radio parts sold by respondents as a radio kit, in the absence of assistance from someone trained or experienced in radio techniques, even if they carefully follow the diagrams and instructions which respondents supply with each of their radio kits. There are also many other persons who do not have sufficient technical skill and training to enable them to properly read and interpret said diagrams and instructions. Such persons will not be able to build or construct a complete radio receiving set from respondents' radio kits.

(c) Respondents do not supply with each and every radio kit sold by them each and every part essential, necessary, or usual to the building or construction of a complete radio receiving set.

(d) Not all radio receiving sets assembled, built, or constructed from the radio parts which comprise respondents' radio kits are capable of receiving standard broadcasts from radio transmitters operating on a wave-length frequency of from 550 to 1600 kilocycles.

(e) Respondents purchase the component parts, including cabinets and other material which go into their radio kits, from manufacturers and others who produce and sell said parts. They do not own, operate, or control any plant or plants in which any of said parts are produced or manufactured, except to the extent that some of the coils which they sell and distribute are wound in their place of business from wire and upon spools produced by others.

PAR. 7. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices 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 the statements and representations made are true; and causes, and has caused, a substantial portion of the purchasing public,

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because of such erroneous and mistaken belief, to purchase respondents' radio parts or kits.

CONCLUSION

The acts and practices of respondents as herein found are all to the injury and prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. No evidence was adduced as to whether or not respondents' radio kits are designed by one of the leading instructors of the national defense program or by graduate professional engineers, and consequently no findings are made with respect thereto.

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 respondents, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, and brief in support of the complaint (no brief having been filed by respondents and oral argument not having been requested); and the Commission having made its findings as to the facts and conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent Radio Kits, Inc., a corporation, its officers, representatives, agents, and employees, and respondents Irving Becker, Harold Becker, and Abraham Becker, individually and as officers of respondent corporation, and respondent Harold Becker, individually, trading as Radio Kits Co. or under any other name or names, their agents, representatives, and 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 any radio cabinets and parts packed or assembled into a radio kit, do forthwith cease and desist from directly or indirectly representing that:

1. Any member of the purchasing public not having technical skill or training will be able to, or can, build or construct a complete radio receiving set from one of said radio kits, without assistance, by carefully following the diagrams and instructions supplied by respondents.

2. Any radio kit is complete unless it contains each and every part essential, necessary, or usual to the construction or building of a complete and finished radio receiving set.

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3. Radio receiving sets constructed or built from one of said radio kits will receive any standard radio broadcast of a wave-length frequency beyond its actual capacity.

4. They manufacture radio kits unless and until each of the component parts thereof are produced or manufactured in a factory or plant owned, or directly and absolutely controlled, by them.

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 it.

IN THE MATTER OF

A. P. DURHAM TRADING AS HERB PRODUCTS CO.

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

Docket 5630. Complaint, Dec. 28, 1948—Decision, Jan. 9, 1950

Where an individual engaged in the interstate sale and distribution of his "Vim Herb" preparation, which consisted of a mixture of ordinary irritant laxative and bitter ingredients in a sugar-sweetened and volatile oil-flavored vehicle of water and alcohol; in advertising the product through newspapers and by continuities broadcast over different radio stations and otherwise—

- (a) Represented that constipation and faulty elimination were the cause of various bodily ills including, among many others set forth, poor digestion, loss of weight, bloating, loss of appetite, irritability, worn-out feeling, headaches, pains in the shoulders, dizzy spells, bad breath, coated tongue, floating specks before the eyes, kidney disorders, piles, liver trouble, etc.; and,
- (b) Represented falsely that his said preparation was an adequate and competent treatment for constipation; would correct such condition, and was capable of preventing and curing the underlying cause thereof, and of influencing the factors which give rise thereto; that said preparation had therapeutic value in the treatment of all the above mentioned symptoms and conditions; and would make the lazy muscles of the intestine work, cleanse the intestinal tract, stimulate the flow of gastric juices, and rid the system of accumulated waste;

The facts being that its therapeutic efficiency was limited to the therapeutic relief afforded by an evacuation, and to said extent in those cases of headaches, loss of appetite, bad breath and coated tongue which sometimes accompany constipation; and

- (c) Falsely represented that its use would improve the digestion, restore the appetite, prevent excessive acid stomach condition, clean or strengthen the entire system, restore health, provide energy and build up body resistance to influenza, bronchitis, pneumonia and colds, thereby enabling a person to ward off attacks of such ailments;

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

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

Mr. Morton Nesmith for the Commission.

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 A. P. Durham, indi-