

IN THE MATTER OF
AMERICAN EXTENSION SCHOOL ET AL.

DECISION AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6055. Complaint, Nov. 3, 1952—Decision, July 17, 1953

Where a corporation and its president, engaged in the interstate sale and distribution through the U. S. mails of a study course to prepare students thereof for examination for U. S. civil service positions; in advertisements in newspapers in the northwestern part of the United States and advertising matter distributed to prospective students—

- (1) Used the word "University" in their trade or corporate name and the word "Extension" to describe their course and thereby represented that their school was a resident institution of higher learning or an extension division of such institution, when in fact they did not maintain a resident school and had no resident faculty but operated a commercial business for profit;
- (2) Represented falsely as aforesaid and through use of emblems depicting the American eagle and simulation of the U. S. official seal on advertising, stationery, and lesson material, that their school was connected with the U. S. Civil Service Commission or other Government agency, and that their sales agents were employees thereof; that they had contractual relationships with the U. S. Government for supplying applicants for civil service positions; that the U. S. Civil Service Commission recognized and recommended their school; and that they had advance information of U. S. civil service examinations;
- (3) Represented falsely as aforesaid and through their sales representatives that completion of their courses of study or passing of their aptitude or other tests assured employment in the U. S. civil service; that it was necessary for persons seeking such positions to take their courses of study in order to qualify; that all persons completing their course and passing U. S. civil service examinations would be placed at the top of the list of eligibles; that civil service positions were generally available which, in fact, required veterans' status or special qualifications, and that vacancies existed contrary to fact; that starting salaries for such positions were greater than was the fact; and that the examinations they gave were for specific civil service positions; and
- (4) Represented falsely that unless prospective students enrolled immediately at the time their salesman called, their opportunity to take the course would have passed for a year because the enrollment quota was limited and students could not be accepted for future enrollments:

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. Abner E. Lipscomb*, hearing examiner.

Mr. William L. Pencke for the Commission.

Mr. John M. Brady, of Portland, Oreg., for respondents.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on November 3, 1952, 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. On December 18, 1952, by permission of the hearing examiner theretofore duly designated by the Commission, respondents withdrew their answer filed on November 28, 1952, and filed in lieu thereof a substitute answer admitting all the material allegations of fact set forth in the said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for consideration by the hearing examiner upon the said complaint and answer, and said hearing examiner, on December 24, 1952, filed his initial decision.

The Commission, having reason to believe that the initial decision did not constitute an adequate disposition of the matter, on February 12, 1953, issued and thereafter served upon the parties its order placing this case upon the Commission's docket for review. Thereafter the Commission, having considered the entire record and having prepared a tentative decision, caused copies of said decision to be served upon respondents and counsel supporting the complaint, together with its order, issued on June 4, 1953, granting them leave to file, within twenty days after service thereof, objections to the changes in the hearing examiner's initial decision as shown by the said tentative decision. No objections having been filed within the period specified in the said order, the proceeding thereafter came on for final consideration by the Commission upon the record on review 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 the following findings as to the facts, conclusion drawn therefrom, and order, the same to be in lieu of the initial decision of the hearing examiner.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. American Extension School is a corporation, organized and existing under the laws of the State of Oregon, with its principal office and place of business at 1739 Northeast 42nd Avenue, Portland, Oregon.

Respondent Theodore E. Smith is an individual, and president and director of said corporation, and as such formulates all the policies and controls and manages all of the affairs of said corporation. His

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principal office and place of business is the same as that of the corporate respondent.

PAR. 2. For more than two years last past, respondents have been and are now engaged in the sale and distribution of a course of study and instruction intended for preparing students thereof for examination for certain Civil Service positions in the United States Government, which said course of study is pursued by correspondence through the United States mails. Respondents, in the course and conduct of said business, cause said course of study to be transported from their said place of business in the State of Oregon to, into and through States of the United States other than Oregon, to purchasers thereof located in such other States. There has been at all times mentioned herein a course of trade in said course of instruction so sold and distributed by respondents in commerce between and among the various States of the United States, and said course of trade has been and is substantial.

PAR. 3. In connection with the sale of said course of study, respondents have made, and are making use of, advertisements placed in newspapers in the northwestern States of the United States and of printed advertising matter distributed to prospective students in the several States in which said course of study is sold, in and by which numerous representations have been and are made in regard to said course of study and matters and things connected therewith. Typical of such representations made on postal cards distributed to the public generally are the following:

IS YOUR JOB PERMANENT
452,000 POSITIONS

This Year, due to Deaths, Retirements and Normal
Government Expansion,
CIVIL SERVICE

Thousands Every Month Find the SECURITY of a Government Position
MEN—WOMEN

If you Meet the Requirements
You are Eligible for Examination

* * *

I am interested in securing Government Employment. Please furnish me, without cost, information covering the requirements necessary to obtain a Civil Service position with the Government. I would appreciate a personal interview at your earliest convenience, if it appears I am eligible.

* * *

A Few of Over 20,000 Different Kinds of
U. S. CIVIL SERVICE POSITIONS

Paying \$2450 to \$4200 to Start

No Experience Needed—Common School Education Usually Sufficient

<i>Positions</i>	<i>Start—Salary</i>
Postal Transportation Clerks.....	\$3170 to \$3870
Post Office Clerk or Carrier.....	\$2870 to \$3670
Rural Mail Carrier—Average.....	\$4200
Stenographer-Typist.....	\$2450 to \$2930
Postmaster.....	\$2500 to \$9000
Storekeeper-Gauger.....	\$3450 to \$4200
Customs Positions.....	\$3450 to \$4200
Departmental Clerks.....	\$2000 to \$3600
File Clerks—Statistical.....	\$2650 to \$7400
Librarian.....	\$3727 to \$6235
General Clerkships.....	\$2450 to \$4200
Social Security Positions.....	\$2860 to \$7500
Internal Revenue.....	\$2840 to \$5100
Immigration Positions.....	\$2850 to \$4200
Border and Port Patrol.....	\$3450 and up
Park Ranger.....	\$2974 and up
Verifier, Opener and Packer.....	\$2850 to \$3450
Telephone Operator.....	\$2650 to \$3130
Jr. Accountant.....	\$3100 and up
Junior Investigators.....	\$3450 and up
Forest and Field Clerk.....	\$2820 and up
Jr. Nurse.....	\$3000 and up

VACANCIES EXIST NOW

In connection with the use of said postal cards distributed to prospective purchasers, respondents have used the trade name "The American Extension Plan"; and in connection with the distribution to said prospects of a booklet entitled "Civil Service Security" and purporting to describe the method of taking Civil Service tests, respondents are using the trade name "American Extension University."

On their enrollment blanks, form letters, and some lesson material, respondents use a facsimile of the American eagle in the form of a seal or shield similar to the official seal of the United States Government.

PAR. 4. By means of the foregoing statements and representations, and others to the same and similar effect not herein specifically set out, respondents represent and imply that their said business is a branch of, or connected with, the United States Government or the United States Civil Service Commission; that 452,000 positions are open in the United States Civil Service, consisting of over 20,000 different kinds including those specifically listed on said postal cards; that said vacancies are available to all applicants and that thousands of permanent appointments are made every month; that men and women are wanted by the United States Government to prepare for Civil Service Examinations and positions and that respondents and their agents are qualified to determine the qualifications of applicants for such positions, and that said positions may be obtained through respondents' school;

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that the starting salaries for the positions listed by respondents generally are from \$2,450 to \$4,200 and are as high as \$9,000; and that respondents' said school is an extension university or an extension division for correspondence study by an institution of higher learning.

PAR. 5. In the course and conduct of said business, as aforesaid, respondents employ sales agents or representatives who call upon prospective purchasers of said course of study. By means of oral statements made by said sales agents, respondents represent and imply to prospective students and purchasers of their said course of study:

1. That American Extension School is connected with, or is a branch of the United States Civil Service Commission or the United States Government or some agency thereof;

2. That respondents' said sales agents are representatives or employees of the United States Civil Service Commission or have some connection therewith;

3. That said American Extension School is recognized or recommended by the United States Civil Service Commission;

4. That American Extension School and the United States Government have some contractual relationship whereby said school supplies employees to the United States Government;

5. That the taking of respondents' said course of study is the only way to obtain a United States Government job;

6. That the examinations given by respondents are for specific positions in the United States Civil Service;

7. That students who pass the school's aptitude test or have a pleasing personality and experience are qualified to take United States Civil Service examinations;

8. That the American Extension School has information with respect to announcements of examinations prior to the time such announcements are made by the United States Civil Service Commission;

9. That the passing of examinations given by the school assures students of obtaining a position in the United States Civil Service;

10. That students who take respondents' course of study will be placed at the top of the list of eligibles for United States Civil Service positions;

11. That unless prospective students enroll immediately at the time said salesman calls upon such prospects, the opportunity for taking the course will have passed for a year for the reason that the enrollment quota is limited and students cannot be accepted for future enrollments.

PAR. 6. All of said representations, statements and implications are grossly exaggerated, false and misleading. In truth and in fact, the representation that over 400,000 positions will be vacant in the course

of a year, and that thousands are appointed to United States Civil Service positions every month, is grossly exaggerated. Appointments to permanent United States Civil Service positions during the last two years have not exceeded several hundred appointments each month, and it is not expected that appointments will be increased. Most of the positions specifically listed in respondents' advertising literature as being available are not open to applicants generally, but are either restricted to persons of veteran status or require special physical and educational qualifications and practical experience.

Positions in the Postal service are restricted to persons living within the area of a given post office. No examination has been announced for the position of store bookkeeper gauger for years, and none is contemplated. Positions in the Customs service are restricted to men only, and most of the positions in that service are open only to veterans. Positions in the Immigration, Border, Port and Patrol services are restricted to veterans and require special training. Examinations for the position of Verifier, Opener and Packer, and Forest and Field Clerk have not been announced in over 10 years. Generally speaking, the starting salaries in said positions are not as high as those listed by respondents. Among the positions listed by respondents are many which require experience as one of the qualifications for employment.

Neither the respondents nor any of their officers, agents or salesmen are connected in any manner whatsoever with the United States Civil Service, the United States Government or any agency thereof. The United States Civil Service Commission neither recognizes nor recommends respondents' school to anyone, and no contractual relationship exists between said Commission and respondents for the furnishing of applicants for United States Civil Service examinations or employees. Applicants for United States Civil Service examinations are not required to take respondents' course of study in order to qualify for United States Civil Service examinations. The passing of respondents' so-called aptitude test or the possession of a pleasing personality and experience does not qualify applicants for United States Civil Service examinations. Respondents have no advance information pertaining to announcements of United States Civil Service examinations, nor any other information that is not available to the public generally.

The examinations given by respondents to their students are not examinations for specific positions in the United States Civil Service; the passing of a United States Civil Service examination by respondents' students will not assure them a position in the United States Civil Service or their placement at the top of the list of eligibles.

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Prospects do not lose the opportunity to enroll for said course of study by failing to do so at the time of the salesman's call, but may enroll and purchase said course at any time they desire to do so. There is no limitation on the number of students; respondents sell said course to all persons who are willing to purchase the same.

PAR. 7. Through the use of the trade names "The American Extension Plan" and "American Extension University" respondents represent and imply that their business is part of an extension division of and operated by a resident institution of higher learning, with a resident faculty and a student body and equipped to offer courses in the subjects of Liberal Arts, professions and other subjects of higher education.

In truth and in fact, respondents operate a commercial business for profit engaged in the sale of a course of study designed to prepare individuals for the taking of Civil Service examinations of the lower level of general information type. Respondents do not maintain a resident school, have no resident faculty qualified to teach subjects in the several branches of higher education and do not offer any resident courses in such subjects.

PAR. 8. The use of an emblem depicting the American eagle, or a simulation of the official seal of the United States Government on some of their advertising literature, stationery and lesson material, further represents and implies that respondents' school is connected with the United States Government or some agency thereof, and has no official approval. In truth and in fact, as hereinabove set forth, respondents have no connection whatever with the United States Government, and the use of said emblems is wholly unauthorized and misleading.

PAR. 9. The use by respondents of the statements and representations aforesaid has had and now has the tendency and capacity to and does confuse, mislead and deceive members of the public into the erroneous and mistaken belief that such statements and representations are true and to induce them to purchase respondents' course of study and instruction in said commerce on account thereof.

CONCLUSION

The aforesaid 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.

Order**ORDER**

It is ordered, That respondent, American Extension School, a corporation, and its officers, agents, representatives, and employees, and respondent, Theodore E. Smith, as an officer of said corporation, 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 course of study and instruction intended for preparing students thereof for examination for Civil Service positions under the United States Government, or any similar courses of study, do forthwith cease and desist from:

1. Using the word "University" or any word of similar import as a part of respondents' corporate or trade name, or using the word "Extension" or any word of similar import to describe their course of instruction, or otherwise representing that respondents' school is a resident institution of higher learning or is an extension division of a resident institution of higher learning;

2. Representing, directly or by implication:

(a) That respondents or their school have any connection with the United States Civil Service Commission or any other agency of the United States Government;

(b) That respondents' sales agents are representatives or employees of the United States Civil Service Commission or any other government agency, or have any connection therewith;

(c) That the completion of respondents' course of study assures students of positions in the United States Civil Service or makes them eligible for appointment to such positions;

(d) That the passing of respondents' aptitude or other tests assures applicants of employment in the United States Civil Service;

(e) That it is necessary for persons seeking United States Civil Service positions to take respondents' course of study in order to qualify for or obtain such positions;

(f) That the examinations given by respondents are examinations for specific positions in the United States Civil Service;

(g) That all persons completing respondents' course of instruction and passing United States Civil Service examinations will be placed at the top of the list of eligibles;

(h) That any United States Civil Service position which requires appointees to have veteran's status, or special physical, mental, educational, or experiential qualifications is generally available;

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(i) That respondents have advance information regarding announcements of United States Civil Service examinations, or any information not generally available to the public;

(j) That vacancies exist in any United States Civil Service position contrary to the fact; or that the number of positions available or vacant in the United States Civil Service or any branch thereof is greater than is actually the fact;

(k) That the starting salary for any United States Civil Service position is greater than it is in fact;

(l) That any contractual relationship exists between the United States Civil Service Commission and respondents for the furnishing by respondents of applicants for United States Civil Service positions;

(m) That the United States Civil Service Commission recognizes, recommends or endorses respondents' school;

(n) That there are any limitations with respect to the time when one may enroll as a student or to the number of students who may be enrolled.

3. Using emblems or other picturizations resembling or simulating the seal or insigne of the United States or any agency thereof, or otherwise representing that respondents are connected with the United States Government or any agency thereof.

It is further ordered, That the respondents shall, within sixty (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.

Decision

IN THE MATTER OF

THOMAS D. McBRYDE, JOE T. PILCHER AND PERRY
ELLIOTT, TRADING IN THE NAME OF THE B-VIMM
COMPANYDECISION AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6005. Complaint, June 30, 1952—Decision, July 19, 1953

Where three partners, engaged in the interstate sale and distribution of their liquid drug preparation "B-Vimm," in advertisements in newspapers and magazines of general circulation, circulars and leaflets, and by radio broadcasts, directly or indirectly—

- (1) Represented that their said "B-Vimm" was a vitamin, liver, iron and mineral dietary supplement, that it contained all the essential vitamins and minerals and was a competent and effective treatment and gave fast relief for all diseases or conditions caused by vitamin or mineral deficiencies;

When in fact while, taken as directed, B-Vimm supplied many times the adult minimum daily requirements of Vitamin B1 and iron, it supplied only the minimum daily requirements of B2 and niacinamide, did not supply the minimum daily requirements of calcium or phosphorus, and did not supply the required mineral iodine or such essential vitamins as A, C, D, B6 and B12, or the anti-anemia factor of liver; was, therefore, not the adequate dietary supplement claimed and was of no value in the treatment of deficiency ailments other than those resulting from B1 and iron deficiencies; and did not give fast relief but, if benefit was to be derived in the infrequent cases of Vitamin B1 and iron deficiencies, had to be administered over a considerable period;

- (2) Represented falsely that daily consumption of the vitamins and minerals contained in the preparation would effectively promote the removal of poisons from the blood by the liver and kidneys; and
- (3) Represented falsely that it was effective in relieving muscular pain and stiff joints, and constituted a competent and effective treatment for tired, weak and rundown conditions, loss of pep or energy, lack of vitality, irritability, nervousness, sleeplessness, lack of appetite, underweight, constipation, indigestion, heartburn, high and low blood pressure, kidney and heart trouble, arthritis, rheumatism, deficiency of red blood, nutritional iron or liver anemia, coughs, colds, and other deficiency ailments:

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 Lewis*, hearing examiner.

Mr. R. P. Bellinger for the Commission.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated July 19, 1953, the initial

decision in the instant matter of hearing examiner John Lewis, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on June 30, 1952, 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 in this proceeding, a stipulation was entered into between them and Robert P. Bellinger, attorney in support of the complaint, wherein it was agreed that the stipulation as to the facts therein set forth should constitute the entire facts in this proceeding and serve as the basis for findings of fact and an ensuing order, subject to the limitation that said order would not exceed the scope and limitations prescribed by the United States Court of Appeals for the District of Columbia in *Alberty et al v. Federal Trade Commission*, 182 F. 2d 36. Thereafter this proceeding regularly came on for final consideration by the above-named hearing examiner, theretofore duly designated by the Commission, upon the complaint, the answer, and the aforesaid stipulation, said stipulation having been approved as affording the basis for an appropriate disposition of this proceeding and made a part of the record of this proceeding by the hearing examiner, who, after duly considering the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Thomas D. McBryde, Joe T. Pilcher, and Perry Elliott are copartners trading in the name of The B-Vimm Company, having their principal place of business at 101 Broad Street in Selma, Alabama. The business address of respondents Thomas D. McBryde and Joe T. Pilcher is the same as the firm's address in Selma, Alabama. The address of respondent Perry Elliott is 1503 Twenty-third Avenue, Meridian, Mississippi.

PAR 2. Respondents are now, and for more than a year last past have been, engaged in the business of selling and distributing a drug preparation, as "drug" is defined in the Federal Trade Commission Act. The designation used by respondents for said preparation, which is a liquid, and the formula and directions for use thereof, are as follows:

Designation: B-Vimm.

Formula for one fluid ounce:

Ferrous Gluconate.....	6.7 Grs.
Calc. Hypophos.....	4.1 Grs.
Manganese Citrate, Sol.....	0.49 Gr.
Copper Proteinate.....	0.025 Gr.
Citric Acid.....	0.352 Gr.
Propylene Glycol.....	10.68 Minims
Thiamine Hydrochloride.....	7.92 Milligrams
Riboflavin.....	1.43 Milligrams
Niacinamide.....	8.60 Milligrams
Liver Fraction #1.....	0.109 Grain
Yeast Extract.....	0.109 Grain
Butyl Parasept.....	0.060 Grain
Methyl Parasept.....	0.152 Grain
Hydrochloric Acid, Con.....	0.0018 cc
Saccharin Soluble.....	0.15 Grain
Caramel.....	5.62 Minims
Sweet Orange.....	0.19 Minim
Benzaldehyde.....	0.09 Minim
Water q. s. ad.....	1 Fl. Oz.

Directions: Adults—One tablespoonful three times daily before meals.

Children—One teaspoonful three times daily or as directed by the physician.

PAR. 3. Respondents cause the said preparation, when sold, to be transported from their place of business in the State of Alabama, or from the place of business of the manufacturers of said preparation in the State of Alabama, 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 preparation in commerce between and among the various States of the United States. Respondents' volume of business in commerce in said preparation is and has been substantial.

PAR. 4. In the course and conduct of their aforesaid business, respondents, subsequent to March 21, 1938, have disseminated and are now disseminating, and have caused and are now causing the dissemination of advertisements concerning their said preparation 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, advertisements inserted in newspapers and magazines of general circulation, by means of radio continuities and in circulars and leaflets, for the purpose of inducing, and which are and were likely to induce, directly or indirectly, the purchase of said preparation; and respondents have also disseminated and are now causing the dissemination of advertisements concerning their said preparation by the aforesaid means for the purpose of inducing, and which are and were likely to induce, directly or indirectly, the purchase of their said preparation in commerce, as aforesaid.

PAR. 5. Through the use of said advertisements, respondents represented, directly and by implication, that B-Vimm is a vitamin, liver, iron and mineral dietary supplement; that it contains all the essen-

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tial vitamins and minerals and is a competent and effective treatment for all diseases or conditions caused by vitamin or mineral deficiencies; that the daily consumption of the vitamins and minerals contained in B-Vimm will effectively promote the removal of poisons from the blood by the liver and kidneys; that B-Vimm gives fast relief, is effective in relieving muscular pain and stiff joints and constitutes a competent and effective treatment for tired, weak and run-down conditions, loss of pep or energy, lack of vitality, irritability, nervousness, sleeplessness, lack of appetite, underweight, constipation, indigestion, heartburn, high blood pressure, low blood pressure, kidney trouble, heart trouble, arthritis, rheumatism, deficiency of red blood, nutritional iron or liver anemia, coughs, colds and other diseases caused by deficiencies of vitamins and minerals.

PAR. 6. The aforesaid statements and representations are misleading in material respects, and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact, while B-Vimm, taken as directed, supplies many times the adult minimum daily requirements of Vitamin B1 and iron, it supplies only the minimum daily requirements of B2 and niacinamide. It does not supply the minimum daily requirements of calcium or phosphorus, nor does it supply iodine, a required mineral, or such essential vitamins as A, C, D, B6 and B12, or the anti-anemia factor of liver. Said preparation cannot therefore be properly characterized as an adequate vitamin and mineral dietary supplement and is of no value in the treatment of any vitamin or mineral deficiency or of conditions resulting therefrom other than B1 and iron deficiencies.

B-Vimm will not give fast relief, and, in the infrequent cases of Vitamin B1 and iron deficiencies which occur, if any benefit is to be derived from taking said preparation, it must be administered over a considerable period of time. It has no value in causing any organ to remove, or assisting any organ in removing, poisons from the blood, nor is it of value in relieving muscular pain or stiff joints, in the treatment of high blood pressure, low blood pressure, heart trouble, kidney trouble, arthritis, rheumatism, coughs or colds. The term "liver anemia" has no meaning medically, and respondents' preparation has no value in the treatment of anemia, except iron deficiency anemia.

B-Vimm possesses no value in the treatment of tired, weak or run-down conditions, loss of pep or energy, lack of vitality, irritability, nervousness, sleeplessness, lack of appetite, underweight, constipation, indigestion, heartburn, deficiency of red blood or deficiency diseases otherwise, except in those infrequent cases where such symptoms, conditions or diseases result from Vitamin B1 or iron deficiencies.

PAR. 7. The use by respondents of the foregoing false and misleading statements and representations contained in said advertisements

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has had and now has 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 into the purchase of said preparation because of such erroneous and mistaken belief.

PAR. 8. The complaint alleges that respondents' advertising is misleading in a further material respect. However, since said allegation is not covered by the stipulation as to the facts entered into herein and no proof was offered in support thereof, said allegation will be dismissed.

CONCLUSION

The 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

It is ordered, That the respondents Thomas D. McBryde, Joe T. Pilcher and Perry Elliott, individually and as copartners trading under the name of The B-Vimm Company, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the sale or distribution of their preparation designated B-Vimm, or any other preparation containing substantially similar ingredients or possessing substantially similar properties, whether sold under the same name or any other name, do forthwith cease and desist from:

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

(a) That B-Vimm constitutes an adequate vitamin, liver, or mineral dietary supplement;

(b) That respondents preparation contains all the essential vitamins and minerals, or that it has any value in treating any vitamin or mineral deficiency or conditions resulting therefrom, other than Vitamin B1 or iron deficiencies;

(c) That said preparation will give fast relief from any physical disorders or symptoms;

(d) That said preparation has any value in causing any organ to remove, or assisting any organ in removing, poisons from the blood;

(e) That said preparation has any value in relieving muscular pain or stiff joints, or in the treatment of high blood pressure, low blood

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pressure, heart trouble, kidney trouble, arthritis, rheumatism, coughs, colds, "liver anemia" or pernicious anemia;

(f) That said preparation possesses any value in the treatment of tired, weak or rundown conditions, loss of pep or energy, lack of vitality, irritability, nervousness, sleeplessness, lack of appetite, underweight, constipation, indigestion, heartburn, deficiency of red blood, or any other symptoms or conditions resulting from vitamin or mineral deficiency, unless such representation be expressly limited to cases where such symptoms or conditions are due to Vitamin B1 or iron deficiencies;

2. 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 preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1 above.

It is further ordered, That with respect to the issues raised by the complaint other than those to which this order relates, the complaint be, and the same hereby is, dismissed.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein shall, within sixty (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 the order to cease and desist [as required by said declaratory decision and order of July 19, 1953].

Decision

IN THE MATTER OF
RUGS OF THE BLIND, INC., ET AL.DECISION AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6022. Complaint, Aug. 5, 1952—Decision, July 26, 1953

Where a corporation and its officers, engaged in the purchase from the Pennsylvania Association for the Blind of rugs woven by the blind, on hand looms, representing from 20 percent to 25 percent of their total sales volume, and, from a rug mill, of machine-made rugs, the fringes of which were knotted or tied by blind persons in their homes or in the workshops of said Association; and in selling both types of rugs through door-to-door salesmen, whom they supplied with identification cards, order blanks, and advertising booklets which disclosed that some of said products were not made entirely by the blind, and with kits of samples of both types of rugs which contained no disclosure that some were not made by the blind—

- (1) Represented through statements of said solicitors that all the rugs sold by them were made by blind persons, when in fact only a minor portion of them were so made and it was very doubtful whether aforesaid advice or statements in order blanks and advertising booklets came to the attention of any substantial number of prospective purchasers; and
- (2) Represented also through use of their corporate name "Rugs of the Blind, Inc." that all of their rugs were thus made in their entirety, when in fact in the case of some, as above noted, only the fringe thereof was knotted by blind persons;

With tendency and capacity to mislead and deceive a substantial portion of the public with respect to said rugs, and thereby induce its purchase thereof, whereby substantial trade was unfairly diverted to them from their competitors:

Held, That such acts and practices were all to the prejudice of the public and respondents' competitors, and constituted unfair methods of competition and unfair and deceptive acts and practices in commerce.

Before *Mr. William L. Pack*, hearing examiner.

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

Smith, Ristig & Smith, of Washington, D. C., for respondents.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated July 26, 1953, the initial decision in the instant matter of hearing examiner William L. Pack, as set out as follows, became on that date the decision of the Commission.