Syllabus

IN THE MATTER OF

CLARK R. BELLOWS, JR., TRADING AS INSTITUTE OF APPLIED HYPNOLOGY, AND CLARK R. BELLOWS, SR.

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

Docket 6142. Complaint, Nov. 13, 1953—Decision, Feb. 19, 1954

Where two individuals engaged in the interstate sale and distribution of a correspondence course in hypnotism, in advertising in periodicals and advertising material mailed to prospective purchasers—

(a) Represented that hypnotism could be learned by anyone of average intelligence by taking their said course by correspondence, when in fact many persons of average or above-average intelligence could not do so;

(b) Falsely represented that one practicing hypnotism as thus taught would develop willpower, self-confidence, self-control, courage, poise, polish, and personal force, and that such a person could overcome an inferiority complex through hypnotism;

(c) Falsely represented that through the practice of autosuggestion as taught thereby a person was enabled to remake, rebuild, and reconstruct his life and that through study of the course one could become a mental giant;

(d) Represented that said course was not an ordinary mail order course of instruction but consisted of actual extension work in which resident training methods and principles were applied and taught by an experienced faculty, notwithstanding the fact it was an ordinary correspondence course and in no sense extension work;

(e) Represented that hypnotism and autosuggestion as thus taught by them offered real opportunities for money-making, when in fact they offered little opportunities therefor in excess of some opportunities for spare-time earnings in the entertainment field;

(f) Falsely represented there was a scarcity of, and a big demand for, hypnotists in this country;

(g) Falsely represented that persons completing their course of instruction were properly qualified to treat numerous specified diseases, habits, and abnormal conditions of the body by hypnotism, including therein diseases and conditions ranging from amnesia, complexes, and constipation, to morphia and other drug habits, stammering, stuttering, and obesity;

(h) Represented through the use of the words "Institute", "faculty", and "Institution of learning" in the operation of the business concerned that such business was an institution of higher learning with a staff of competent, experienced, and qualified educators offering resident training and instruction in philosophy, art, science, or other subjects of higher education;

Notwithstanding the fact there was no adequate equipment in the form of classrooms, laboratories, and libraries, nor a competent faculty of learned persons for the instruction of resident students in subjects of higher education; they did not operate an institute or institution of learning as understood by the general public and in the field of education; and the business consisted of selling for profit a course of instruction in hypnotism, in the con-

duct of which said first-named individual was on occasion assisted by the other; and

(i) Represented through the title "Doctor" or its abbreviation "Dr." in referring to said second individual who had prepared the course that the degree had been conferred upon him by an accredited and recognized college or university;

When in fact the title or degree of "Doctor" used by said individual was not conferred by any such college, university, or institution of higher learning, and was not recognized or accredited by such an institution or by reputable scientists or educators:

Held, That such acts and practices constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. William L. Pencke 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 February 19, 1954, the initial decision in the instant matter of hearing examiner Abner E. Lipscomb, as set out as follows, became on that date the decision of the Commission.

Initial Decision by Abner E. Lipscomb, Hearing Examiner

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 13, 1953, issued and subsequently served its complaint in this proceeding upon respondents Clark R. Bellows, Jr., an individual, trading under the name of Institute of Applied Hypnology, and Clark R. Bellows, Sr., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. On January 5, 1954, respondents filed their answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to the said facts. Thereafter, the proceeding regularly came on for final consideration by the above-named hearing examiner theretofore duly designated by the Commission upon said complaint and answer thereto, and said hearing examiner, having duly considered 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. Respondent Clark R. Bellows, Jr., is an individual, trading under the firm name of Institute of Applied Hypnology;

respondent Clark R. Bellows, Sr., an individual, prepares all advertising matter in conjunction with respondent Clark R. Bellows, Jr., and participates in the net profits of the business of the Institute of Applied Hypnology. The principal office and place of business of said respondents is at 120 Central Park South, in the City and State of New York.

PAR. 2. Respondent Clark R. Bellows, Jr., is now, and has been for more than two years last past, engaged in the sale and distribution in commerce between and among the various states of the United States of a course of instruction in hypnotism which was prepared and compiled by respondent Clark R. Bellows, Sr., and which is pursued by correspondence through the medium of the United States mails. Respondent Clark R. Bellows, Jr., causes said course of instruction and other documents to be transported from his said place of business in New York to the purchasers thereof located in the various states of the United States other than the State of New York.

PAR. 3. There is now, and has been at all times hereinafter mentioned, a course of trade in said course of instruction so sold and distributed by respondents in commerce between the various states of the United States.

PAR. 4. In the course and conduct of their business, as aforesaid, respondents, by means of advertisements placed in magazines having a national circulation and circulars and other advertising material mailed to purchasers and prospective purchasers of their said course of instruction, have made and are making representations with respect to the merit of said course and the powers, achievements and accomplishments in the field of hypnotism and autosuggestion which may be attained and acquired through the study and completion of said course of instruction, in substance as follows:

1. That hypnotism can be learned by anyone of average intelligence by taking respondents' course by correspondence.

2. That one practicing hypnotism as taught by said course will develop will power, self-confidence, self-control, courage, poise, polish and personal force and can overcome an inferiority complex through hypnotism.

3. That, through the practice of autosuggestion as taught by means of said course, a person is enabled to remake, rebuild and reconstruct his life.

4. That, by studying respondents' course, one can become a mental giant.

5. That said course is not an ordinary mail order course of instruction but consists of actual extension work in which resident training methods and principles are applied and taught by an experienced faculty.

6. That hypnotism and autosuggestion, as taught by respondents, offer real opportunities for money-making.

7. That there is a scarcity of, and a big demand for, hypnotists in this country.

8. That persons completing respondents' course of instruction are properly qualified to treat diseases, habits and abnormal conditions of the human body by hypnotism and that such diseases or conditions which they can cure, or substantially benefit, include: amnesia (loss of memory), complexes (almost all types), constipation, contractures and paralyses resulting from gross lesion of the brain, dyspepsia, enuresis nocturnia (bed-wetting), epilepsy, excesses (alcoholism, tobacco), facial and other twitchings, hysterias (almost all types), insomnia, masturbation, menstrual irregularities, morphia and other drug habits, nail-biting, neuralgia, neurasthenia, pain used as anesthesia in operations and post operative (including labor pains), stammering, stuttering and obesity.

PAR. 5. The aforesaid claims, statements and representations are false, deceptive and misleading. In truth and in fact:

1. Many persons of average or above-average intelligence cannot learn hypnotism through respondents' correspondence course.

2. The practice of hypnotism, as taught by respondents' course, will not develop will power, self-confidence, self-control, courage, poise, polish, personal force or overcome an inferiority complex.

3. The practice of autosuggestion, as taught by said course, will not enable a person to remake, rebuild, or reconstruct his life.

4. The study of respondents' course will not increase one's mental powers to any significant degree.

5. Respondents' course of instruction is an ordinary correspondence course and is in no sense extension work.

6. Hypnotism and autosuggestion, as taught by respondents' course, offer little opportunity for money-making in excess of some opportunities for spare-time earnings in the entertainment field.

7. There is neither a big demand for, nor a scarcity of, hypnotists in this country.

8. Persons completing respondents' course are not qualified to treat diseases, habits and abnormal conditions of the human body by hypnotism and cannot cure or substantially benefit or change any of the diseases, conditions or habits enumerated in Paragraph Four (8).

PAR. 6. Respondent Clark R. Bellows, Jr., operates his business under the name of Institute of Applied Hypnology and makes frequent reference in his advertising matter to "Institute," "faculty," "Institution of learning," and the title "Doctor" or its abbreviation "Dr." in referring to respondent Clark R. Bellows, Sr.

Through the use of the words "Institute," "faculty" and "Institution of learning," respondents represent that the business is an institution of higher learning with a staff of competent, experienced and qualified educators offering resident training and instruction in philosophy, art, science or other subjects of higher education. The title or degree of "Doctor" used by respondent Clark R. Bellows, Sr., implies that the degree "Doctor" has been conferred upon said respondent by an accredited and recognized college or university.

Said representations are false and misleading. In truth and in fact, respondents do not operate an institute or institution of learning, as that term is understood by the general public and in the field of education. There is no adequate equipment in the form of classrooms, laboratories, and libraries, nor a competent faculty of learned persons for the instruction of resident students in subjects of higher education. Respondent Clark R. Bellows, Jr., is engaged in the business of selling for profit a course of instruction in hypnotism, and on occasion is assisted by respondent Clark R. Bellows, Sr., who prepared said course. The title or degree of doctor used by said respondent Clark R. Bellows, Sr., was not issued or conferred by any recognized college, university or institution of higher learning and is not recognized or accredited by such institutions or by reputable scientists or educators.

PAR. 7. The use by respondents of the false, misleading and deceptive statements and representations aforesaid has the tendency and capacity to confuse, mislead and deceive members of the public into the belief that such statements and representations are true and to induce them to purchase respondents' course of 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

It is ordered, That the respondent Clark R. Bellows, Jr., trading as Institute of Applied Hypnology, or trading under any other name, the respondent Clark R. Bellows, Sr., and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of their courses of instruction in hypnotism, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That any one of average intelligence can learn hypnotism by taking respondents' course of instruction by correspondence;

(b) That a person practicing hypnotism, as taught by respondents' course, will develop willpower, self-confidence, self-control, courage, poise, polish or personal force, or can overcome an inferiority complex;

(c) That a person practicing autosuggestion, as taught by respondents' course, is enabled to remake, rebuild or reconstruct his life;

(d) That by studying respondents' course one can become a mental giant;

(e) That respondents' course is not a mail order course or is an extension course applying resident training methods and principles;

(f) That there is a big demand for, or a scarcity of, hypnotists in this country;

(g) That persons completing respondents' course are qualified to treat diseases, habits or abnormal conditions of the human body by hypnotism or can cure or substantially benefit amnesia, complexes, constipation, contractures or paralyses resulting from gross lesion of the brain, dyspepsia, enuresis nocturnia, epilepsy, excesses, facial and other twitchings, hysterias, insomnia, masturbation, menstrual irregularities, morphia or other drug habits, nail-biting, neuralgia, neurasthenia, pains, stammering, stuttering or obesity;

2. Misrepresenting the money-making opportunities of persons completing respondents' course;

3. Using the word "Institute" in their trade name or otherwise representing that their business is other than a commercial enterprise operated for profit.

4. Using the words "faculty," "institution of learning" or similar words or phrases representing that their business is other than a commercial enterprise operated for profit;

5. Using the title "doctor" or any abbreviation thereof to designate any person identified with respondents' enterprises unless such title has been duly conferred by an accredited educational institution of higher learning.

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 February 19, 1954].

Decision

IN THE MATTER OF

HAIR & SCALP CLINIC, INC., ET AL.

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

Docket 6096. Complaint, May 6, 1953—Decision, Feb. 21, 1954

Where a corporation and its two officers, engaged in the sale and distribution of various cosmetic and medicinal preparations for external use in the treatment of conditions of the hair and scalp designated as "Dioxynol", with various numerical and other similar designations such as "#26", "#57", "Spec. #99", "A-1", and as "Special Formula Shampoo", "Hydrosol" (a detergent), and "Sebol" (a hair dressing cream oil); in advertising, principally in newspapers—

(a) Represented falsely that through the use of said preparations in treatments in their place of business by their operators, and by purchasers in their homes, baldness and hair loss would be prevented and overcome;

(b) Falsely represented that the hair would take on new life, that new hair and stunted hair would be induced to grow, that itching of the scalp, dandruff, excessive dryness and oiliness of the scalp would be permanently eliminated, and that other scalp disorders would be prevented and overcome, and that an individual would be able to maintain a thick, healthy growth of hair;

(c) Falsely represented that their said preparations were newly discovered, scientific formulas;

(d) Represented falsely, through the use of the word "Trichologist", and by other means in their said advertising, that one of the aforesaid officers and certain of their employees had had competent training in dermatology and other branches of medicine having to do with the diagnosis and treatment of scalp disorders affecting the hair:

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

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

Mr. Joseph Callaway for the Commission.

Mr. Clarence M. Dinkins and *Mr. Jacob Gordon*, 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 February 21, 1954, 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.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 6, 1953, 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 that Act. After the filing by respondents of their answer to the complaint, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts executed by counsel supporting the complaint and counsel for respondents might be taken as the facts in this proceeding and in lieu of evidence in support of and in opposition to the charges stated in the complaint, and that the hearing examiner might proceed upon such statement of facts to make his initial decision, stating his findings as to the facts, including inferences which he might draw from the stipulated facts, and his conclusion based thereon and enter his order disposing of the proceeding without the filing of proposed findings and conclusions. Respondents, however, reserved the right to present oral argument. It was further stipulated that if the proceeding should come before the Commission upon appeal from the initial decision of the hearing examiner or by review upon the Commission's own motion, the Commission might, if it so desired, set aside the stipulation and remand the case to the hearing examiner for further proceedings under the complaint. Thereafter, a hearing was held before the hearing examiner, theretofore duly designated by the Commission, at which counsel were heard in oral argument and certain documentary evidence made a part of the record. Subsequently, the proceeding regularly came on for final consideration by the hearing examiner upon the complaint, answer, stipulation (the stipulation having been approved by the hearing examiner), documentary evidence and oral argument of counsel, and the hearing examiner, after duly considering the matter, 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. Respondent Hair & Scalp Clinic, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 606 Bond Building, Fourteenth Street and New York Avenue NW., Washington, D. C.

The individual respondents Ray W. Plasterer and Virginia E. Plasterer are respectively the president and secretary of the corporate

respondent. The individuals have their office at the same address as the corporate respondent and at all times hereinafter mentioned have formulated, directed, and controlled its acts, policies, and business affairs.

PAR. 2. Respondents are now and for the past several years have been engaged in the business of selling and distributing various cosmetic and medicinal preparations for external use in the treatment of conditions of the hair and scalp, including sales of such preparations through use of them in connection with treatments administered in the office of respondents. Respondents have their preparations compounded for them by others in the District of Columbia, and cause the preparations to be transported from the place of their manufacture to respondents' office in the District of Columbia and also from respondents' office in the District of Columbia to individual purchasers of the preparations located in the District of Columbia and in various States of the United States. Respondents maintain and at all times mentioned herein have maintained a substantial course of trade in their preparations in commerce in the District of Columbia and between the District of Columbia and various States of the United States.

PAR. 3. Respondents, through advertisements, invite persons to come to their place of business for diagnosis and treatment, whereupon certain series of treatments are recommended. If such treatments are agreed to, certain of respondents' cosmetic and medicinal preparations are sold to such persons and used in the process of such treatments. Respondents also sell to those induced to visit their office by their advertisements, certain of their preparations for home use in the treatment of the hair and scalp, and in many instances ship the preparations to such persons at their homes in the District of Columbia and in various States of the United States.

PAR. 4. In the course and conduct of their business, respondents have disseminated and are now disseminating and have caused and are now causing the dissemination of advertisements concerning their preparations by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their preparations; and respondents have also disseminated and are now disseminating and have caused and are now causing the dissemination of advertisements concerning their preparations by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of their preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in such advertisements, principally in newspapers, disseminated and caused to be disseminated as hereinabove set forth, until the date of August 1, 1953, are the following:

Stop Hair Fall

Excessive hair fall, dandruff, itching and dry lifeless hair are the first symptoms of approaching baldness, Hair and Scalp Clinic's thorough pleasant treatment, adapted to the needs of each scalp problem, penetrates into the scalp, removes the causes of these symptoms, thereby permitting stunted hair to grow and obtain nourishment from a healthy scalp.

If you are accepted for treatment, modern scientific methods will eliminate the cause of your hair loss, your hair will thicken, your scalp will feel healthy and alive. The appearance of your hair will improve and you will learn how to keep it healthy and strong.

Your hair will fall out as long as you neglect it . . . as long as you ignore the causes of hair loss. It could be infectious dandruff or any one of many scalp disorders. That's why we urge you to consult us to determine the exact means to end your hair worries.

Ray Plasterer says:

"My newly discovered scientific formula may prevent future loss of hair."

Your hair and scalp problems are our life's work and our new discoveries are at your disposal.

Consult Ray W. Plasterer
Washington's Leading Trichologist.
If your case is accepted
Results are guaranteed.

PAR. 5. The formulas for respondents' preparations are as follows:

Dioxynol

Oxyquinoline sulfate	¼ oz.
Resorcin	1 oz.
Glycerine	2 oz.
Water q. s	32 oz.

#26

Oleorescin Capsicum	2 gms.
Neobase B. W. Co	100 gms.

#57

Eurosol	10 CC
Salicylic acid	10 gm.
Precipitated sulfur	20 gm.
Anhydrous lanolin	50 gm.
Neobase B. W. Co	500 gm.

#307

Salicylic acid	4%
Precipitated sulfur	4%
Anhydrous lanolin	6%
Neobase B. W. Co	100%

#40

Pixabol	4 drams
Eurosol	4 drams
Salicylic acid	4 grams
Glycerine	12 oz. per 1 gal.
Alkolave q. s	1 qt.

#70

Tinc. cinchona	60 CC
Glycerine	60 CC
Alkolave	500 CC
Water q. s	1,000 CC

Spec. #99

Tinc. cantharides	2 drams
Resorcin	2 drams
Glycerine	2 drams

Equal parts bay rum and alcohol to make quart.

A-1

Tinc. cantharides	20 CC
Tinc. capsicum	20
70% alcohol q. s	1,000 CC

Special #100

Boric acid	1 dram
Zinc oxide	1 dram
Starch	1 dram
Phenol	½
Neobase B. W. Co. q. s	2 oz.

S9

Glycerine	2 drams
Resorcin	4 drams
Tinc. cantharides	4 drams
Alcohol q. s	32 fl. oz.

#11

Oxyquinoline sulfate	1 oz.
Tinc. cantharides	1 oz.
Alcohol q. s	1 gal.
Salicylic acid	½%

Also "Special Formula Shampoo," said to be a coconut oil shampoo, "Hydrosol," a detergent, and "Sebol," a hair dressing cream oil.

PAR. 6. Through the use of the aforesaid statements and representations and others similar thereto, respondents have represented, directly or by implication, that by the use of such preparations, methods, and treatments in their place of business by their operators and by purchasers of such preparations in their homes, baldness and hair loss will be prevented and overcome; that the hair will take on new life; that new hair and stunted hair will be induced to grow; that itching of the scalp, dandruff, excessive dryness and oiliness of the

scalp will be permanently eliminated; and that other scalp disorders will be prevented and overcome; that an individual will be able to maintain a thick healthy growth of hair; that respondents' preparations are newly discovered scientific formulas. By referring to respondent Ray W. Plasterer as a "Trichologist," and by other means in such advertising respondents have represented, directly or by implication, that respondent Ray W. Plasterer and certain of respondents' employees have had competent training in dermatology and other branches of medicine having to do with the diagnosis and treatment of scalp disorders affecting the hair.

PAR. 7. These representations are erroneous and misleading. Regardless of the exact formulas or methods of application and whether used alone or in conjunction with massage, heat, combing, brushing, shampooing, or any other manner of treatment of the hair and scalp, respondents' preparations will not prevent or overcome baldness or hair loss, or correct these conditions, or have any favorable influence on their underlying causes; will not cause the hair to take on new life; will not induce the growth of new hair or stunted hair; will not permanently eliminate itching of the scalp, dandruff or dryness or oiliness of the scalp or prevent, correct, or overcome any other disorder of the adult scalp. Regardless of the formulas or however used, the preparations will not cause an individual to maintain a thick or healthy growth of hair. Respondents' formulas or preparations are not new or the result of new discoveries. Neither respondent Ray W. Plasterer nor any of respondents' employees has undergone competent training in dermatology or any other branch of medicine pertaining to diagnosis or treatment of scalp disorders affecting the hair, and respondents are not operating an institution for the diagnosis and treatment of diseases of the scalp by dermatologists.

PAR. 8. The complaint also raises an issue as to the corporate name Hair & Scalp Clinic, Inc., charging that through the use of the word "Clinic" in the name respondents "have represented directly and by implication, contrary to the fact, that they are operating an institution for the diagnosis and treatment of diseases of the scalp by dermatologists." The issue thus presents the question of the meaning of the word clinic.

Among the definitions of the word found in Webster's New International Dictionary, Second Edition, is the following: "An institution, usually connected with a school, court, or settlement, in which concrete cases or problems of a special type are studied, and expert advice or treatment given; as, a vocational, child-guidance, or psychiatric clinic." The record also indicates that during recent years the use of the word clinic has broadened considerably, such expressions

as "housing clinic," "child welfare clinic," "marketing clinic," "sales clinic," "baseball clinic," etc., being encountered frequently in modern-day language.

In view of the dictionary definition quoted above and the rather common use of the word to refer to organizations and activities having no connection with medical science, it is concluded that the use of the word in respondents' corporate name is incapable of misleading any substantial portion of the public, and that this charge in the complaint has not been sustained.

Substantial amounts (a total of some $50,000 during the past six years) have been expended by respondents in advertising the corporate name, and obviously they should not be deprived of its use except upon clearly adequate grounds. Such grounds appear to be lacking here. In its recent decision in the case of Country Tweeds Incorporated, Docket No. 5957, issued November 25, 1953, the Commission recognized that trade names are valuable business assets and should not be prohibited unless such action is clearly necessary for the protection of the public.

PAR. 9. The record indicates that the representations challenged by the complaint have already been discontinued by respondents (except the use of the corporate name). It is urged by counsel for respondents that there is no likelihood that the representations will be resumed in the future, and that therefore the proceeding should be dismissed for want of present public interest. It appears, however, that this matter has, in effect, already been determined by the Commission and adversely to respondents' contention the Commission having recently declined to permit respondents to dispose of the proceeding by the execution of an informal stipulation and agreement to cease and desist. The grounds urged by respondents at that time in support of their application to dispose of the case by stipulation being essentially the same as those now urged in support of their contention that the complaint should be dismissed, it is concluded that the Commission has already determined that the proceeding should not be dismissed but should proceed to final decision on the merits.

PAR. 10. The use by respondents of the erroneous and misleading representations referred to above has the tendency and capacity to mislead and deceive a substantial portion of the public with respect to respondents' preparations and treatments, and the tendency and capacity to cause such portion of the public to purchase such preparations and treatments as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondents as hereinabove set forth are all to the 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.

ORDER

It is ordered, That the respondents, Hair & Scalp Clinic, Inc., a corporation, and its officers, and Ray W. Plasterer and Virginia E. Plasterer, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of treatments of the hair and scalp in which the various cosmetic and medicinal preparations set out in the findings herein are used; or in connection with the offering for sale, sale or distribution of the various cosmetic and medicinal preparations set out in the findings herein, for use in the treatment of conditions of the hair and scalp, or any other preparations of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from:

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

(a) That treatments of the hair or scalp by respondents or their employees, in which the various cosmetic and medicinal preparations set forth in the findings are used, or in which any other preparations of substantially similar composition or possessing substantially similar properties are used, or that the use of said preparations by purchasers in their homes, will:

(1) Have any effect in preventing or overcoming baldness or loss of hair.

(2) Cause the hair to take on new life.

(3) Induce the growth of new hair or stunted hair.

(4) Cause the permanent elimination of itching of the scalp, dandruff, dryness, or oiliness of the scalp, or prevent or cure other scalp disorders.

(b) That respondents' formulas or preparations or any of them are new or the result of new discoveries.

(c) That respondents or any of their employees have had competent training in dermatology or other branches of medicine pertaining to diagnosis or treatment of scalp disorders affecting the hair, or that respondents or any of their employees are trichologists.

II. Disseminating or causing to be disseminated by any means any advertisement for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in Paragraph I hereof.

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 February 21, 1954].

IN THE MATTER OF

LACY'S, INC., ET AL.

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

Docket 6131. Complaint, Oct. 27, 1953—Decision, Feb. 26, 1954

Where a corporation and two officers thereof, engaged in the sale of television sets and home freezers, in advertising their said freezers by radio broadcasts, in newspapers, and through brochures utilized by their salesmen—

(a) Represented through the use of such terms as "Lacy's Family Food Plan" that they were engaged in the operation of a plan for the purchasing of food, when their sole connection with the food business was that they enrolled the purchasers of their freezers in a food purchasing plan operated by another concern with which they were in no way affiliated;

(b) Represented falsely that participants in said plan could eliminate the retailer and buy food at wholesale prices or from a wholesaler;

(c) Represented falsely that participants in the said plan could effect overall monetary savings through the general use of frozen foods in place of corresponding foods in other form;

(d) Represented falsely that the average family could reduce its expenditures for food by $30 to $50 per month by participation in the plan they offered; that participants in said plan could save 20% to 30% of their food cost; and that net monetary savings could be effected by all who purchased and used their home freezers; and

Where said corporation and individuals in advertising certain television sets—

(e) Represented that they were making bona fide offers to sell various sets advertised, including Admiral, General Electric, and others, at the prices specified from time to time through newspaper advertisements and radio broadcasts in which they offered to give a demonstration of the sets in the homes of persons interested;

When in fact said offers were made to induce prospective purchasers to visit their stores or to obtain leads as to persons interested in the purchase of sets in order that they could be solicited in their homes by respondents' salesmen; and respondents and their salesmen, at their place of business and in calling upon persons at their homes, in many instances, failed to demonstrate the advertised sets or disparaged the design, workmanship, and performance thereof and attempted to demonstrate and sell different and more expensive sets:

Held, That such acts and practices constituted unfair and deceptive acts and practices in commerce.

Before *Mr. William L. Pack*, hearing examiner.
Mr. John J. McNally 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