

Complaint

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IN THE MATTER OF

E. MANUEL STOLAROFF ET AL. TRADING AS
NATONE COMPANYCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6365. Complaint, June 17, 1955—Decision, Nov. 17, 1955*

Consent order requiring copartners in Los Angeles, Calif., to cease disseminating advertisements in newspapers and periodicals and otherwise which represented falsely that their "Talika Eye Lash Creme" would make eyelashes grow longer and thicker.

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. Charles S. Cox for the Commission.

Mr. Marvin A. Freeman, of Beverly Hills, Calif., 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 E. Manuel Stolaroff, individually, and E. Manual Stolaroff, Irving Grath and Moe A. Lesser, individually and as trustees, all trading as copartners under the name of Natone Company, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent E. Manuel Stolaroff is an individual. Respondent E. Manuel Stolaroff, Irving Grath and Moe A. Lesser are individuals and trustees for the benefit of JoAnne Cotsen and Lois Stolaroff. All of said individuals trade as copartners under the name of Natone Company. The address of respondent E. Manuel Stolaroff is 1207 West Sixth Street, Los Angeles 17, California, and the address of Irving Grath and Moe A. Lesser is 232 North Canon Drive, Suite 216, Beverly Hills, California.

PAR. 2. Respondents are now, and have been for more than one year last yast, engaged in the advertising and sale of a cosmetic product as "cosmetic" is defined in the Federal Trade Commission Act.

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The designation used by respondents for said product and the formula and directions for use, are as follows:

Designation: Talika Eye Lash Creme

Formula:

Petrolatum	63 to 80%
Castor Oil	18 to 32%
Trihydroxy 3,4,5	} 3%
Benzoic Acid (gallic acid)	
Several drops of perfume	

Directions for use: Apply to the eyelashes every night by means of cotton wool on a small wooden applicator.

PAR. 3. Said respondents cause their said product, when sold, to be transported from their place of business in the City of Los Angeles, State of California, to purchasers located in various States of the United States other than the State of California.

Respondents maintain, and at all times mentioned herein have maintained a course of trade in their said product, in commerce, among and between the various States of the United States.

PAR. 4. In the course and conduct of their aforesaid business, respondents have disseminated and caused the dissemination of advertisements concerning said product 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 periodicals and in circular letters, pamphlets and other advertising literature, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product; and respondents have disseminated and caused the dissemination of advertisements by various means, including but not limited to the aforesaid means, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements appearing in said advertisements are the following:

Who says you can't grow lashes? A new, eye-beautifying cream, fresh from Paris, is today's answer to softer, silkier, l-o-n-g-e-r lashes * * *.

* * * beauty-chemist Danielle Roches of Paris came up with the answer to that old lament "*I can't grow lashes.*"

And all because of a cream that's the beauty-talk of the European continent. It is called *Talika Eyelash Creme*. You don't have to wait weary months to see something happen. Use this "white magic" for *just two weeks* and you'll see a lot happen. Your lashes will look longer and lovier. They'll be lustrous and luxuriant. Your eyes will have IT—the look of genuine glamor that comes only

from long, thick lashes—the kind Nature bestows on the favored few. * * *

* * * Prove to yourself that you CAN have the long, lustrous lashes people rave about!

PAR. 5. Through the use of the statements and representations in the aforesaid advertisements and others of the same import but not specifically set out herein, respondents represented that their said product when applied to the eyelashes will cause them to grow longer and thicker.

PAR. 6. The 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, said product when applied to the eyelashes will neither cause them to grow longer nor thicker.

PAR. 7. The use by the respondents of the foregoing false, deceptive and misleading statements and representations has had and now has the tendency and capacity to mislead the purchasing public into the erroneous and mistaken belief that such statements and representations were and are true, and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents’ product, as a result of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices, 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.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that E. Manuel Stolaroff, Irving Graff (erroneously named in the complaint as Irving Grath) and Moe A. Lesser, individually and as trustees, all trading as copartners under the name of Natone Company, the address of the first-named respondent being 1207 West Sixth Street, Los Angeles 17, California, and that of the other two respondents being 232 North Canon Drive, Suite 216, Beverly Hills, California, are now, and have been for more than one year last past, engaged in the advertising and sale of Talika Eye Lash Creme, a cosmetic product as “cosmetic” is defined in the Federal Trade Commission Act; that they have disseminated advertisements concerning said product, which advertisements are misleading in material respects and are “false advertisements” as that term is defined in the Federal Trade Commission Act; and that respondents’ use of such false, deceptive and misleading statements and representations has had and now has the tendency and capacity to mislead the purchasing public into the erroneous and mistaken

belief that such statements and representations were and are true, and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents' product as a result of such erroneous and mistaken belief, in violation of the Federal Trade Commission Act. After the issuance of the complaint, respondents filed an answer thereto, and thereafter, on October 3, 1955, respondents, their counsel, and counsel supporting the complaint entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the Director, Bureau of Litigation of the Commission, and thereafter transmitted to the hearing examiner for consideration.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint and that the record herein may be taken as if findings of jurisdictional facts had been made in accordance with such allegations; that respondents' answer to the complaint shall be considered as having been withdrawn and the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully covers all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest and accepts the Agreement Containing Consent Order to Cease and Desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents E. Manuel Stolaroff, individually, and E. Manuel Stolaroff, Irving Graff and Moe A. Lesser, individual-

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ly and as trustees, all trading as copartners under the name of Natone Company, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of a preparation designated as Talika Eyelash Creme, or any other cosmetic product of composition substantially similar thereto, do forthwith cease and desist from:

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

a. That the use of said product will cause the eyelashes to grow longer or thicker;

2. 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act, of such product, which advertisement contains any of the representations prohibited in Paragraph 1. a. of this order.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 17th day of November, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That respondents E. Manuel Stolaroff, individually, and E. Manuel Stolaroff, Irving Graff (erroneously named in the complaint as Irving Grath) and Moe A. Lesser, individually and as trustees, all trading as copartners under the name of Natone Company, 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.

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IN THE MATTER OF

NOVEL MFG. & DISTRIBUTING CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6384. Complaint, June 30, 1955—Decision, Nov. 23, 1955

Consent order requiring sellers in New York City to cease advertising falsely in newspapers and other publications that its "Garden Under Glass" floral centerpiece contained natural flowers, that its offer to sell the product at designated prices was for a limited time, and that the prices at which it was offered for sale were reduced.

Before *Mr. Everett F. Haycraft*, hearing examiner.
Mr. Michael J. Vitale 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 Novel Mfg. & Distributing Co., Inc., a corporation, and Sam Weitz and Richard Weitz, individually and as officers of said corporation, and Russell Weitz, individually and as General Manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Novel Mfg. & Distributing Co., Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 33 Second Avenue, New York, New York. In connection with the practices hereinafter referred to it trades as Everlast Gardens. Respondents Sam Weitz, Richard Weitz, and Russell Weitz are president, secretary-treasurer, and general manager, respectively, of this corporate respondent. The address of these individuals is the same as that of corporate respondent.

All of the aforesaid respondents cooperated and acted together in performing the acts and engaging in the practices hereinafter set forth.

PAR. 2. Respondents during the years of 1953 and 1954 engaged in the advertising and sale, among other things, of a so-called floral centerpiece designated as the "Garden Under Glass." In the course