

IN THE MATTER OF  
ALBERT E. WINNER TRADING AS  
INVISIBLE LENS SERVICE

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

*Docket 6570. Complaint, June 12, 1956—Decision, Sept. 27, 1956*

Consent order requiring a Chicago manufacturer of contact lenses, to cease misrepresenting in advertising the properties of his contact lenses, their unique nature, their superiority to eyeglasses and ease and speed of fitting, etc.; and representing falsely that he was the exclusive seller of the lenses and had offices in many principal cities.

*Mr. Frederick McManus* for the Commission.

*Mr. Henry Junge*, of Chicago, Ill., for respondent.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on June 12, 1956, charging him with having violated the Federal Trade Commission Act by making false and misleading representations concerning the properties, characteristics and therapeutic value of his product, contact lenses. In lieu of submitting answer to the complaint, respondent appeared by counsel and entered into an agreement, dated July 20, 1956, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondent, pursuant to the aforesaid agreement, has admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official

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## Order

record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the same are hereby accepted and ordered filed upon becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent Albert E. Winner is an individual trading under the name of Invisible Lens Service with his place of business at 59 East Madison Street, Chicago, Illinois.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

## ORDER

*It is ordered*, That Albert E. Winner, an individual trading under the name of Invisible Lens Service, or under any other name or names, his representatives, agents and employees directly or through any corporate or other device, in connection with the sale of contact lenses known as "Micro Lens", "Micro-Wafer Lens" or any other contact lens of substantially the same construction, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

I. 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:

1. That respondent's said contact lenses:

(a) Can always successfully replace eyeglasses.

(b) Will permit full lid action and full freedom of eye movement except after the wearer has become fully adjusted thereto.

- (c) Will conform or adapt themselves to the corneal curvature.
- (d) Are unbreakable.
- (e) Do not require changing.
- (f) Will not lag or slide.
- (g) Cannot be dislodged.
- (h) Can always be fitted correctly or easily during a single office visit, or that the fitting will be without discomfort in the case of many persons.
- (i) Are more beneficial than eyeglasses for cross-eye or are useful, except in certain forms of cross-eye.
- (j) Are sold exclusively by respondent.
- (k) Are different than other fluidless contact lenses in that they permit the free exchange of oxygen.

2. That respondent maintains offices other than in Chicago.

II. Disseminating or causing to be disseminated 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 said contact lenses, which advertisement contains any of the representations prohibited in Paragraph I hereof.

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 27th day of September, 1956, become the decision of the Commission; and, accordingly:

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

## Decision

IN THE MATTER OF  
COMFORT ZONE CORPORATION ET AL.

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

*Docket 6361. Complaint, June 7, 1955—Decision, Oct. 2, 1956*

Consent order requiring Long Island distributors of a device they designated as "Weather Zone Portable Air Conditioner"—consisting of a fan motor with two centrifugal single-inlet blowers, a plastic tray for water, and means to direct the air over the surface of the water before entering the blowers—to cease representing falsely in advertising that the device was an air conditioner.

*Mr. William L. Taggart* for the Commission.

*Levy & Nevins*, by *Mr. Saul S. Nevins*, of New York City, for Comfort Zone Corp., Harry Goldberg and John Murano.

*McQuaid & Stephens*, by *Mr. Thomas J. Stephens*, of White Plains, N.Y., for James L. Simpson.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Respondent Comfort Zone Corporation was organized and is existing and doing business under and by virtue of the laws of New York, with its office and principal place of business located at Jericho Turnpike, Mineola, Long Island. Respondent Harry Goldberg, an individual, was formerly vice-president of the corporate respondent. Respondent John Murano, an individual erroneously referred to in the complaint as Joseph Murano, is secretary of the corporate respondent. Respondent James L. Simpson, an individual, was formerly president of the corporate respondent.

Respondents are charged in the complaint with unfair and deceptive acts and practices in violation of the Federal Trade Commission Act in connection with the sale and distribution in commerce of a device which they have advertised as an air conditioner. The device consists of a fan motor with two centrifugal single-inlet blowers, a tray in which water may be placed over which the stream of air passes before it is picked up by the blowers and driven into the area to be cooled. It is alleged that this device will not control the temperature, humidity and circulation of air simultaneously and is therefore not an air conditioner.

Respondent James W. Simpson filed an answer, supported by an affidavit, denying, among other things, that he had acted in cooperation with the other respondents individually named to formulate, direct and control the policies, acts and practices of the