

Order

IN THE MATTER OF

ADVANCE SPECTACLE COMPANY, INC., ET AL.

Docket 6285. Order reopening, etc., Oct. 11, 1957

Order reopening proceeding, vacating decision,¹ and remanding case to hearing examiner.

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

Mr. William A. Somers for the Commission.

Mr. Alfred B. Teton of *Froelich, Grossman, Teton and Tabin*, of Chicago, Ill., for respondents.

Whereas, the hearing examiner, on April 12, 1955, filed an initial decision in which he accepted an agreement containing an order to cease and desist theretofore executed by the respondents and counsel in support of the complaint, which decision, on May 22, 1955, became the decision of the Commission in disposition of this proceeding; and

Whereas, counsel in support of the complaint, by motion filed September 13, 1957, requested that the matter be reopened and that said decision be vacated and set aside and the case remanded to the hearing examiner for further proceedings, which motion was, on September 18, 1957, duly served upon the respondents; and

It appearing that the ground for said motion is that the respondents have asserted a misunderstanding on their part as to the scope of the order agreed to, stating that they understood that said order would relate only to advertising material packaged with their eye-testing device and not to their advertising generally; and

It further appearing to the Commission that while the order to cease and desist on its face admits of no ambiguity, clearly applying to all forms of advertising disseminated by the United States mail or by any means in commerce, the discussion on the record at the time of submittal of the agreement containing the order does indicate a possible basis for the respondents' misunderstanding; and

The Commission being of the opinion that, in the circumstances, the public interest will best be served by vacating the decision and directing that the case be tried:

It is ordered, That this proceeding be reopened and that the initial decision of the hearing examiner filed April 12, 1955, and the decision of the Commission and order to file report of compliance, issued May 20, 1955, be, and they hereby are, vacated and set aside.

It is further ordered, That the case be, and it hereby is, remanded to the hearing examiner for further proceedings in regular course.

¹ 51 F.T.C. 1216.

IN THE MATTER OF
LANOLIN PLUS, INC.

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

Docket 6827. Complaint, July 8, 1957—Decision, Oct. 15, 1957

Consent order requiring a seller in Chicago of "Lanolin Plus Shampoo" to cease representing falsely in advertisements in newspapers, by television, etc., that detergent shampoos burn the hair.

Mr. Daniel J. Murphy and Mr. Thomas Sterner for the Commission.

Frank E. and Arthur Gettleman, of Chicago, Ill., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes hereinafter referred to as the Commission), on July 8, 1957, issued its complaint herein under the Federal Trade Commission Act against the above-named respondent, Lanolin Plus, Inc., a corporation, charging said respondent with having violated the provisions of the Federal Trade Commission Act in certain particulars. The respondent was duly served with process.

On August 23, 1957, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order To Cease And Desist," which had been entered into by and between said respondent and by its attorneys and Daniel J. Murphy and Thomas Sterner, counsel supporting the complaint, under date of August 1, 1957, and subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by the Director of the Commission's Bureau of Litigation.

On due consideration of the said "Agreement Containing Consent Order To Cease and Desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent Lanolin Plus, Inc., is a corporation organized, existing and doing business under the laws of the State of Delaware, with its office and principal place of business located at 30 West Hubbard Street, Chicago 10, Illinois.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 8, 1957, issued its