

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

complaint in this proceeding against respondent, and a true copy was thereafter duly served on respondent.

3. Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondent waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. 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.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

Upon due consideration of the complaint filed herein, and the said "Agreement Containing Consent Order To Cease And Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, unless and until it becomes part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order To Cease And Desist," that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act both generally and in each of the particular charges alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the full disposition of all the issues in this proceeding, such order to become final only if and when it becomes the order of the Commission; and that said order, therefore, should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondent Lanolin Plus, Inc., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for

sale, sale or distribution of the preparation "Lanolin Plus Shampoo," or any preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

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 by implication, that detergent shampoos will burn hair.

2. Disseminating or causing to be disseminated any advertisement, by any means, for the purpose of inducing, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains the representation prohibited in Paragraph 1 hereof.

It is further ordered, That the respondent Lanolin Plus, Inc., a corporation, its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Lanolin Plus Shampoo or any other related product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, in audio-visual representation in television or otherwise, that detergent shampoos will burn hair, or otherwise utilizing such scare tactics to induce the purchase of respondent's preparation.

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 did on the 15th day of October, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Lanolin Plus, Inc., a corporation, shall, within sixty (60) days after service upon it 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.

Decision

IN THE MATTER OF
GARY PHARMACAL COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6655. Complaint, Oct. 17, 1956—Decision, Oct. 18, 1957

Consent order requiring a seller in Chicago to cease representing falsely in advertising that its drug preparation "Dry-Tabs" was a new discovery that would correct the bed-wetting habit in all cases, and to reveal conspicuously that the preparation was of no value except in cases of functional bed-wetting not involving organic defects or diseases and should not be used by children under six except on a physician's advice.

Mr. William A. Somers for the Commission.

Frank E. & Arthur Gettleman, of Chicago, Ill., by *Mr. Frank E. Gettleman*, for respondent Gary Pharmacal Co.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with the dissemination of false advertisements in connection with a medicinal preparation sold by them, the preparation being for use in the prevention or correction of enuresis or bed-wetting. An agreement has now been entered into by counsel supporting the complaint, and the corporate respondent Gary Pharmacal Company which provides, among other things, that said respondent admits all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, said respondent specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by said respondent that it has violated the law as alleged in the complaint.

The proposed order covers all of the issues raised in the complaint except that as to whether respondent's advertisements should con-