

IN THE MATTER OF
WALSIDE, INC., ET AL.

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

Docket 6873. Complaint, Aug. 21, 1957—Decision, Nov. 13, 1957

Consent order requiring Des Moines, Ia., manufacturers of aluminum house or building siding to cease making, in advertising and through sales talks given by employees, false representations as to a free gift of a dining table service set purportedly given to interested prospects and the value thereof, and commissions paid for the use of houses of purchasers as models to demonstrate their product; and to cease quoting initial inflated and fictitious prices and subsequently quoting the lower usual price as special introductory conditioned on use of the customer's home for demonstration, etc.

Mr. Terral A. Jordan for the Commission.

Mr. Charles J. Cardamon, of Des Moines, Ia., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act through the making of certain misrepresentations in connection with aluminum house or building siding material. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit 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, respondents 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 respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for an appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Walside, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Iowa. Respondents Hilary Di Paglia (erroneously referred to in the complaint as Hillary Di Paglia), Raymond Di Paglia, and Floren Di Paglia are individuals trading and doing business as copartners under the name of Builders Supply Co., and are officers of the aforesaid corporate respondent. The office and principal place of business of the respondents is located at 1526 Harding Road, Des Moines, Iowa.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered. That respondents Walside, Inc., a corporation, and its officers, and Hilary Di Paglia (erroneously referred to in the complaint as Hillary Di Paglia), Raymond Di Paglia, and Floren Di Paglia, as individuals or as copartners trading and doing business as Builders Supply Co., or under any other trade name, and as officers of said corporate respondent, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the manufacturing for sale, offering for sale, sale and distribution of aluminum house or building siding material or of any other kind of goods or merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly:

1. That a free gift of a dining table service set or any other kind of merchandise will be made to persons complying with specified conditions unless in truth and in fact such merchandise is sent to all persons complying with such conditions.

2. That dining table service sets or any other articles of merchandise either sold or offered as gifts by respondents have a value in excess of the retail selling price of similar articles of merchandise of like grade, quality, design and workmanship advertised for sale, offered for sale and regularly selling or having been sold, contemporaneously in the same general trade area as that supplied by respondents, by other persons, firms, or corporations regularly and

usually engaged in the sale and distribution at retail of such articles of merchandise.

3. That a special introductory price or reduced price is offered to selected purchasers of the aforesaid products where such price constitutes respondents' usual and regular selling price and is generally available to all purchasers.

4. That the houses or buildings of selected purchasers of the aforesaid products will be used as model or demonstration houses or buildings to advertise or sell the aforesaid products where such is not the fact.

5. That commissions or fees on the sale of respondents' aforesaid products will be paid by respondents to purchasers of said products whose houses or buildings are used for model or demonstration purposes unless, in truth and in fact, such commissions or fees are actually paid and such houses or buildings are used for model or demonstration purposes.

6. That any price for the aforesaid products in excess of respondents' usual and regular price constitutes the usual and regular selling price of said products.

7. That any price which is not of an amount less than respondents' regular and usual price for the aforesaid products is a special introductory price or a reduced price or any kind of price other than respondents' regular and usual price for the aforesaid products.

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 13th day of November, 1957, become the decision of the Commission; and, accordingly:

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.

Decision

IN THE MATTER OF
LOESCH HAIR EXPERTS ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6305. Complaint, Mar. 2, 1955—Decision, Nov. 14, 1957

Order requiring an individual with place of business in Houston, Tex., from where he or his representatives traveled to various cities to meet customers and prospects, along with his advertising agency, to cease representing falsely in advertisements inserted in local newspapers announcing his arrival that by use of his scalp preparations bacteria swarming beneath the scalp would be killed; dandruff, itching, irritation, and all local scalp disorders would be cured and the scalp kept healthy; excessive hair fall would be stopped, and all types of baldness prevented, new hair induced to grow, and the hair become thicker; requiring him to reveal that the cause of "male-pattern" baldness, which accounts for approximately 95% of all cases, would not be favorably influenced; and requiring him to cease representing falsely, by use of the word "Trichologist" and pictorial representations, that he and his representatives had had competent training in dermatology having to do with treatment of scalp disorders.

Mr. Morton Nesmith for the Commission.

Welling & Welling by *Mr. Richard M. Welling*, of Charlotte, N.C., for William T. Loesch.

McGregor & Sewell, by *Mr. Douglas W. McGregor*, of Houston, Tex., for William B. Zimmerman.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

INTRODUCTORY STATEMENT

The complaint in this case was issued March 2, 1955, against the respondents named in the caption hereof. Among other things it was alleged therein that respondent Loesch was engaged in the business of selling and distributing various cosmetic and other preparations for external use in the treatment of conditions of the hair and scalp in interstate commerce; that in the course and conduct of such business respondents had disseminated or caused the dissemination of advertisements concerning said preparations for the purpose of inducing and which were likely to induce the sale of said preparations; and that respondent Zimmerman, trading as Zimmerman Advertising, prepared said advertisements. Typical of such statements and representations were certain statements with respect to the efficacy of the products and it was alleged that through the use of such statements, said respondents had represented that by the use of respondent Loesch's preparations bacteria swarming beneath