

IN THE MATTER OF

KLEAR VISION CONTACT LENS SPECIALISTS, INC.,
ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7010. Complaint, Dec. 27, 1957—Decision, May 24, 1958*

Consent order requiring a manufacturer of contact lenses in New York City, to cease representing falsely in advertisements in newspapers, circulars, pamphlets etc., that all persons could successfully wear its contact lenses which would never cause irritation or discomfort, would completely replace eyeglasses and were a substitute for bifocals, would correct all defects in vision, would stay in place under all conditions, and differed from other lenses in that they permitted air and tears to bathe the cornea.

Mr. Frederick McManus for the Commission.

Mr. Joel J. Weiner, of New York, N.Y., for the respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting contact lenses sold by them, in violation of the Federal Trade Commission Act. 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 appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Klear Vision Contact Lens Specialists, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Respondents Lawrence Lewison and Shirley Lewison are officers of said corporate respondent. The office and principal place of business of all respondents is located at 7 West 44th Street, New York, N.Y.

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 ¹

It is ordered, That respondents, Klear Vision Contact Lens Specialists, Inc., a corporation, and its officers, and Lawrence Lewison and Shirley Lewison, individually and as officers of said corporation, their representatives, agents and employees, directly or through any corporate or other device, in connection with the sale of contact lens, do forthwith cease and desist from directly or indirectly:

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

(a) All persons in need of visual correction can successfully wear respondents' contact lenses;

(b) There is never irritation or discomfort from wearing respondents' lenses;

(c) All persons can wear respondents' lenses all day without discomfort; or that any person can wear respondents' lenses all day without discomfort except after that person has become fully adjusted thereto;

(d) Eyeglasses can always be discarded upon the purchase of respondents' lenses;

(e) Respondents' contact lenses will correct defects in vision in all cases which require bifocal lenses;

(f) Respondents' contact lenses will correct all defects in vision;

(g) Respondents' contact lenses will stay in place under all conditions;

¹ Order published as modified by commission order of Mar. 23, 1960.

(h) Respondents' contact lenses are different than other fluidless contact lenses in that they permit air and tears to bathe the cornea.

2. 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 lens, which advertisement contains any of the representations prohibited in paragraph 1 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 did, on the 24th day of May 1958, become the decision of the Commission; and, accordingly:

It is ordered, That 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

WYBRANT SYSTEM PRODUCTS CORP. ET AL.

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

Docket 6472. Complaint, Nov. 21, 1955—Decision, May 29, 1958

Order requiring operators in New York City of "The Wybrant System" involving treatment and sale of preparations to prevent baldness and grow hair, to limit to cases other than those of male pattern baldness claims in advertising that use of their preparations and treatment would prevent or overcome excessive hair fall or baldness or cause hair to grow; and to reveal that the great majority of cases of excessive hair fall and baldness are stages of male-pattern baldness and that in such cases their preparations would be of no value.

Mr. Harold A. Kennedy and Mr. Jerome Garfinkel supporting the complaint.

Howrey & Simon by *Mr. Edward F. Howrey and Mr. Harold F. Baker and Mr. John Bodner, Jr.* all of Washington, D.C., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The complaint in this proceeding was originally issued November 21, 1955, charging the respondents with the dissemination of false advertising for certain medicinal and cosmetic preparations, allegedly advertised to prevent baldness, grow new hair on bald heads and permanently eliminate dandruff and itching of the scalp. The language of the complaint brings the charges within the purview of section 12 of the Federal Trade Commission Act, the violation of which is made an unfair and deceptive act within the meaning of section 5 of the act. The complaint was amended by order of the hearing examiner on March 12, 1956, to charge that failure to reveal in the advertising that respondents' preparations were ineffective in cases of male pattern baldness was of itself a cause of deception, it being alleged that cases of that type constitute the vast majority of the cases of baldness.

Answer to the complaint as amended filed April 20, 1956, denied that respondents were engaged in the sale or distribution of cosmetics or medicinal products either in local or interstate commerce; alleged that their business was confined to that of administering service treatments in their offices in New York City; that a very small amount of preparations were shipped from its New York