

Decision

IN THE MATTER OF
ALEX SALES COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket 7104. Complaint, Apr. 3, 1958—Decision, Aug. 28, 1958*

Consent order requiring sellers in Oklahoma City, Okla., of a preparation known as "Don's Hair Formula," to cease representing falsely in advertising that the great majority of cases of excessive hair fall and baldness are caused by disease of the scalp; that use of their preparation would cure such diseased condition and thereby prevent excessive hair fall and baldness, grow new hair, and cure baldness.

Mr. Ames W. Williams supporting the complaint.

Mr. Robert D. Allen, of Oklahoma City, Okla., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On April 3, 1958, the Federal Trade Commission issued a complaint alleging that Alex Sales Company, a corporation, T. O. Whitten, Darwin Frayer, Gussie Singleton and Faye Whitten, individually and as officers of Alex Sales Company, hereinafter referred to as respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations in advertisements concerning their product "Don's Hair Formula" which they sell and distribute.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint, entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural

Order

55 F.T.C.

steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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 undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Alex Sales Company is a corporation existing and doing business under and by virtue of the laws of the State of Oklahoma, with its office and principal place of business located at 2816 NW. 19th Street, Oklahoma City, Okla.

2. Respondents T. O. Whitten, Darwin Frayer, Gussie Singleton, and Faye Whitten are individuals and officers of the said corporate respondent, serving respectively as president, vice president, secretary and treasurer, with their office and principal place of business located at the same place as that of the corporate respondent.

3. 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 the respondents Alex Sales Company, a corporation, and its officers, and T. O. Whitten, Darwin Frayer, Gussie Singleton, and Faye Whitten, individually and as officers of said corporation, and their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of Don's Hair Formula or any other cosmetic or medicinal preparation for use in the treatment of disorders of the hair and scalp, 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 "com-

merce" is defined in the Federal Trade Commission Act, any advertisement which represents, directly or by implication:

(a) That diseased scalp conditions are a major cause of excessive hair fall or baldness or misrepresenting in any manner the extent to which diseased scalp conditions may be a cause of excessive hair fall or baldness.

2. Representing that the use of respondent's preparation alone or in conjunction with any method or treatment will:

(a) Prevent excessive hair fall or baldness or cause the growth of new hair unless such representations are expressly limited to cases other than those known to dermatologists as male pattern baldness, and unless the advertisement clearly and conspicuously reveals that the great majority of cases of excessive hair fall and baldness are of the male pattern type and that in such cases the use of respondents' product will not be of value in preventing excessive hair loss, preventing baldness or in growing new hair.

(b) Cure dandruff or have any beneficial effect upon dandruff in excess of the temporary removal thereof.

3. Disseminating or causing the dissemination by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' preparation, in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited by paragraphs 1 and 2 hereof or which fails to comply with the affirmative requirements of paragraph 2(a) 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 28th day of August 1958, 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.

IN THE MATTER OF
JOSEPH JAYKO
TRADING AS CRAMWELL INSTITUTE, ETC.

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

Docket 6696. Complaint, Dec. 26, 1956—Decision, Sept. 3, 1958

Order requiring an individual in Adams, Mass., engaged in selling printed tests designed to determine the knowledge and ability of persons regarding certain subjects, and awarding to persons passing them degrees such as Bachelor of Science, Bachelor of Arts, and Bachelor of Laws, and diplomas designated as "College Equivalent Diplomas" and "High School Equivalency Diplomas," to cease representing falsely that he had authority to award such degrees and diplomas; that the educational qualifications of recipients were equivalent to those acquired by attendance at accredited institutions of learning; that his diplomas were recognized by industry, commerce and Government, had been awarded to thousands of persons, and would guarantee better paid jobs; and to cease misrepresenting the nature of his business by use of the word "Institute" in his trade name.

*Mr. Morton Nesmith and Mr. John Mathias for the Commission.
Mr. Andrew J. Dilk, of Adams, Mass., for respondent.*

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

This proceeding, in substance, involves charges that respondent has violated the Federal Trade Commission Act by advertising, soliciting, and selling commercially in interstate commerce various types of alleged educational material, such as tests of the knowledge and ability of persons and unauthorized and unrecognized diplomas, including so-called high school "equivalency diplomas" and college level "equivalency diplomas," awarding the college degrees of "Bachelor" and "Master" in a large and practically unlimited variety of academic, professional, scientific and business subjects. It is charged that the said material has deceived and has the tendency to deceive the public into believing that respondent's diplomas and degrees are in fact equivalent to those issued by recognized institutions of learning. In short, respondent is charged with running "a diploma mill." Respondent, while admitting certain matters charged, denies others and, in substance, denies that he has violated the Act in any way. This initial decision finds generally that the allegations of the