

October 1960, 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.

IN THE MATTER OF

NU-VISION OPTICAL STUDIOS, INC., ET AL.

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

Docket 7949. Complaint, June 16, 1960—Decision, Oct. 19, 1960

Consent order requiring sellers of contact lenses in Flint, Mich., to cease advertising falsely that their contact lenses could be worn all day and without discomfort by all persons, would correct all eye defects and protect the eye, were unbreakable, eliminated need of eyeglasses, and were manufactured by respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Nu-Vision Optical Studios, Inc., a corporation, and Eli Shapiro and Arthur Shapiro, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Nu-Vision Optical Studios, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal

office and place of business located at 118 Kearsley Street, Flint, Michigan. Said corporation trades as Nu-Vision Optical Studios.

Individual respondents Eli Shapiro and Arthur Shapiro are officers of said corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the sale of contact lenses to the consuming public. Contact lenses are designed to correct errors and deficiencies in the vision of the wearer, and are devices as the term "device" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated, and caused the dissemination of, advertisements concerning their said devices, by the United States mail and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to, advertisements inserted in newspapers, for the purpose of inducing, and which were and are likely to induce, directly or indirectly, the purchase of said devices; and respondents have also disseminated and caused the dissemination of advertisements concerning their said devices by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were and are likely to induce, directly or indirectly, the purchase of their said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

Take off your glasses and See Better. Look Better.

No vision correction is too great or too small for the wearer of contact lenses.

So comfortable to wear.

The miracle of contact lenses is now here for you to enjoy—no matter what your vision correction may be. These tiny invisible lenses may be worn with complete comfort by children, men and women in every occupation and activity * * * a new life without glasses.

You'll be able to wear them in complete comfort all day-long, no matter what you are doing.

Thick heavy spectacles are eliminated and the contact lens wearer is restored to full normal field of vision.

The unbreakable lenses eliminate the hazards and inconvenience of ordinary glasses.

Protection. Contact lenses provide complete protection at work or play. These small lens eliminate the hazards and inconvenience of ordinary glasses.

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The finest product of years of research and facilities—right in our own modern Nu-Vision laboratory.

PAR. 4. By and through the statements made in said advertisements, and others of similar import not specifically set out herein, respondents represent and have represented, directly and by implication, that:

1. All persons in need of visual correction can successfully wear their contact lenses.
2. There is no discomfort in wearing their contact lenses.
3. Said contact lenses can be worn all day with complete comfort.
4. Eyeglasses can be discarded upon the purchase of their contact lenses.
5. Their contact lenses will correct all defects in vision.
6. Said lenses protect the eye.
7. Said lenses are unbreakable.
8. Respondents manufacture the lenses sold by them.

PAR. 5. The advertisements containing the aforesaid statements and representations are misleading in material respects and constitute "false advertisements," as that term is defined in the Federal Trade Commission Act.

In truth and in fact:

1. A significant number of persons in need of visual correction cannot successfully wear respondents' contact lenses.
2. Practically all persons will experience some discomfort when first wearing respondents' lenses. In a significant number of cases discomfort will be prolonged and in some cases will never be overcome.
3. Many persons cannot wear respondents' contact lenses all day without discomfort and no person can wear said lenses all day in complete comfort until he or she has become fully adjusted thereto.
4. Eyeglasses cannot always be discarded upon the purchase of respondents' lenses.
5. Respondents' lenses will not correct all defects in vision.
6. Said lenses will protect only the small portion of the eye that is covered by them.
7. Said lenses are breakable.
8. Respondents do not manufacture the lenses sold by them.

PAR. 6. The dissemination by the respondents of the aforesaid false advertisements constitutes unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Mr. Frederick McManus for the Commission.

Hoffman & Rubenstein, by *Mr. Gilbert Y. Rubenstein*, of Flint, Mich., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on June 16, 1960, charging Respondents with violation of the Federal Trade Commission Act, by the dissemination, by various means in commerce, of false advertisements concerning contact lenses which they sell to the consuming public, which contact lenses are designed to correct errors and deficiencies in the vision of the wearer, and are devices as the term "device" is defined in the Federal Trade Commission Act.

Thereafter, on August 19, 1960, Respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Associate Director, and Acting Assistant Director of the Commission's Bureau of Litigation, and, on August 30, 1960, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Nu-Vision Optical Studios, Inc., as a Michigan corporation, with its office and principal place of business located at 118 Kearsley Street, Flint, Michigan, and individual Respondents Eli Shapiro and Arthur Shapiro as officers of said corporation, who formulate, direct and control the acts and practices of the corporate Respondent, their address being the same as that of the corporate Respondent.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by

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Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered. That Respondents Nu-Vision Optical Studios, Inc., a corporation, and its officers, and Eli Shapiro and Arthur Shapiro, individually and as officers of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of contact lenses, do forthwith cease and desist from, directly or indirectly:

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

1. All persons in need of visual correction can successfully wear their contact lenses;
2. There is no discomfort in wearing their lenses;
3. 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;
4. Eyeglasses can always be discarded upon purchase of Respondents' lenses;
5. Respondents' contact lenses will correct all defects in vision;
6. Said lenses will protect the eye unless limited to the small portion covered thereby;
7. Said lenses are unbreakable;
8. Respondents manufacture the contact lenses sold by them;

B. 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 of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation prohibited in paragraph A, above.

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 19th day of October 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Nu-Vision Optical Studios, Inc., a corporation, and Eli Shapiro and Arthur Shapiro, individually and as officers of said corporation, shall, within sixty (60) days