

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 July 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF

JACK H. TAFF DOING BUSINESS AS
VIBRA-KING COMPANY OF AMERICA

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

Docket 8327. Complaint, Mar. 16, 1961—Decision, July 19, 1961

Consent order requiring Los Angeles distributors of an electric hand-operated vibrator with four attachments, sold under the name of "The Vibra-King Actavator", to cease representing falsely in a booklet prepared for and used by its salesmen that the device was a competent means for treating diseases or abnormalities of various parts of the body, overcoming baldness, etc., as in the order below specified.

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 Jack H. Taff, an individual, doing business as Vibra-King Company of America, hereinafter referred to as respondent, has 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 Jack H. Taff is an individual, doing business as Vibra-King Company of America, with his principal office and place of business located at 1133 South La Cienega Boulevard, in the City of Los Angeles, State of California.

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PAR. 2. Respondent is now, and has been for more than one year last past, engaged in the sale and distribution of an electric hand-operated vibrator with four attachments called "Body and Foot Massager," "Beauty Cup," "Scalp-O-Lator," and "All Purpose Massager," which comes within the classification of "device" as that term is defined in the Federal Trade Commission Act. Said device is sold under the name of "The Vibra-King Actavator."

PAR. 3. Respondent causes the said device, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such devices has been and is substantial.

PAR. 4. Respondent has prepared and sells and distributes to distributors and salesmen a booklet entitled "Massage for Health & Beauty" for use by salesmen in the sale of said devices, and for distribution by salesmen to purchasers of said devices. Respondent has disseminated, and caused the dissemination of, said booklet by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act. Said booklet is sold, distributed and disseminated in commerce as aforesaid for the purpose of inducing, and is likely to induce, directly or indirectly, the purchase of said devices. Said booklet has been prepared, disseminated and distributed for the purpose of inducing, and is likely to induce, directly or indirectly, the purchase of said devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said booklet, disseminated as hereinabove set forth, are the following:

effects of massage . . . on the skin . . . The reactive property of the skin is stimulated by massage thus giving to it greater resistance against changes in outside temperatures, and toning it against the invasion of bacteria.

effects of massage . . . on muscles . . . The one unmistakable advantage of massage over exercise is that massage can revitalize the muscles without exhausting them. Massage may be valuable for removing the poisonous products of fatigue from the muscles.

effects of massage . . . on the vascular system . . . The activity of the circulation of the blood is greatly influenced by massage. Well regulated massage immediately speeds up the circulation; and more rapid circulation insures the more rapid accomplishment of the normal bodily processes:

1. Exchange of oxygen and waste products both at the cells and in the lungs;
2. Absorption by the tissues of needed substances;

3. Elimination of waste matters of the body.

On the bones. The skeletal system is directly influenced by massage. Any improvement in circulation carries with it a corresponding improvement on the bones. The substances needed for nutrition are brought to them more rapidly and the deposits of waste matters are the more quickly removed. Massage over the joints is therefore generally recommended in certain rheumatic conditions where stiffness is due to the accumulation of bony deposits.

Effects of massage . . . on the bodily processes. The effects of massage on the biological processes are:

1. RESPIRATION is improved through the more rapid circulation of the blood . . .

2. DIGESTION is improved through the stimulation of nerves in all the digestive organs . . .

3. EXCRETION is definitely improved by massage . . .

Care of the Hair and Scalp . . . The simplest, and most effective means of keeping the hair and scalp in good condition is regular and systematic massage of the scalp.

Oily hair . . . The only method known of combatting oiliness is through proper massage . . . this treatment should be repeated nightly until condition clears.

Dry scalp . . . Only continuous massage can draw out the natural oils to give more permanent relief to this condition.

Tight scalp. The failure to keep the scalp loose, allowing it to grow tight upon the skull is generally accompanied by much dead hair. The sooner these dead hairs are weeded out, the quicker new hair will come in to replace the old.

Oily skin . . . An ice massage daily is often recommended because it stimulates circulation and tones the tissues.

Dry skin . . . it must be remembered that it is the massaging that really does the work. The massaging induces increased circulation which brings the necessary oils to the skin from within. . .

Wrinkled skin . . . Nothing can take the place of massage to stimulate circulation and thus help to prevent lines that ultimately become wrinkles.

PAR. 6. Through the use of the above-quoted statements, and others similar thereto but not specifically set out herein, contained in said booklet, respondent has represented and is now representing, directly or indirectly:

1. That said device is a competent or reliable means for treating diseases or abnormalities of the bones or joints of the body.

2. That said device is a competent or reliable means for treating abnormalities or diseases of the organs or the respiratory, digestive, or other systems of the body.

3. That said device is a reliable or competent means of preventing, overcoming or correcting dry scalp, tight scalp, oily skin, or dry or wrinkled skin.

4. That said device will check thinning hair, prevent or overcome baldness, or prevent diseases of the hair or scalp.

PAR. 7. The said advertisements were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. Said device is not a competent or reliable means for treating diseases or abnormalities of the bones or joints of the body.

2. Said device is not a competent or reliable means for treating abnormalities or diseases of the organs or of the respiratory, digestive, or other systems of the body.

3. Said device is not a reliable or competent means of preventing, overcoming or correcting dry scalp, tight scalp, oily skin, or dry or wrinkled skin.

4. Said device will not check thinning hair, or prevent or overcome baldness or prevent diseases of the hair or scalp.

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Terral A. Jordan for the Commission.

Mr. Murray Jackson, of Los Angeles, Calif., for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The Commission's complaint in this matter charges the respondent with violation of the Federal Trade Commission Act through the making of certain representations regarding an electric vibrator or massaging device advertised and sold by him. An agreement has now been entered into by respondent and counsel supporting the complaint which provides, among other things, that 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, 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 respondent that he has 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 Jack H. Taff is an individual, doing business as Vibra-King Company of America with his principal place of business located at 1133 South La Cienega Boulevard, Los Angeles, California.

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

ORDER

It is ordered, That respondent Jack H. Taff, an individual trading and doing business as Vibra-King Company of America, or under any other trade name, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of an electric hand operated vibrator called, "The Vibra-King Actavator" or any other vibrating or massaging device, 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, by any advertisement which directly or indirectly represents:

(a) That said device is a competent or reliable means for treating diseases or abnormalities of the bones or joints of the body; or that said device will provide any beneficial effect on the bones or joints of the body unless such is a fact.

(b) That said device is a competent or reliable means for treating abnormalities or diseases of the organs or of the respiratory, digestive or other systems of the body; or that said device will effect any improvement in the functioning of the organs or of the respiratory, digestive or other systems of the body unless such is a fact.

(c) That said device is a reliable or competent means of preventing, overcoming or correcting dry scalp, tight scalp, oily skin or dry or wrinkled skin; or that said device will effect any correction

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or improvement in the condition of the skin or scalp unless such is the fact.

(d) That said device will check thinning hair, prevent or overcome baldness or prevent diseases of the hair or scalp; or that said device will effect any correction or improvement of the hair or scalp unless such is the fact.

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 device, which advertisements contain 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 shall, on the 19th day of July 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.
