

label or means of identification the percentage of such Cashmere therein.

It is further 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 this order.

IN THE MATTER OF
GLAMORENE, INC.

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

Docket 8088. Complaint, Aug. 24, 1960—Decision, Feb. 2, 1962

Order requiring a Clifton, N.J., distributor of rug and upholstery cleaning shampoos to jobbers and retailers, to cease representing falsely in advertising in magazines and newspapers, and on television and radio, that its rug cleaning device "Glamorene Rug Shampoo'er", when used with its rug shampoo, was as effective as professional cleaning, and would clean merely by spreading the shampoo over a rug or carpet.

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 Glamorene, Inc., a corporation, 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 Glamorene, Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 175 Entin Road in the city of Clifton, State of New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of rug and upholstery cleaning devices and rug and upholstery cleaning shampoos, to distributors and jobbers and to retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said products, when sold, to be shipped from its place of business in the State of New Jersey to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times herein mentioned has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, and for the purpose of inducing the sale of its products, respondent has made certain statements with respect to the cleaning abilities and qualities of its products, in advertisements in magazines of national circulation, on television, on radio and in newspapers, of which the following are typical:

NOW! SHAMPOO YOUR RUGS
WITH PROFESSIONAL RESULTS

. . . no stooping or scrubbing!

It's *so easy* with the *new*

GLAMORENE RUG SHAMPOO'ER

Here's all you do:

1. Fill tank with Glamorene Shampoo solution.

2. Set exclusive "FOAM CONTROL" dial for the right amount of Shampoo Foam needed for your rug.

3. Simply guide RUG SHAMPOO'ER over carpet, and see instant results. Oversize sponge roller and extra-long "EASE-FLEX" bristles beautifully deep-clean an average room size rug in 20 minutes!

PAR. 5. Through the use of the aforesaid statements, respondent represented that its rug cleaning device, known as a "Glamorene Rug Shampoo'er," when used with its rug shampoo, is as effective in cleaning rugs and carpets as professional rug or carpet cleaning, and will clean a rug or carpet merely by spreading the shampoo over a rug or carpet.

PAR. 6. Said statements and representations are false, misleading and deceptive. In truth and in fact said "Glamorene Rug Shampoo'er" and rug shampoo are not as effective in cleaning rugs and carpets as professional rug or carpet cleaning, and they will not clean a rug or carpet merely by spreading the rug shampoo over a rug or carpet.

PAR. 7. In the course and conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by respondent.

PAR. 8. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondent from its competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Frederick J. McManus supporting the complaint.

Rogers, Hoge & Hills, by *Mr. Andrew J. Graham*, of New York, N.Y., for respondent.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

STATEMENT OF PROCEEDINGS

The Federal Trade Commission issued its complaint against the above-named respondent on August 24, 1960, charging it with engaging in unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the meaning of the Federal Trade Commission Act, by misrepresenting the cleaning abilities and qualities of its rug cleaning products. After being served with said complaint, respondent appeared by counsel and thereafter filed its answer in which it admitted in part and denied in part having made the representations charged, and denied that insofar as it had made such representations they were false, misleading and deceptive.

Hearings on the charges were thereafter held before the undersigned hearing examiner in Washington, D.C., and New York, New

Initial Decision

60 F.T.C.

York, on various dates between May 17, 1961 and September 21, 1961. At said hearings, testimony and other evidence were offered in support of and in opposition to the allegations of the complaint, the same being duly recorded and filed in the office of the Commission. All parties were represented by counsel and were afforded full opportunity to be heard and to examine and cross-examine witnesses. At the close of all the evidence, and pursuant to leave granted by the undersigned, proposed findings of fact and conclusions of law and an order were filed by both parties on November 15, 1961.

After having carefully reviewed the entire record in this proceeding, and the proposed findings,¹ conclusions and order, the undersigned finds that this proceeding is in the interest of the public and, based on the entire record and from his observation of the witnesses, makes the following:

FINDINGS OF FACT

I. The Business of Respondent, Interstate Commerce and Competition

1. Respondent, Glamorene, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 175 Entin Road in the city of Clifton, State of New Jersey.

2. Respondent is now, and for some time last past, has been, engaged in the advertising, offering for sale, sale and distribution of rug and carpet cleaning devices and shampoos to distributors and jobbers and to retailers for resale to the public.

3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its products when sold, to be shipped from its place of business in the State of New Jersey to purchasers thereof located in various other states of the United States and in the District of Columbia, and maintains, and at all times herein mentioned has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. In the course and conduct of its business, respondent has been, at all times herein mentioned, in direct and substantial competition, in commerce, with other corporations, firms and individuals in the sale of products of the same kind and nature as those sold by respondent.

¹ Proposed findings not herein adopted, either in the form proposed or in substance, are rejected as not supported by the record or as involving immaterial matters.

II. The Alleged Illegal Practices

Background and Issues

1. The allegations of misrepresentation revolve about certain statements made by respondent, in advertisements appearing in magazines and newspapers, concerning its rug cleaning device or applicator, known as the "Glamorene Rug Shampoo'er", and its liquid rug shampoo, for the purpose of inducing the purchase of said products by customers. Respondent also sells and distributes a rug cleaning compound in powdered form. However, the latter product is not referred to in the complaint, and counsel supporting the complaint has agreed that this proceeding does not involve the Glamorene powder.²

2. The complaint charges that respondent has made false, misleading and deceptive statements concerning its applicator and liquid rug shampoo in two respects, (1) that when the applicator is used with the shampoo, it is as effective in cleaning rugs and carpets as professional rug or carpet cleaning, and (2) that a rug or carpet may be cleaned merely by spreading the shampoo with the applicator over the rug or carpet. Respondent admits having represented that its applicator and shampoo, when used together, will give professional results and claims that such representation is true. It denies, however, having represented that these products will clean a rug or carpet merely by spreading the shampoo over the rug or carpet. The issues, therefore, are whether the first form of representation challenged by the complaint is false, and whether the second form of representation was, in fact, made by respondent.

3. Before considering the charges further, it should be noted that they are identical with those heretofore considered by the examiner in his initial decision filed November 30, 1961, in a proceeding involving respondent's competitor, Bissell, Inc. The *Bissell* case, Docket No. 8086, involved a number of additional forms of misrepresentation, but the principal issue, as in the instant case, was whether the respondent's product would clean rugs as effectively as the professional method of rug cleaning. The principal witness in both cases was one Richard Ned Hopper, technical director of the National Institute of Rug Cleaning, who conducted a test purporting to compare the effectiveness of several "do-it-yourself" home rug cleaners (including those of the two respondents) with the method used by professional cleaners. Hopper's testimony in both records is sub-

² R. 340-341.

stantially identical, and revolves largely about the test which he conducted.

4. There are two principal differences between the record in this case from that in the *Bissell* case, viz, (a) Commission counsel in the *Bissell* case called two professional cleaners whom he did not call in the instant case, the case-in-chief here consisting almost entirely of Hopper's testimony, and (b) respondent in the *Bissell* case elected not to call any witnesses but relied almost entirely on the insufficiency of Hopper's testimony, whereas here respondent offered countervailing testimony through its own experts for the purpose of establishing the insufficiency of the Hopper test. In the interest of brevity the examiner will, from time to time, refer to his findings in the *Bissell* case and incorporate them by reference into the instant decision, insofar as they involve the Hopper test and his testimony as to general cleaning procedures in the industry, which are substantially identical in both records.

Comparison With Professional Cleaning

5. As previously noted, the complaint charges respondent with having represented that its rug cleaning device, when used with its shampoo, is as effective as professional rug or carpet cleaning. The record establishes that respondent, in advertising its applicator and shampoo, has stated: "Now! Shampoo your rugs with Professional Results". Respondent does not deny having made this statement. While it claims that it has been discontinued, it does not rely on a defense of mootness, but asserts that the statement is true and that it has a right to make it. It is clear, and is so found, that by advertising that its applicator and shampoo will yield "professional results" respondent has represented that they are as effective, in cleaning rugs and carpets, as professional cleaning. The issue which is presented in this regard is whether the evidence establishes that respondent's claim is false, misleading and deceptive.

6. As noted in the examiner's initial decision in the *Bissell* case, there are two principal methods of professional rug cleaning, (a) in-plant cleaning and (b) home or on-location cleaning. As the names imply, in-plant cleaning is done in a special rug cleaning plant using fixed machinery and equipment, whereas on-location cleaning is done in the home using portable equipment. The record in this proceeding is substantially similar to that in the *Bissell* case insofar as it reflects the nature of each of these methods. The examiner considers it unnecessary to describe in detail each of the methods, but instead

adopts the findings with respect thereto which he made in the *Bissell* case.³

7. Counsel supporting the complaint contends that professional cleaning in the plant is more effective than on-location cleaning, citing Hopper's testimony that whereas 95% to 100% of the dirt may be removed in in-plant cleaning, about 65% is the average of dirt removal in on-location cleaning. It may be noted that this testimony is at variance with that of one of the Government's own experts in the *Bissell* case, who testified that it was possible to clean rugs as well in the home as in the plant, except for certain special situations.⁴ In any event, it is the opinion of the examiner that the contention of counsel supporting the complaint in this respect is wholly immaterial since, as noted in the *Bissell* decision, on-location cleaning is recognized as a form of professional cleaning.⁵ In the absence of evidence establishing that the public would receive the impression that a reference to professional cleaning denotes cleaning in a plant, the proper standard with which to compare respondent's product, insofar as determining whether it will clean as effectively as professional cleaning, is with the results achieved by professional cleaners in the home.

8. Respondent's recommended method of rug cleaning is substantially similar to the on-location professional method. The instructions which come with the shampoo direct the housewife to, first, vacuum or brush loose dirt; second, mix the shampoo in a solution of warm water and pour it into the tank of the applicator; third, apply the solution to the rug with the Shampoo'er (or, in the alternative, with a long-handled brush); and, fourth, to brush the rug after it has dried. This basically, is the professional method, except that most professionals apply the detergent solution with a mechanical rotary brush, rather than with a hand applicator, and a small percentage follow this up with a wet-dry vacuum in the case of detergents which have a high foaming action. Also, some of them use a rubber finger rake or deck brush to erect the pile after the solution has been applied.

9. The record here, as in the *Bissell* case,⁶ fails to disclose that the equipment and methods used in professional on-location cleaning are any more effective in dirt removal than is respondent's method. The cleaning in both instances is achieved, basically, by the application of

³ This includes pars. 6-8, pp. 4-5 of the *Bissell* decision [p. 139 herein].

⁴ *Bissell* decision, par. 9, p. 5 [p. 139].

⁵ *Id.*, par. 10 [p. 140].

⁶ *Id.*, par. 13, pp. 6-7 [pp. 141, 142].

a detergent which causes the dirt to be loosened from the pile of the rug, so that it can later be picked up by a vacuum cleaner. There was no chemical analysis made here to show that respondent's shampoo is any less effective in its detergent qualities than the detergents used by professional cleaners. On the contrary, the principal witness called by counsel supporting the complaint conceded that tests made by him in 1954 with Glamorene shampoo, disclosed that it was satisfactory for professional use as a detergent.⁷ Nor is there anything to show that the application of the detergent with a hand applicator is any less effective, in dirt removal, than applying it with a mechanical rotary brush. The record here establishes, as in the *Bissell* case, that while the mechanical rotary brush does the job more quickly and is more economical for commercial purposes, particularly where large areas are involved, a hand applicator if properly used can do just as effective a job in applying the detergent.⁸

The record fails to establish that the additional equipment used by some professional cleaners will necessarily result in a more effective cleaning job than the use of respondent's method and equipment. The use of the wet-dry vacuum is generally limited to detergents with a high foaming action, is used only by a small percentage of professional cleaners and acts primarily to prevent over-wetting of the rug rather than to remove dirt. The rubber finger rake or deck brush is used to erect the pile because of the matting action of the heavy mechanical rotary brush. There is nothing to show that such equipment is required with respondent's light hand applicator. While the principal witness called by counsel supporting the complaint also used a commercial-type vacuum for the final step of dirt removal in the so-called professional test conducted by him, the record establishes that this step is normally performed by the housewife herself, using an ordinary home-type vacuum.

10. As in the *Bissell* case, the only evidence which purports to show that respondent's method of rug cleaning is not as effective as that used by professional cleaners, is the test performed by Richard Ned Hopper under the auspices of his employer, the National Institute of Rug Cleaning (referred to herein as the NIRC). Respondent's position with respect to the Hopper test is essentially that of the respondent in the *Bissell* case, viz, that the test is lacking in objectivity due to the interest of the NIRC, as the spokesman for the professional cleaners, in the outcome of this proceeding and, more importantly, that

⁷ R. 138-141.

⁸ This was somewhat reluctantly conceded by the principal witness for counsel supporting the complaint (R. 137).

the test is unscientific and lacking in validity insofar as establishing that respondent's product is not as effective as professional cleaning. In addition to alluding to some of the deficiencies in the Hopper test relied upon by respondent in the *Bissell* case, respondent here also relies on the testimony of its own experts to support its position as to the scientific unworthiness of the test.

11. As noted in the *Bissell* decision, the Hopper test involved the soiling of a number of samples of white carpeting and the cleaning thereof by various cleaners and methods, and the taking of readings before and after the soiling and cleaning thereof, by a photo-electric device known as the Gardner Automatic Photometric unit or, for brevity, as the Gardner reflectometer.⁹ Admittedly, the machine did not directly measure dirt or dirt removal, but recorded light values in terms of degrees of grayness from white to black. As noted in the *Bissell* decision,¹⁰ the test purports to show that the samples cleaned with respondent's shampoo achieved a percentage of cleaning of 52.7%, based on the assumption that there is a correlation between the change in light values and the removal of dirt. The samples cleaned by the professional method purported to show a percentage of cleaning of 68.2%, based on the same assumption.

12. It was conceded by Hopper that the application of the detergent to the samples cleaned with respondent's product, did nothing to remove any substantial amount of dirt from the samples since the detergent would merely have the tendency to loosen the dirt from the pile, but would not remove it to any substantial extent without a final vacuuming. Since the manufacturer's directions did not prescribe a final vacuuming of the rug, but merely a brushing thereof, the final vacuuming step was not performed. Thus, without there being any step taken to actually remove the dirt, the samples cleaned with respondent's shampoo purported to show a very substantial amount of dirt removal, according to the reading made on the reflectometer and Hopper's theory that the change in light values is a reliable indicator of dirt removal.

13. One explanation of this situation, which has already been discussed in the *Bissell* decision,¹¹ is that the dirt had merely been redistributed by the application of the detergent. Since the reflectometer only obtains a light reflection of an area the size of a 50-cent piece,¹² a shifting of the dirt from the area on the sample read by the reflectometer, to the surrounding area, would cause a change in light

⁹ See *Bissell* decision, par. 15, pp. 8-9 [pp. 142, 143 herein].

¹⁰ *Id.*, par. 18, at p. 11 [p. 144].

¹¹ *Ibid.*

¹² R. 167.

values but not establish the extent of dirt removal from the rug as a whole. If this condition can be considered to account for the reading made on the samples cleaned with respondent's shampoo, it is equally possible, if not more so, that it affected the reading taken of the samples cleaned by the so-called professional method. As indicated in the *Bissell* decision,¹³ the samples cleaned were less than a foot square and were mounted on a plywood board 4 x 6 feet, where they were surrounded by clean carpeting. While the do-it-yourself detergents (including respondent's) were applied manually to the soiled samples and, at most, overlapped an area of about six inches of the surrounding clean carpeting, the heavy mechanical rotary brush (operating at 175 r/p/m), which was used on the samples cleaned by the professional method, covered most of the 4 x 6 foot area in the process of applying the detergent to the soiled samples. Obviously, under these circumstances, there would be a greater tendency to disperse the dirt from the soiled samples to the clean carpeting, a fact to which one of the experts called by respondent attested.¹⁴ A reading taken of the originally soiled area would not truly reflect the ability of the professional method to remove dirt from the carpet as a whole.

14. The expert witnesses called by respondent, consisting of respondent's chemical director and the former technical director of the NIRC, both expressed the opinion that the reflectometer has serious limitations as a device for measuring dirt removal. They pointed out that the light values which the reflectometer records can be affected by a number of factors other than soil removal, such as the texture of the pile of the carpet, the angle at which the reflectometer is placed in relationship to the carpet, the type and color of the soil involved, and the presence or absence of optical brighteners in the carpet or in the detergent.

15. Of particular note, is the testimony of Col. James W. Rice, Hopper's predecessor as technical director of the NIRC. Although Col. Rice had arranged for the purchase of the Gardner reflectometer while he was with the NIRC and had developed the techniques of its use as a testing device, he stated that before he had left the NIRC he had come to the conclusion that it had serious limitations as a measure of dirt removal. While he was of the view that the reflectometer did have value as a testing device, he considered it necessary to test as many as twenty samples (instead of the four tested by Hopper) in order to assure a reasonable degree of reliability, and to take five readings on each sample (instead of four readings as was done by Hopper).

¹³ Pp. 11-12 [p. 143 herein].

¹⁴ R. 452.

He was further of the opinion that the mechanical test should be verified by a visual jury test. No reason has been suggested why the testimony of Col. Rice, who was Hopper's predecessor and teacher and was recognized by Hopper as an "outstanding expert" in the field, should not be accepted as reliable and worthy of credit.

16. Indicative of the questionable reliability of the Hopper test, as an indicator of dirt removal, is the wide variation in readings obtained on a number of the samples cleaned with the same detergent. Thus, the four samples cleaned by one do-it-yourself detergent powder showed readings varying from a low of -3.8% to a high of 16.3%; the samples cleaned by another product purported to show percentages of cleaning ranging from 13.2% to 35.7%; and those cleaned with another detergent showed variations from 21.6% to 47.8%. Respondent's experts were of the opinion that a range of 20% or more in the samples tested, and particularly the minus reading obtained from one of the samples, was indicative of the test's lack of reliability and of the necessity for testing more than four samples to obtain a result which would be scientifically meaningful.

17. Even if the Hopper test is accepted as having a reasonable measure of scientific accuracy, insofar as indicating whether respondent's product will or will not clean as effectively as the professional method, it fails to establish that respondent's product will not do so. As previously noted, the test purported to show a percentage of cleaning achieved by respondent's shampoo of 52.7%, even though no steps had been taken to remove any substantial amount of dirt from the samples. All that Hopper did after applying the detergent was to brush the samples when they were dry, but he did not thereafter vacuum them as is customary. He conceded that even in professional cleaning, it is the subsequent vacuuming by the housewife which actually removes the bulk of the dirt from the rug. He likewise conceded that if the samples cleaned with respondent's product had been given a final vacuuming, it is probable that there would have been as much dirt removed as in those cleaned by the professional method.¹⁵

The evidence also suggests that Hopper could have obtained even better results than those which he achieved on the samples cleaned with respondent's product, if he had used respondent's applicator in applying the shampoo. The complaint charges that respondent's *applicator*, when used with its shampoo, is not as effective as professional cleaning. Hopper did not use respondent's applicator, but used a

¹⁵ Hopper conceded this would be so, provided there was no optical brightener in respondent's product. There is not a scintilla of evidence to indicate that respondent's shampoo does contain any brightener or bleach.

brush instead because the directions which came with the shampoo suggested this as an alternative method. However, according to the testimony of respondent's president, the applicator, which applies the shampoo through a roller made of polyethylene material, does a more effective job in applying the detergent than does a brush.

18. Hopper's explanation for not vacuuming the samples after they had been cleaned with respondent's product was that the directions did not specifically so state. The directions do provide that the rug should be brushed after it has dried. The record discloses that if a rug is brushed or swept long and hard enough there will ultimately be as much dirt removed as with a vacuum. However, for practical, every-day purposes, a vacuum is the preferable method for the housewife. Respondent's explanation for not specifically stating, in its instructions, that the rug should be vacuumed after it has been cleaned with the shampoo is that the housewife ordinarily does this as a matter of regular routine without specific instructions. While it may be that it would be desirable to spell out this step specifically in the instructions, its omission does not establish that respondent's shampoo, when applied with its applicator, will not clean a rug as effectively as professional cleaning.

19. Based on the record as a whole, including the evidence above discussed, it is concluded and found that counsel supporting the complaint has failed to sustain the burden of proving by reliable, probative and substantial evidence that respondent's shampoo, when applied with its applicator known as the "Glamorene Rug Shampoo'er", will not clean a rug or carpet as effectively as professional rug or carpet cleaning.

Cleaning Merely by Spreading

20. The complaint charges respondent with having represented that its applicator, when used with its rug shampoo, will clean a rug or carpet merely by spreading the shampoo over the rug or carpet. Respondent denies having made any such representation. To resolve this issue, it is necessary to examine respondent's advertising material which is in evidence.

21. In addition to stating that its product will "Shampoo your rugs with Professional Results", a number of respondent's advertisements contain the following statements:

. . . no stooping or scrubbing!

It's so easy with the new

GLAMORENE RUG SHAMPOO'ER

Here's all you do:

1. Fill tank with Glamorene Shampoo solution.

2. Set exclusive "FOAM CONTROL" dial for the right amount of Shampoo Foam needed for your rug.

3. Simply guide RUG SHAMPOO'ER over carpet, and see instant results. Oversize sponge roller and extra-long "EASE-FLEX" bristles beautifully deep-clean an average room size rug in 20 minutes!

22. Respondent argues that telling the housewife she must "simply guide" the "Shampooer" over the rug is not tantamount to telling her that the rug will become clean merely by spreading the shampoo over it. Respondent apparently concedes that something more than a mere spreading of the shampoo is necessary, and that a certain amount of agitation or brushing action is necessary or required in order for the shampoo to penetrate the rug sufficiently to loosen the dirt.

23. In the opinion of the examiner, when respondent's advertising material is read as a whole, it conveys the impression that little or no effort is required in cleaning a rug or carpet. In the context of its use, the direction to "simply guide" the applicator suggests that no pressure or agitation is required, and that the rug will automatically become clean as the shampoo is released following the setting of the "Foam Control" dial.

24. The record establishes that a rug cannot be cleaned in this effortless manner. As respondent's own directions on the label indicate, preliminary vacuuming or brushing is required. Furthermore, the shampoo must be applied with a reasonable amount of downward pressure or brushing action, in order to secure effective penetration of the rug. A test conducted on respondent's behalf, which is in the record, indicates that a mere light, horizontal spreading of the shampoo sufficient to wet the top of the rug, but with no downward pressure, will not result in effective penetration. It is also necessary to vacuum the rug after it has dried. The rug will not dry "a deep-clean * * * in 20 minutes" after the application of the shampoo, as respondent's advertisements suggest.

25. It is concluded and found that, (a) respondent's advertisements convey the impression that rugs can be cleaned merely by spreading on its shampoo with its applicator, using little or no effort, and (b) the statements made by it to this effect are false, misleading and deceptive in that rugs cannot be cleaned merely by spreading the shampoo on the rug and letting it dry, but additional effort and steps are required.

CONCLUSIONS

1. The use by respondent of the statements, representations and practices hereinabove found to be false, misleading and deceptive has had, and now has, the capacity and tendency to mislead members

of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief. As a consequence thereof, it may be inferred that substantial trade in commerce has been, and is being, unfairly diverted to respondent from its competitors and that substantial injury has been, and is being, done to competition in commerce.

2. The acts and practices of respondent, as thus found, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

3. The allegation of paragraph 6 of the complaint, that respondent has falsely represented that its rug cleaning device and shampoo are as effective in cleaning rugs and carpets as professional cleaning, has not been sustained and should, accordingly, be dismissed.

ORDER

It is ordered, That Glamorene, Inc., a corporation, and its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any rug cleaning device and rug shampoo in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such rug cleaning device and rug shampoo will clean a rug or carpet merely by spreading the shampoo on the rug or carpet and allowing it to dry.

It is further ordered, That the complaint be, and the same hereby is, dismissed insofar as it alleges that the statements and representations made by respondent, to the effect that its rug applicator and rug shampoo are as effective in cleaning rugs and carpets as professional rug or carpet cleaning, are false, misleading, and deceptive.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 4.19 of the Commission's Rules of Practice, effective July 21, 1961, the initial decision of the hearing examiner shall, on the 2d day of February 1962, become the decision of the Commission; and accordingly:

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

Complaint

IN THE MATTER OF

THE REGINA CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2(d)
OF THE CLAYTON ACT*Docket 8421. Complaint, June 2, 1961—Decision, Feb. 2, 1962*

Consent order requiring a Rahway, N.J., distributor of floor polishers, waxers, and vacuum cleaners and parts and accessories therefor, with gross annual sales in excess of \$12,000,000, to cease violating Sec. 2(d) of the Clayton Act by giving compensation for services to certain favored customers but not to others competing with them, such as (1) a payment of \$1,612 toward the salary of demonstrating sales persons hired by Abraham & Straus, (2) promotional allowances of \$1,000 paid to L. R. Beavis & Co., a distributor of its products, and of \$2,501 paid to Gimbel Brothers, Inc., of New York, and (3) varying amounts paid different customers in connection with advertising programs, which bore no relation to the amounts accrued by them upon purchases.

COMPLAINT

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, has violated and is now violating the provisions of subsection (d) of Section 2 of the Clayton Act (U.S.C. Title 15, Sec. 13), as amended, hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, The Regina Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office, factory and principal place of business located at Regina Avenue, Rahway, N.J.

PAR. 2. Respondent is now, and for many years last past has been, engaged in the sale and distribution of floor polishers, waxers, and vacuum cleaners with parts and accessories thereto. Respondent sells these products to distributors and indirectly through such distributors to retailers such as department stores and appliance stores, and also directly to such retailers. These retailers have businesses located in various cities throughout the United States.

The Regina Corporation's gross sales volume is in excess of \$12,000,000 annually.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its said products, when sold, to be transported in commerce, as "commerce" is defined in the Clayton Act, as amended, from its principal place of business in the State of New Jersey to customers located in the same and in other States of the United States and the District of Columbia.