

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

Docket C-249. Complaint, Oct. 5, 1962—Decision, Oct. 5, 1962

Consent order requiring a Clifton, N.J., distributor of its "Silvikrin" scalp preparation, to cease representing falsely in advertising that use of its said

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product would prevent and overcome thinning hair, hair loss and baldness, would grow hair and permanently eliminate baldness, unless such advertising conspicuously revealed that male pattern baldness was the cause of the great majority of such conditions, and in such cases "Silvikrin" was of no value.

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 Beecham Products 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 Beecham Products Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 65 Industrial South, 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 sale and distribution of a "cosmetic" or "drug" preparation as such terms are defined in the Federal Trade Commission Act, for external use in the treatment of conditions of the hair and scalp.

The designation used by respondent for said preparation, the formula thereof and directions for use are as follows:

Designation: Pure Silvikrin

Formula:

Ethyl Alcohol, Denatured.....	43.2% (50% by volume)
Neo Concentrate (a water concentrate of the amino acid derived from hydrolysis of the scleroprotein)	18.6%
Perfume Compound.....	0.6%
Nicotinic Acid, U.S.P.....	0.10%
Lactic Acid, U.S.P.....	0.63%
Dye	0.0013%
Sodium Hydroxide.....	0.19%
Water.....To	100%
	100%

Directions:

1. The first day, wash and rinse hair thoroughly, preferably with Silvikrin Shampoo. Wash at least weekly thereafter.
2. During the course of the treatment, use Pure Silvikrin night and morning. If you have short hair, or suffer from thinning hair, apply a liberal quantity

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directly to the scalp. If you have long hair, part the hair and apply Pure Silvikrin to the scalp with the fingertips.

3. Massage Pure Silvikrin gently into the scalp until it is completely absorbed.

PAR. 3. Said respondent causes said preparation, when sold, to be transported from its place of business in the State of New Jersey to purchasers thereof located in 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 preparation in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, respondent has disseminated and caused the dissemination of advertisements concerning said preparation by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the sale of its said preparation; and respondent also disseminated and caused the dissemination of advertisements concerning its said preparation, by various means, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of its said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements contained in said advertisements, disseminated and cause to be disseminated as hereinbefore set forth, are the following:

(a) Thinning Hair, Excessive Falling Hair: What you can do to help your hair before it's too late! If you have dandruff, thinning hair, excessive falling hair—we strongly urge you to try new Pure Silvikrin.

(b) Doubly effective Because . . . Pure Silvikrin kills dandruff, too. As you massage, its antiseptic Hexachlorophene goes to work to destroy germs that cause flaky, itching dandruff. Goes on working even after massage to keep dandruff away.

(c) Thinning Hair! Then Falling Hair! What can *you* do to save your hair before it's too late? Thinning hair—falling hair—dull, listless hair. These are warning signs that threaten approaching hair failure. They are symptoms of hair *undernourishment*. * * *

Pure Silvikrin can make it possible for your hair to live and grow healthily. Can help arrest premature hair loss and restore hair to normal vibrant health.

(d) When Pure Silvikrin is massaged into the scalp, it helps increase normal circulation and adds nourishment to hair roots.

(e) The danger signs are obvious: hair becomes dull and lifeless—severe dandruff may occur—hair comes out thickly on the brush and comb—thinning patches appear. It's the threat of approaching hair failure! Hopeless? Don't say that until you try Pure Silvikrin. For the basic cause of much of hair's ill-health is undernourishment.

(f) Nuclear research proves biological hair formula called Pure Silvikrin can help prevent amino acid deficiency which may cause your thinning hair.

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Today, new medical findings prove beyond any reasonable doubt that the hair protein material contained in Pure Silvikrin can penetrate the scalp, reach the hair roots, and *build itself into new hair structure*.

PAR. 5. Through the use of the aforesaid statements and representations, and others similar thereto not specifically set out herein, respondent has represented directly and by implication, that use of the said preparation will prevent and overcome thinning hair, hair loss and baldness, will grow hair, and will permanently eliminate dandruff.

PAR. 6. In truth and in fact the great majority of cases of baldness or excessive hair loss is the common type known as male pattern baldness. Respondent's preparation will not in such cases prevent or overcome thinning hair, hair loss or baldness or grow hair. Moreover, the use of said preparation will not permanently eliminate dandruff. The aforesaid advertisements are misleading in material respects and constitute "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 7. In advertising that its preparation will cause hair to grow and will overcome baldness, respondent suggests that there is a reasonable probability that hair loss or baldness in any particular case may be due to a cause for which its preparation will be of benefit and constitute an effective treatment. In truth and in fact the instances in which loss of hair or baldness is due to a cause or condition for which respondent's preparation will be of benefit, and constitute an effective treatment, are rare. In the great majority of cases, loss of hair or baldness is the male pattern type having no relation to causes or conditions for which respondent's preparation will be of any value whatever in the treatment thereof. Thus, there is no reasonable probability that any particular case of baldness is caused by a condition for which respondent's preparation will be beneficial, and respondent's advertising is misleading because of respondent's failure to reveal the material fact that the great majority of cases of loss of hair or baldness is the type known as male pattern baldness and when baldness is of that type respondent's preparation is of no value in the treatment thereof. Respondent's advertisements are, therefore, misleading in a further material respect and constitute "false advertisements" by reason of failure to reveal facts material in the light of representations made therein.

PAR. 8. The use by the respondent of the foregoing false and misleading statements and representations, disseminated as aforesaid and the failure to reveal material facts as aforesaid, have had and now have the capacity and tendency to mislead and deceive a substantial

portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and to induce them to purchase said preparation because of such erroneous and mistaken belief.

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

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Beecham Products Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 65 Industrial South, in the city of Clifton, State of New Jersey.

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 the respondent Beecham Products Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its preparation

"Pure Silvikrin," or any other product for use in treatment of hair and scalp conditions, do forthwith cease and desist from:

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

(A) Prevent or overcome thinning hair, hair loss or baldness or cause hair to grow, unless such representation be expressly limited to cases other than those known 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 the beginning and more fully developed stages of male pattern baldness and in such cases respondent's preparation is of no value.

(B) Permanently eliminate dandruff.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1 hereof.

It is further 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 this order.

IN THE MATTER OF

AMERICAN TRANSPORTATION INSTITUTE, INC., ET AL.

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