

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

KLEAR VISION CONTACT LENS SPECIALISTS, INC.,
ET AL.

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

Docket C-308. Complaint, Feb. 6, 1963—Decision, Feb. 6, 1963

Consent order requiring New York City manufacturers of their so-called "Vent-Air Contact Lenses" to cease misrepresenting in advertising the simplicity and accuracy of fitting individuals with contact lenses through use of their "Corneascope" and "Photo-Matic Test", and representing falsely that only their contact lenses permitted exchange of air under the lens and that they provided carefree vision, as in the order below in detail set forth.

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 Klear Vision Contact Lens Specialists, Inc., a corporation, and Lawrence Lewison and Shirley Lewison, 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, Klear Vision Contact Lens Specialists, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its main office and principal place of business located at 7 West 44th Street, New York, N.Y.

Lawrence Lewison is president and treasurer and Shirley Lewison is vice president and secretary of the corporate respondent. These individuals direct, formulate and control the acts, practices and policies of the corporate respondent including those hereinafter referred to. Their business 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 manufacture, sale and distribution of contact lenses under the name of Vent-Air Contact Lenses. Contact lenses are designed to correct errors and deficiencies in the vision of the wearer, and are devices, as "device" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents cause the said devices, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have 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 commerce has been and is substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said devices by the United States mails 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, magazines and other advertising media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices; and has disseminated, and caused the dissemination of, advertisements concerning said devices by various means, including but not limited to the aforesaid media for the purpose of inducing and which were 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 advertisements disseminated as hereinabove set forth are the following:

1. With reference to an instrument designated by respondents as a "Corneascope,"

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(a) Old method measurement with outdated instruments measured only 25% of the lens area, leaving the remaining area to be determined by guess or trial and error methods.

(b) New Photo-Matic Method measures the entire lens area with precision and accuracy never before accomplished. Leaves no room for errors or guess work * * * insures a perfect fitting lens!

(c) Just as simple as taking your picture!

(d) Exclusive Vent-Air Photo-matic Test answers your opinion * * * *Can I Wear Contact Lenses?* No ifs, ands or maybes Vent-Air's amazing new Corneascoper available only in vent-air offices gives you the answer in 60 seconds!

(e) Now for the first time in contact lens history Vent-Air's unique Corneascoper answers the question you want answered most * * * and does it immediately! No more doubts, dilemmas or indecisions! The simple 60-second Photo-Matic Test lets you know definitely if you're suitable for contact lenses!

(f) Determine your suitability for contact lenses in 60 seconds.

(g) Precisely calculate with 100% accuracy the measurement of the eye.

(h) Insure a perfect fitting lens.

(i) It's as simple as having your picture taken. No molds are made, no trial wearings are needed, nothing touches the eye, there is no discomfort or inconvenience.

(j) It's amazing * * * fast * * * sure.

2. With reference to contact lenses designated by respondents as "Vent-Airs".

CAREFREE VISION IS JUST A WINK AWAY * * * with exclusive Vent-Airs * * *

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication:

1. (a) That the instrument designated as a Corneascoper can determine whether an individual can wear contact lenses.

(b) That the "Photo-Matic Test" or "New Photo-Matic Method" alone can determine whether an individual is suitable for contact lenses.

(c) That the use of the Corneascoper insures a perfect fitting lens.

(d) That, through the use of the Corneascoper, fitting a person with contact lenses is as simple as taking a picture.

(e) That, through the use of the Corneascoper, an individual's suitability for contact lenses can be determined in 60 seconds.

(f) That measurement of the eye is precisely calculated with 100% accuracy by the Corneascoper.

(g) That by fitting contact lenses through use of the Corneascoper no trial wearing of lenses is needed and nothing touches the eye.

(h) That there is no discomfort or inconvenience in fitting contact lenses if the Corneascoper is used.

2. That only Vent-Air lenses permit exchange of air under the lens.
3. That Vent-Air lenses provide carefree vision.

Par. 7. In truth and in fact:

1. (a) Respondent's instrument designated as a Corneascope, used alone, cannot determine whether an individual can wear contact lenses.
- (b) The "Photo-Matic Test" or "New Photo-matic Method" alone will not determine whether an individual is suitable for contact lenses.
- (c) Use of the Corneascope will not insure a perfect fitting lens.
- (d) Fitting a person with contact lenses with or without the use of the Corneascope is not as simple as taking a picture.
- (e) Through use of the Corneascope, an individual's suitability for contact lenses cannot be determined in 60 seconds.
- (f) Respondents' use of the Corneascope will not precisely calculate with 100% accuracy the measurement of the eye.
- (g) Fitting of contact lenses through use of the Corneascope does not eliminate the trial wearing of contact lenses or touching of the eye by the lens. All contact lenses, including the Vent-Air, touch the eye.
- (h) Fitting of contact lenses through use of the Corneascope does not eliminate all discomfort or inconvenience. Practically all persons will experience some discomfort when first wearing respondents' lenses, and in a significant number of cases discomfort will be prolonged.

2. Exchange of air under contact lenses is not limited to Vent-Air lenses since others also permit exchange of air.

3. Vent-Air lenses will not provide carefree vision.

Therefore, the advertisements referred to in Paragraph 5 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.

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, in violation of Sections 5 and 12 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 respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents 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 respondents 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 Klear Vision Contact Lens Specialists, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 7 West 44th Street, in the city of New York, State of New York.

Respondents Lawrence Lewison and Shirley Lewison are officers of said corporation and their address is the same as that of said corporation.

2. 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 respondents Klear Vision Contact Lens Specialists, Inc., a corporation, and its officers, and Lawrence Lewison and Shirley Lewison, 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 the dissemination of, 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:

1. That through the use of the instrument designated as a Corneascope or any other device of similar design, construction or utility, irrespective of the designation applied thereto:

(a) It can be determined whether an individual can wear contact lenses;

(b) The "Photo-Matic Test" or "New Photo-Matic Method" alone can determine whether an individual is suitable for contact lenses;

(c) A perfect fitting of contact lenses is insured;

(d) Fitting a person with contact lenses is as simple as taking a picture;

(e) An individual's suitability for contact lenses can be determined in 60 seconds or other period of time;

(f) Measurement of the eye is precisely calculated with 100% accuracy;

(g) No trial wearing of lenses is needed or that nothing touches the eye;

(h) There is no discomfort or inconvenience in fitting contact lenses.

2. That only respondents' contact lenses permit exchange of air under the lens.

3. That respondents' Vent-Air contact lenses provide care-free vision.

B. 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 respondents' product, 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 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 this order.

IN THE MATTER OF

FRANCKOWIAK'S, INC., ET AL.