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Complaint

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

VIOBIN CORPORATION ET AL.

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

Docket 8579. Complaint, June 24, 1963—Decision, Sept. 16, 1964

Order dismissing complaint charging Monticello, Ill., distributors of "Viobin Wheat Germ Oil" and "Prometol," a wheat oil concentrate, with falsely advertising the beneficial and therapeutic effects of these preparations after it became apparent that the products used in the experiment of the chief prosecution witness were not those of the respondent.

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 Viobin Corporation, a corporation, and Ezra Levin, individually and as an officer 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 Viobin Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located in Monticello, Illinois.

Respondent Ezra Levin is an officer of the corporate respondent. He formulates, directs and controls the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution of two products, designated and sold under the trade names of Viobin Wheat Germ Oil and Prometol, a wheat germ oil concentrate, which come within the classification of drugs and food as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

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PAR. 3. Respondents cause said preparations, when sold, to be transported from their place of business in the State of Illinois 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 preparations 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 preparations 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 preparations; and have disseminated, and caused the dissemination of, advertisements concerning said preparations 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 preparations 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:

Protect YOUR HEART!

VIOBIN Wheat Germ Oil Helps Heart Action—Improves Strength—Vigor. PROVED 9 years—500 persons.

University Experiments.

REFUSE SUBSTITUTES—only *VioBin Oil* PROVED helpful. Send NOW—VioBin Story FREE BOOK #7. PROMETOL—8 to 1 vigor factor concentrate VioBin Oil. Same benefits—NO fat calories. Liquid & Capsules. VIOBIN Monticello, Illinois.

We need the essential unsaturated fat (linoleic acid), the plant sterols (phytosterol) that help reduce the cholesterol in the blood—these are found only in unrefined vegetable oils. We need the "vigor" factor that helps increase physical endurance and aids heart response. These are all found in the oil of the wheat.

* * * Viobin Oil helps the heart—gives more endurance—vigor—stamina.

Wheat germ oil (WGO) was found to be a valuable food supplement which helped the endurance of middle-aged men to run * * *.

* * * increase physical endurance and to improve heart action.

Viobin Wheat Germ Oil helped him lift more weight.

More efficient heart action as measured by the heart T-wave.

* * * more vigor * * * improved speed * * *.

* * * Violin Wheat Germ Oil—a food—helps the heart to do its work and increase endurance, vigor, and stamina.

Any food substance that has been proved to help heart action and increase endurance and vigor should be part of your diet. So we say, IT'S JUST COMMON SENSE to take Violin Wheat Germ Oil every day.

HEART DISEASE KILLS more people in the United States than any other disease. Most experts * * * blame it on cholesterol.

* * *
Scientists have shown by experiments that the essential unsaturated fat, linoleic fat, combines with cholesterol to remove it from the blood.

Violin Wheat Germ Oil is one of the richest foods in essential unsaturated fat.

The value of wheat germ oil concentrate (Prometol) is clearly proved. For some reason (the possible inability to tolerate the wheat germ oil by some of the subjects) the wheat germ oil did not prove quite as effective as the concentrate. However, both Violin Oil and Violin Oil Concentrate show they increase endurance and help heart action.

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 or by implication, that:

1. Violin Wheat Germ Oil and/or Prometol has a beneficial effect upon the human heart.
2. Violin Wheat Germ Oil and/or Prometol reduces cholesterol in the blood.
3. By the use of Violin Wheat Germ Oil and/or Prometol individuals may increase their physical strength, vigor and endurance.

PAR. 7. In truth and in fact:

1. Violin Wheat Germ Oil and/or Prometol has no beneficial effect upon the human heart.
2. Violin Wheat Germ Oil and/or Prometol will not reduce the cholesterol content of the blood.
3. Violin Wheat Germ Oil and/or Prometol will not increase the physical strength, vigor and endurance of anyone.

Therefore, the advertisements referred to in Paragraph Five 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 respondents 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.

Mr. Charles J. Connolly and *Mr. Edward F. Downs* for the Commission.

Mr. Solomon H. Friend of *Bass & Friend*, New York, N.Y., for the respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

AUGUST 12, 1964

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SUPPORTING REFERENCES

"Tr." refers to the official transcript.

CX refers to Commission Exhibits.

RX refers to Respondents' Exhibits.

I. The Complaint

1. On June 24, 1963, the Federal Trade Commission issued the complaint upon which the proceeding herein described is based, charging Viobin Corporation, a corporation, and Ezra Levin, individually, and as an officer of the Viobin Corporation, with violation of the Federal Trade Commission Act by the dissemination of false and misleading advertisements of two products called Viobin Wheat Germ Oil and Prometol, a wheat germ oil concentrate.

II. The Answer

2. The respondents' answer admitted the dissemination of advertisements which claim that their products help heart action and heart responses, increase endurance and improve stamina, vim and vigor, but

denied that the advertisements referring to the beneficial effects of the products in reducing cholesterol were typical of respondents' current advertisements. Respondents further denied that the advertisements were false and alleged that the claims of beneficial effect from the taking of Viobin Wheat Germ Oil and Prometol as stated in their advertisements were based upon reports and experiments conducted at the University of Illinois and other universities.

III. Respondents' Advertisements

3. Some of the statements and representations contained in respondents' advertising material, as alleged in the complaint and as shown in the Commission's Exhibits One to Five inclusive, are as follows:

Protect YOUR HEART!

VIOBIN Wheat Germ Oil Helps Heart Action—Improves Strength—Vigor.

PROVED 9 years—500 persons.

University Experiments

REFUSE SUBSTITUTES—only VioBin Oil PROVED helpful. Send NOW—

VioBin Story FREE Book #7. PROMETOL—8 to 1 vigor factor concentrate VioBin Oil. Same benefits—NO fat calories. Liquid & Capsules.

VIOBIN Monticello, Illinois.

We need the essential unsaturated fat (linoleic acid), the plant sterols (phytosterol) that help reduce the cholesterol in the blood—these are found only in unrefined vegetable oils. We need the "vigor" factor that helps increase physical endurance and aids heart response. These are all found in the oil of the wheat.

"* * * Viobin Oil helps the heart—gives more endurance—vigor—stamina.

Wheat germ oil (WGO) was found to be a valuable food supplement which helped the endurance of middle-aged men to run * * *.

* * * increase physical endurance and to improve heart action.

Viobin Wheat Germ Oil helped him lift more weight.

More efficient heart action as measured by the heart T-wave.

* * * more vigor * * * improved speed * * *.

* * * Viobin Wheat Germ Oil—a food—helps the heart to do its work and increase endurance, vigor, and stamina.

Any food substance that has been proved to help heart action and increase endurance and vigor should be part of your diet. So we say, IT'S JUST COMMON SENSE to take Viobin Wheat Germ Oil every day.

HEART DISEASE KILLS more people in the United States than any other disease. Most experts * * * blame it on cholesterol.

* * * * *

Scientists have shown by experiments that the essential unsaturated fat, linoleic fat, combines with cholesterol to remove it from the blood.

Viobin Wheat Germ Oil is one of the richest foods in essential unsaturated fat.

The value of wheat germ oil concentrate (Prometol) is clearly proved. For some reason (the possible inability to tolerate the wheat germ oil by some

of the subjects) the wheat germ oil did not prove quite as effective as the concentrate. However, both Viobin Oil and Viobin Oil Concentrate show they increase endurance and help heart action.

The complaint alleges that the said advertisements represent, directly and/or by implication, that:

a. Viobin Wheat Germ Oil and/or Prometol has a beneficial effect upon the human heart.

b. Viobin Wheat Germ Oil and/or Prometol reduces cholesterol in the blood.

c. By the use of Viobin Wheat Germ Oil and/or Prometol, individuals may increase their physical strength, vigor, and endurance.

The complaint further alleges that the aforementioned representations are misleading and constitute false advertising as that term is defined by the Federal Trade Commission.

IV. Prehearing Conference and Order Based Thereon

4. A prehearing conference was held on October 30, 1963, and an order based thereon was issued January 9, 1964, requiring counsel to exchange a list of the expert witnesses which they intended to call during the presentation of their respective cases-in-chief; the curriculum vitae of all expert witnesses; a list of all documentary material; and the results of tests each intended to offer in evidence.

V. Witnesses to be Called by Counsel Supporting the Complaint

5. Subsequently, counsel supporting the complaint informed respondents' counsel that he would call Professor Peter V. Karpovich, Research Professor of Physiology of Springfield College; Clayton Shay; Sherrod Shaw; Dr. Jacob Weissman; and Dr. William Kaufman, to testify concerning the study conducted by them dated March 23, 1961, entitled *Ergogenic Effect of Wheat Germ Oil and Effect of Wheat Germ Oil and Prometol Upon the Blood Cholesterol and Electrocardiogram*. It was also stated that counsel supporting the complaint would rely upon the testimony of Donald A. Kinderfather and the test conducted by him embodied in his report dated 1961, entitled *The Ergogenic Effect of Wheat Germ Oil on Adult Male Subjects in Four Programs of Physical Conditioning Activities*.

VI. Witnesses to be Called by Respondents

6. The respondents stated that they intended to call as witnesses for the presentation of their case-in-chief Professor Thomas Kirk Cureton, Jr., University of Illinois; Dr. Benjamin H. Ershoff, Uni-

versity of California; Dr. James Counsilman, Indiana University; Professor Charles Silvia, Springfield College; Dr. Cedric W. Dempsey, University of Arizona; Dr. Morris Brookens, Carl Clinic, Urbana, Illinois; Dr. George S. Barber, Brantford, Canada; Lt. Col. James W. Tuma, Marine Naval Base, Camp LeJeune, North Carolina; Edmund N. Bernauer, University of California; and Eric Banister, University of Illinois, to give testimony as to their opinions as to the beneficial effects of wheat germ oil and the studies conducted by them with reference thereto. In addition, respondents intended to call Dr. Francis G. Cornell, a statistician, to testify concerning the statistical significance of the studies conducted by respondents' witnesses and the lack of statistical significance of the studies conducted by Professor Karpovich and Mr. Kinderfather.

VII. Suspension of the Hearings and Order Dismissing Complaint

7. Hearings were scheduled to be held in Springfield, Massachusetts and Champaign, Illinois. On the third day of the hearings in Springfield, after Professor Peter V. Karpovich had been testifying on cross-examination for more than two days concerning the experiment which he had performed, it became apparent that the products used in the experiment had not been those of the respondents, that the methods used in the experiment were improper, and that the experiment had been conducted in an atmosphere of bias and prejudice. The hearing examiner, therefore, interrupted the cross-examination, temporarily excused Professor Karpovich from the witness stand, and asked counsel supporting the complaint if they did not wish to move for the dismissal of their case. Such action was prompted not only by the testimony of Professor Karpovich but by the additional fact that the testimony of all the other witnesses scheduled to appear in support of the complaint would be related, at least in a substantial part, to the experiment in question. Accordingly, the failure of Professor Karpovich's experiment or test was a failure of the entire case in support of the complaint.

8. Counsel supporting the complaint expressed both surprise and disappointment at the testimony as it had developed. They also recognized the various errors of the tests which Professor Karpovich had performed. They promptly moved for the dismissal of the complaint without prejudice of the right of the Commission to institute a further proceeding should newly discovered evidence and the public interest so require. The examiner forthwith promised that the complaint would be dismissed through the medium of the hearing examiner's initial decision and the hearing was thereupon terminated.

VIII. Proposed Findings as to the Facts

9. Opposing counsel submitted proposed findings as to the facts, proposed conclusions, and a proposed order. All proposed findings as to the facts have been considered by the hearing examiner, and those not incorporated in the initial decision, either verbatim or in substance, are hereby rejected. All counsel appear to be in substantial agreement concerning the major facts as shown by their proposed findings of facts.

IX. Identity of Respondents

10. Respondent Viobin Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at Monticello, Illinois.

11. Respondent Ezra Levin is an officer of the corporate respondent, and his address is the same as that of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent.

X. Commerce

12. Respondents are now, and for several years have been, engaged in the manufacture, sale and distribution of various products, including the two products known as Viobin Wheat Germ Oil and Prometol, a wheat germ oil concentrate, both of which come within the classification of foods and drugs as those terms are defined in the Federal Trade Commission Act.

XI. Professor Peter V. Karpovich and His Qualifications

13. Professor Peter V. Karpovich, the only witness upon whose testimony this initial decision is based, testified concerning a study and report conducted by him and others entitled *Ergogenic Effect of Wheat Germ Oil and Effect of Wheat Germ Oil and Prometol Upon the Blood Cholesterol and Electrocardiogram* (CX 7). Professor Karpovich is a research professor of physiology at Springfield College, Springfield, Massachusetts, where he has taught physiology for a number of years (Tr. 20-A).

14. Professor Karpovich was born in Russia where he graduated in 1919 from the State Military Medical Academy. He came to the United States in 1925, studied at Springfield College, and received the degree of Master of Physical Education from that institute in 1927. In 1935 he became a citizen of the United States. Professor Karpovich has

never practiced medicine in this country and has never taken the examination required in order to practice medicine in this country. He explained that he preferred to remain in the field of research. He has, however, used the initials "M.D." after his name in numerous publications even though he has never received an "M.D." degree. He testified that he used the initials "M.D." in connection with his name because he thought his training in Russia was equivalent to that received by students upon whom the degree of Doctor of Medicine is conferred in American universities (Tr. 89, 151, 154-6).

XII. Solicited Grant from the Federal Trade Commission

15. Professor Karpovich informed the Federal Trade Commission in 1959 or 1960 that in his opinion the claims made by the respondents in their advertisements concerning the two preparations in question were not justified. Upon the basis of that conviction he requested the Commission to grant him a sum of money to defray the expenses of an experiment which he proposed to perform to test the value of those preparations and to determine whether the respondents' advertisements concerning those preparations were true or false. The Commission acceded to his request and paid Professor Karpovich, or Springfield College, \$4,800. Professor Karpovich was given written instructions advising him of the necessity of retaining all the records of the test and of the test's substance. One of the most surprising aspects of Professor Karpovich's testimony was his admission that he had solicited the grant from the Federal Trade Commission not to conduct a study to verify the truth or falsity of respondents' advertisements, but rather "to verify" the work of Professor Cureton as reported in two articles by Professor Cureton published in *The Research Quarterly*, Vol. 26, No. 4, December 1955, and *Medicina Sportiva*, Vol. XIII, No. 10, October 1959 (RX 2, RX 3; Tr. 50, 51, 53). He admitted having an unfavorable opinion of wheat germ oil as a health aid even before he had run the test and stated that he opposed the use of all ergogenic aids as a matter of policy, regardless of their scientific validity (Tr. 27, 28, 124, 364).

16. Professor Cureton is a former student of Professor Karpovich who had left Springfield College and gone to the University of Illinois where he had become a full professor and head of that university's laboratory on physical fitness (Tr. 105). Professor Karpovich described Professor Cureton as " * * * brilliant, one of the hardest workers and one who would be a very important person in his profession * * * ." Professor Karpovich described his relations with Pro-

fessor Cureton as "peculiar" (Tr. 104), and Professor Cureton as a person for whom he felt "fatherly responsibility" (Tr. 114). Professor Karpovich admitted that he had opposed Professor Cureton's membership in the American Physiology Society; that he had opposed Professor Cureton's membership in the American Academy of Sports Medicine; and that he had opposed the publication of an article by Professor Cureton in *The Research Quarterly* (Tr. 109-11, 143, 145). Professor Cureton was nevertheless admitted to both societies referred to and his article was published notwithstanding Professor Karpovich's objections. Professor Karpovich admitted he had opposed Professor Cureton's work supporting ergogenic aids (Tr. 104). He further admitted having risen many times at scientific meetings to contradict Professor Cureton (Tr. 106). Professor Karpovich further admitted that after he returned from a meeting at the University of Illinois he had informed the Federal Trade Commission that it was now more important to him than anything else to check on Professor Cureton's work (Tr. 360, 371-5).

XIII. Professor Karpovich's Experiment

17. The experiment which was to have determined the therapeutic value of respondents' Viobin Wheat Germ Oil and Prometol, and the truth or falsehood of respondents' claims therefor, was to have been conducted in substantially the following manner. Forty-four presumed healthy prisoners incarcerated in the Hampden County (Massachusetts) Jail were selected as the subjects of the experiment. Of this group of 44, 11 were supposed to have received doses of Viobin Wheat Germ Oil whereas a second group of 11 were supposed to have received Prometol. The other 22 prisoners were supposed to have received a similar appearing substance which was to be a placebo, that is, a substance which could have no effect whatsoever on the human body. The group of 44 prisoners were told that they were being given vitamins. One half of each group were to be given supervised physical exercises, whereas the other half were not. During the period in which the preparations were to be administered, various tests were to be conducted to measure the effect of the two preparations on the physical strength, vigor, and endurance of the participants in the test and upon the blood cholesterol and electrocardiogram (CX 7).

XIV. Professor Karpovich's Direct Examination

18. On direct examination Professor Karpovich testified in effect that respondents' Viobin Wheat Germ Oil and Prometol, the respondents' wheat germ oil concentrate, were not effective preparations for

the purposes for which they were advertised. His broad conclusion concerning respondents' advertisements were based primarily upon the study which he had conducted (Tr. 16, 99; CX 7).

XV. The Experimental Substance Used

19. On direct examination Professor Karpovich testified that he believed he had used wheat germ oil and Promotel as the test substances, although he was not sure that it was Viobin Wheat Germ Oil since he had lost the records of the purchase (Tr. 41, 43). He admitted that under his contract with the Federal Trade Commission he was required to use Viobin only and to preserve all records to prove the identity of the test substance in the event the result of the experiment was needed in litigation (Tr. 44, 324-5). It was shown, however, by reference to the actual invoices of the material purchased for the experiment that Professor Karpovich had not used Viobin, but instead had used a substance known as "Premo" at least for part of the experiment.

20. Evidence that Professor Karpovich changed the test substance was Professor Karpovich's letter to Dr. Torbin Yates, Vice President of Springfield College, informing Dr. Yates that Vitamin E would be used as the test substance (Tr. 434, 447-8; RX 27).

21. Furthermore, the laboratory notebook which allegedly contained the original entries for Professor Karpovich's experiment did not refer to wheat germ oil at all, but only to vitamins. Indeed, it did not mention any brand name of the test substance (Tr. 338, 447). Professor Karpovich claimed he had used the word "vitamin" as a code word, but it appears that this alleged code was never used in any correspondence with the Federal Trade Commission concerning his study (Tr. 444-5). Most significantly, the first time that Professor Karpovich had used the alleged code name "vitamin" was immediately after he had informed Dr. Yates that he was switching the test substance to Vitamin E (Tr. 446).

XVI. The Dosage

22. The testimony shows that Professor Cureton in his experiment with wheat germ oil at the University of Illinois had used a dosage consisting of 60 minims of wheat germ oil per day. The testimony further shows that the directions for use of the respondents' preparations suggested the taking of 60 minims of wheat germ oil per day. Although Professor Karpovich admitted that he conducted his experiment ostensibly to check Professor Cureton's work, he used as

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his dosage only 30 minims per day. He also stated that it was immaterial to him what the recommended dosage of the respondents' product might be (Tr. 48, 50, 408-10).

XVII. Placebo Used

23. In addition to changing the test substance used in his experiment and cutting the dosage of that substance to half that prescribed by the respondents for their preparations, Professor Karpovich did not use a proper placebo. His correspondence with the Commission during the early stages of the design of the test showed that he had considered using a placebo of cotton seed oil, of the same size, shape and color as wheat germ oil (Tr. 400). Subsequently, however, Professor Karpovich switched to a placebo consisting of ordinary candy of an entirely different color and dosage from the test substance (Tr. 387, 388, 419). The candy placebo was administered in a dosage of three pills a day, whereas the test substance was administered ten pills per day (Tr. 393). Moreover he had used a candy placebo which could help in exertions of long duration, an improper choice of a placebo if one were attempting to objectively measure the effect of a test substance on endurance (Tr. 400).

XVIII. The Torbin Yates Incident

24. The record shows that Dr. Torbin Yates, Vice President of Springfield College, wrote to Professor Karpovich opposing his undertaking the experiment for the Federal Trade Commission because Dr. Yates did not believe that Professor Karpovich was dealing completely accurately with the Commission. Dr. Yates, in a letter to Professor Karpovich, stated that he " * * * could not live with * * *" himself if he did not inform Professor Karpovich of his true feelings in regard to the proposed experiment. In reply to that letter it appears that Professor Karpovich informed Dr. Yates that the projected experiment would be undertaken despite Dr. Yates' objection. In order, however, to placate Dr. Yates, Professor Karpovich wrote a letter to him telling Dr. Yates the following: "You see, Torbin, if we find that the claims were false, then you will be in a very fine position with Mr. Palmer" (Tr. 428-30). It appears that Mr. Palmer, an elderly gentleman, was interested in wheat germ oil and was contemplating making a substantial contribution to Springfield College. It was further developed that Professor Karpovich thought when writing to Dr. Yates that a negative finding would cause Mr. Palmer to be more receptive to the idea of making a contribution to Springfield College

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(Tr. 430). Obviously the attitude revealed by Professor Karpovich's letter is incompatible with an objective, unbiased experiment.

XIX. Conclusions of Law

Based upon a consideration of the entire record herein, the following conclusions of law are required.

1. Counsel supporting the complaint have failed to prove that the advertisements referred to in the complaint, except as to the advertisement marked Exhibit CX 5, are typical of the advertising currently being used by respondents.

2. Counsel supporting the complaint have failed to prove that respondents' advertising claims are false or misleading, or otherwise violative of the Federal Trade Commission Act.

3. The testimony and documentary evidence show that the experiment conducted by Professor Karpovich was not properly conducted and that the results thereof are not scientifically valid.

4. Counsel supporting the complaint have failed to prove that the acts and practices of respondents as alleged in the complaint constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

XX. Order

Because of the above facts and conclusions, it is imperative that the motion of counsel supporting the complaint to dismiss the complaint herein be granted. It is, however, equally imperative, in view of all the circumstances herein found, that the public interest be protected by a dismissal of the complaint without prejudice to the right of the Commission to issue a new complaint upon newly discovered evidence should future facts and the public interest so require. Accordingly,

It is ordered, That the complaint herein be, and the same hereby is, dismissed without prejudice to the right of the Commission to bring a new complaint upon newly developed evidence should future facts and the public interest so warrant.

ORDER DISMISSING COMPLAINT

Neither counsel having appealed from the initial decision and order of the hearing examiner dismissing the complaint, and the Commission having determined that there are no grounds for reviewing the dismissal,

It is ordered, That the complaint be, and it hereby is, dismissed.

Complaint

66 F.T.C.

IN THE MATTER OF

JACQUES KREISLER MANUFACTURING CORPORATION
ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE
COMMISSION ACT*Docket 8580. Complaint, June 28, 1963—Decision, Sept. 16, 1964*

Order requiring a North Bergen, N.J., distributor of metal watchbands to cease failing to disclose the Japanese origin of its watchbands.

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 Jacques Kreisler Manufacturing Corporation, a corporation, and Tobias Stern, individually and as an officer 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 Jacques Kreisler Manufacturing Corporation 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 9015 Bergenline Avenue, North Bergen, New Jersey, in the city of North Bergen, State of New Jersey.

Respondent Tobias Stern is president of the corporate respondent. He formulates, directs and controls the acts and practices hereinafter set forth. His 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 advertising, offering for sale, sale and distribution of, among other products, metal watchbands to manufacturers and distributors of watches as well as to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said watchbands, when sold, to be shipped from their 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 maintain, and at all times herein mentioned have maintained, a substantial course of