

IN THE MATTER OF
DIPLOMAT HAIR GOODS COMPANY ET AL.

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

Docket C-1004. Complaint, Oct. 20, 1965—Decision, Oct. 20, 1965

Consent order requiring a Waukegan, Ill., dealer in hair pieces, wigs and toupees to cease falsely advertising the quality, construction and appearance of its products, misrepresenting to prospective salesmen the terms of their employment, and disseminating such false advertising matter in the United States mails.

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 Diplomat Hair Goods Company, a corporation, and Earl H. Martin and Hope S. Martin, 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 Diplomat Hair Goods Company is a corporation organized, existing, and doing business under and by virtue of the laws of State of Illinois, with its principal office and place of business located at 2425 West Washington Street in the

city of Waukegan, State of Illinois. Said corporation has done and is doing business under its own name and also under the name The Diplomat Company.

Respondents Earl H. Martin and Hope S. Martin are officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 hair pieces, wigs, and toupees which come within the classification of cosmetics as "cosmetics" are defined in the Federal Trade Commission Act.

PAR. 3. Respondents cause the said hair pieces, wigs, and toupees, 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 substantial course of trade in said hair pieces, wigs, and toupees 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 conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce with corporations, firms and individuals in the sale of hair pieces, wigs and toupees of the same general kind and nature as that sold by respondents.

PAR. 5. In the course and conduct of their business, respondents have disseminated, and caused the dissemination of certain advertisements concerning the said hair pieces, wigs and toupees, 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, pamphlets, and brochures, for the purpose of inducing and which were likely to induce directly or indirectly the purchase of said hair pieces, wigs and toupees; and have disseminated and caused the dissemination of, advertisements concerning said products by various means, including but not limited to the aforesaid media and oral presentations for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Complaint

68 F.T.C.

PAR 6. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

SALESMAN WANTED—Must be bald or balding, to represent The Diplomat Co. makers of the revolutionary permanent hair piece for men. Tremendous appeal, hundreds of leads. Full or part time on a commission basis. Write to The Diplomat Co., 2425 W. Washington Street, Waukegan, Illinois, 60089. Enclose photo, if possible.

BALD? RECEDING?

FEEL AND LOOK YEARS YOUNGER IN SECONDS WITH A DIPLOMAT HAIR PIECE Revolutionary—Permanent Undetectable No Net No Glue—Looks and Feels Like Your Own Hair! For the first time an absolutely undetectable hair piece. Play in it—sleep in it—swim in it in complete confidence. Completely secure, new principle allows for every degree of baldness—as easy to put on as your hat.

PAR. 7. By and through the use of the statements and photographs appearing in said advertisements as set out in Paragraph Six above, and by oral statements made during alleged employment interviews or sales presentations, and by statements and photographs appearing in pamphlets and brochures disseminated as aforesaid, respondents have represented and are now representing directly or by implication that:

1. The purpose of their "Salesman Wanted" advertisements is to obtain sales agents or representatives.
2. Sales training is provided to new sales employees or representatives, including the opportunity to observe demonstrations by an experienced sales representative of respondents, of the measurement, sales, and fitting techniques employed in the sale of hair pieces, wigs or toupees; such demonstrations being made during actual calls on prospects to induce the purchase of hair pieces, wigs or toupees.
3. All persons depicted with a full head of hair in advertising brochures, photographs or artists' renditions, used in sales solicitations are wearing hair pieces, wigs or toupees manufactured, offered for sale, and sold by respondents.
4. Photographs shown on advertising brochures or newspaper advertisements used in sale solicitations are original, unaltered and not retouched.
5. The hair pieces, wigs or toupees manufactured, offered for sale, and sold by respondents are "undetectable" and remain securely affixed and undamaged or unharmed regardless of the activity engaged in by the wearer.

6. A fitting, trimming, grooming or customized hair styling will be provided by respondents to the purchaser of a hair piece, wig or toupee coincident with or shortly after delivery thereof.

PAR. 8. In truth and in fact:

1. Such advertisements are not bona fide offers of employment but are made for the purpose of interesting prospects in the purchase of respondents' hair pieces, wigs and toupees.

2. Sales training, including the opportunity to observe demonstrations, by an experienced sales representative of respondents, of the measurement, sales and fitting techniques employed in the sale of hair pieces, wigs or toupees during the actual calls on prospects to induce the purchase of hair pieces, wigs or toupees, is not afforded in each instance to new sales employees or representatives.

3. Some of the persons depicted with a full head of hair in advertising brochures are not wearing hair pieces, wigs or toupees manufactured, offered for sale, and sold by respondents.

4. Some photographs of persons depicted in advertising brochures as wearing hair pieces, wigs or toupees are retouched to make the hair line appear more natural than is actually the case or are altered to make a person with a full head of hair appear to be bald or balding.

5. The hair pieces, wigs or toupees manufactured, offered for sale, and sold by respondents are not "undetectable" and will not remain securely affixed, undamaged or unharmed regardless of the activity engaged in by the wearer.

6. A fitting, trimming, grooming, or customized hair styling is not provided by respondents to each purchaser of a hair piece, wig or toupee coincident with or shortly after delivery thereof.

Therefore, the representations referred to above 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.

Respondents' advertisements are 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. In advertising that employment as a salesman is being offered, respondents fail to reveal the material fact, that applicants for such positions are required to purchase an expensive hair piece, wig or toupee before they would allegedly be considered for such positions. Applicants for employment do not expect to be required to make a capital investment or substantial purchase as an employment prerequisite.

Decision and Order

68 F.T.C.

PAR. 9. The dissemination by the 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.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Diplomat Hair Goods Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 2425 W. Washington Street, Waukegan, Illinois. Said corporation has done and is doing business under its own name and also under the name The Diplomat Company.

Respondents Earl H. Martin and Hope S. Martin are officers of said corporation. Their business address is the same as that of said corporation, and their home address is 2003 Columbia Bay Drive, Lake Villa, Illinois.

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

PART I

It is ordered, That respondents Diplomat Hair Goods Company, a corporation, trading under its own name or the name The Diplomat Company, or any other name or names, and its officers, and Earl H. Martin and Hope S. Martin, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of hair pieces, wigs, or toupees, or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that:

(a) Employment is being offered when in fact the purpose or effect of such representation is the solicitation of sales of such products.

(b) Employment is being offered without clearly and conspicuously disclosing that a capital investment or a purchase of such a product, or products, is required.

(c) Sales training or any form of training for employees or representatives will be or is supplied to such employees or representatives unless the respondents are able to establish that such training is supplied in every instance.

(d) Persons appearing in photographs used in advertising materials are wearing hair pieces, wigs, or toupees manufactured, offered for sale, and sold by respondents when in fact such persons are not wearing a hair piece, a wig or a toupee manufactured, offered for sale, and sold by respondents.

(e) Photographs or other visual depictions accurately portray or are a faithful reproduction of the appearance of persons wearing hair pieces, wigs or toupees unless respondents are able to establish that such photographs or other visual depictions have not been retouched, altered or changed in any manner and that they accurately represent the appearance of such persons wearing such products.

(f) Hair pieces, wigs or toupees advertised, offered for sale, or sold are undetectable and/or remain securely affixed, undamaged, and unharmed, regardless of the activity engaged in by the wearer.

Syllabus

68 F.T.C.

- (g) A fitting, trimming, grooming, customized hair styling, or any other service will be provided to the purchaser of a hair piece, wig, or toupee unless the respondents are able to establish that each purchaser receives such services.
2. Misrepresenting in any manner the construction, quality, or appearance of such hair pieces, wigs, or toupees.

PART II

It is further ordered, That respondents Diplomat Hair Goods Company, a corporation, and its officers, Earl H. Martin and Hope S. Martin, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of hair pieces, wigs, or toupees do forthwith cease and desist from:

1. Disseminating or causing to be disseminated 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 contains any representation or misrepresentation prohibited in Paragraphs 1 and 2 of Part I of this Order.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of any hair piece, wig, or toupee in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation or misrepresentation prohibited in Paragraphs 1 and 2 of Part I of this Order.

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.