

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

IRMA SHORELL, INC., ET AL.

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

Docket C-1862. Complaint, Feb. 16, 1971—Decision, Feb. 16, 1971

Consent order requiring a New York City distributor of a skin conditioning cosmetic to cease misrepresenting that its facial cream will rejuvenate and restore youth to the skin, is equivalent to and may be used instead of surgical face-lifting, and will have a permanent or lasting effect.

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 Irma Shorell, Inc., a corporation, and H. Allen Lightman, individually and as 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. Irma Shorell, 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 509 Madison Avenue, in the city of New York, State of New York.

Respondent H. Allen Lightman is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including 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 a skin preparation containing ingredients which come within the classification of cosmetics as the term "cosmetics" is defined in the Federal Trade Commission Act.

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The designation used by respondents for said skin preparation and the directions for use are as follows:

Designation.—Irma Shorell Contour/35

Directions.—1. Thoroughly cleanse face and neck. Dry with soft towel or tissue.

2. Lightly massage one-half spatula of Contour/35 into face. Pat gently under eyes.

3. Apply one-half spatula to neck with light upward strokes.

Nightly application of Contour/35 is a must for best results.

PAR. 3. Respondents cause the said preparation when sold, to be transported from respondents' 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 preparation 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 respondents' business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparation 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, with local and national distribution, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation, and has disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly and indirectly, the purchase of said preparation 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:

For The Woman Who Wants To Look Younger—

Is Face-lifting the Only Answer?

For the last 30 years women have felt that Cosmetic Plastic Surgery was the only way to really improve the mature skin of face and neck. For some it still is—but today tens of thousands have been prescribed Contour/35 to retain or regain a youthful appearance to old-looking skin.

PAR. 6. By and through the use of the above-quoted statements and representations, and other of similar import and meaning but

not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

1. That the facial cream CONTOUR/35 is capable of eliminating wrinkles and of restoring the youthful appearance of the skin.
2. That the product, CONTOUR/35 is a substitute for, and equivalent to surgical face-lifting.
3. That the product CONTOUR/35 will have a permanent or lasting effect.

PAR. 7. In truth and in fact:

1. The product is a moisturizer with a firming agent which is not capable of eliminating wrinkles or restoring the youthful appearance of the skin.
2. The product is not a substitute for, nor equivalent to surgical face-lifting.
3. Use of the product will have only a temporary and superficial effect, and will not provide a permanent or lasting effect.

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 the respondents of the false advertisements, as foresaid, 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 the draft of complaint which the Bureau of Consumer Protection propose 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 jurisdictional facts set forth of 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 respondents that the law has been violated as alleged in such complaint; and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Irma Shorell, Inc., is a corporation with its office and principal place of business located at 509 Madison Avenue, New York, New York.

Respondent H. Allen Lightman is an individual and an officer of said corporation. His 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 Irma Shorell, Inc., a corporation, and H. Allen Lightman, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or any other devices in connection with the offering for sale, sale or distribution of Irma Shorell's Contour/35 or any other preparation possessing substantially similar properties. Do forthwith cease and desist from directly or indirectly:

1. 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 represents directly or by implication.

(a) That said cosmetic preparation will rejuvenate the skin of the user thereof or restore youth to the skin of the user;

(b) That said cosmetic preparation can be used in lieu of surgical face-lifting and is equivalent thereto; and,

(c) That said cosmetic preparation will have a permanent or lasting effect.

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 respondents' preparation in commerce as "commerce" is defined in the

Federal Trade Commission Act which contains any of the representations prohibited in Paragraph 1 hereof.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order file with the Commission a written report setting forth in detail the manner and form of their compliance with the order.

It is further ordered, That the respondents shall, forthwith distribute a copy of this order, to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of the successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

IN THE MATTER OF

EVEREST & JENNINGS, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF