

IN THE MATTER OF
TERRANCE D. LESKO, M.D.

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

Docket C-3031. Complaint, July 28, 1980—Decision, July 28, 1980

This consent order requires, among other things, a medical doctor affiliated with two California firms engaged in the sale of hair replacement services, to cease soliciting, selling or performing hair implants; or misrepresenting, in advertising or otherwise, the safety or effectiveness of the hair implant process in the treatment of baldness. Should Dr. Lesko engage in any hair replacement business during period specified in the order, he must expend at least \$8,000 on corrective advertising warning consumers that "Hair Implants Are Unsafe." The order also requires that the respondent notify past hair implant customers that the process is unsafe and that they should seek prompt medical attention.

Appearances

For the Commission: *George E. Schulman and Anne B. Roberts.*

For the respondent: *Pro se.*

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 Terrance D. Lesko, M.D., an individual, hereinafter sometimes 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 Terrance D. Lesko, M.D. is an individual and a medical doctor who was affiliated with Hair Extension of Beverly Hills, Inc. and Hair Extension, Inc. His address is 1737 Clarion Loop, Cannon Air Force Base, New Mexico.

PAR. 2. Respondent is now, and for some time last past has been engaged in performing hair replacement processes, operations and surgical procedures for the treatment of baldness, thinning hair or loss of hair, or for the replacement of lost hair, including a process or operation which is known as a "hair implant" or "dermis inversion" process ("the Hair Implant Process").

For the purpose of this complaint, the Hair Implant Process is

defined as a hair replacement product, process, operation or surgical procedure which involves the insertion or placement of (1) synthetic fibers or filaments which simulate hair or (2) non-living human hairs, into or under the scalp of the patient.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two are incorporated by reference herein as if fully set forth verbatim.

PAR. 3. Respondent maintains, and has maintained, a substantial course of business, including the acts and practices as hereinafter set forth, which are in or affect commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his said business, respondent is now making, and has made representations, orally and in writing, directly and indirectly, in commerce as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, the purchase of the Hair Implant Process in commerce.

PAR. 5. Respondent represents, orally and in writing, directly and indirectly, that the Hair Implant Process in general is safe and effective, and that the Hair Implant Process as performed by respondent or by his agents, representatives or employees is safe and effective for providing the purchaser with a natural looking head of hair, or for treating baldness, thinning hair or loss of hair, or for replacing lost hair, and will not result in medical complications or infections.

PAR. 6. In truth and in fact, the Hair Implant Process is not generally recognized as safe and effective, and is not performed in a safe and effective manner by respondent. The Hair Implant Process, both in general and as performed by respondent, does not result in a natural looking head of hair, and is not an effective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair. The Hair Implant Process, both in general and as performed by respondent, results in medical complications and infections which may endanger the health of the purchaser.

Therefore, the making of the representations set forth in Paragraph Five were and are false, misleading, deceptive and unfair.

PAR. 7. There existed, at all times relevant hereto, no reasonable basis for making the representations set forth in Paragraph Five herein.

Therefore, the making of the representations as set forth in

Paragraph Five herein, without a reasonable basis constituted and now constitutes unfair or deceptive acts or practices.

PAR. 8. Respondent fails to disclose, either orally or in writing, directly or indirectly, that the Hair Implant Process, in general and as performed by respondent, is not a safe or effective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair, and presents a high risk of infection or other medical complications which may endanger the health of the purchaser.

PAR. 9. In truth and in fact, the Hair Implant Process, both in general and as performed by respondent, is not generally recognized as a safe or effective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair and presents a high risk of infection or other medical complications which may endanger the health of the purchaser.

Therefore, the failure to disclose that the Hair Implant Process is not a safe or effective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair, and the failure to disclose that it presents a high risk of infection or other medical complications which may endanger the health of the purchaser, constitute unfair or deceptive acts or practices.

COUNT II

Alleging violation of Section 12 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two are incorporated by reference herein as if fully set forth verbatim.

PAR. 10. In the course and conduct of his said business, respondent has disseminated and caused the dissemination of certain advertisements concerning the Hair Implant Process through the United States mails and by various means in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, the insertion of advertisements in magazines and newspapers with national circulations, and advertisements in the form of a brochure entitled "Hair TransCenter" which was, and is, sent through the United States mails, for the purpose of inducing, and which is likely to induce, the purchase of respondent's Hair Implant Process, and has disseminated and caused the dissemination of advertisements concerning said Hair Implant Process by various means, including but not limited to the aforesaid media, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said Hair Implant Process in commerce.

PAR. 11. Respondent represents directly and indirectly, in said

advertisements, disseminated as previously described, but not necessarily inclusive thereof, that the Hair Implant Process is a safe and effective method for providing the patient with a natural looking head of hair, or for treating baldness, thinning hair or loss of hair, or for replacing lost hair, and that the Hair Implant Process is approved by doctors, and will not result in medical complications or cause infections.

PAR. 12. In truth and in fact, the Hair Implant Process, both in general and as performed by respondent, is not a safe or effective method for the treatment of baldness, thinning hair or loss of hair, or for the replacement of lost hair. The Hair Implant Process presents a high risk of severe infections or other medical complications which may endanger the health of the purchaser. The Hair Implant Process is not an effective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair, because the implanted hairs fall out or break off shortly after inserted. In addition, due to the Hair Implant Process, frequently a patient loses his own hair. The Hair Implant Process is not approved by doctors relying on competent and reliable scientific evidence, and in fact, generally is recognized by doctors as an unsafe and ineffective method of treatment for baldness, thinning hair or loss of hair, or for the replacement of lost hair.

Therefore, the advertisements referred to in Paragraphs Ten and Eleven, were and are misleading in material respects and constituted, and now constitute, false advertisements.

PAR. 13. In the course and conduct of his business, and at all times mentioned herein, respondent has been, and now is, in substantial competition in or affecting commerce with corporations, firms and individuals engaged in the sale of products and services of the same general kind and nature as the products and services sold by respondent.

PAR. 14. The use by respondent of the aforesaid false, misleading, and deceptive statements, representations, acts and practices, directly or by implication, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of respondent's products and services by reason of said erroneous and mistaken belief.

PAR. 15. The acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition and unfair or deceptive acts or practices in

or affecting commerce in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondents, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

DECISION AND ORDER

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

The respondent, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent 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 respondent agreed to provide to the Commission the names and addresses of his customers who underwent or paid money to undergo the Hair Implant Process and that the Commission may notify each said customer regarding the risks and problems involved in the Hair Implant Process and the fact that this order has been accepted by the Commission, such notice being substantially similar to the following letter:

Dear _____:

Hair Extension told us that you came to their office for hair implants. The FTC has reason to believe that the hair implant process is not safe or effective at the present time. There is no medically safe way to do hair implants. Many of their customers have developed scalp infections.

Hair Extension has promised the Federal Trade Commission that they will not do any more hair implants until the Food and Drug Administration approves a safe and effective procedure that protects future customers. However, we thought we should contact former customers to let them know the problems they could have with their implants.

Some people get infections right away. For others, an infection may develop months later. A few may never have a problem.

Many people report severe symptoms—pain, noticeable scarring, hairs breaking off,

scalp soreness, redness and swelling. However, others may have only a minor problem. A problem may not be too noticeable now but could develop into a more serious problem if not treated.

Therefore, for your own safety, you may want to see a doctor for an examination of your scalp and implants. If you do have any of these symptoms, you should go see a doctor immediately. The agreement which Hair Extension signed does not provide refunds or money for your doctor bills. However, you might want to contact an attorney to find out whether Hair Extension may be liable for any costs or injury you have suffered.

and, the Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has 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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Proposed respondent Terrance D. Lesko, M.D. is an individual and medical doctor who was affiliated with Hair Extension of Beverly Hills, Inc., 8383 Wilshire Boulevard, Beverly Hills, California and Hair Extension, Inc., 16152 Beach Boulevard, Huntington Beach, California. His address is 1737 Clarion Loop, Cannon Air Force Base, New Mexico.

Hair Extension of Beverly Hills, Inc., also trading and doing business as Hair TransCenter, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal office and place of business is at 8383 Wilshire Boulevard, Beverly Hills, California.

Hair Extension, Inc., also trading and doing business as Hair TransCenter, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal office and place of business is at 16152 Beach Boulevard, Huntington Beach, California.

Both corporations, as well as Lee Marlow and Ann Marlow, officers and directors of the corporations, previously signed an agreement containing consent order to cease and desist, which was accepted by the Commission on September 25, 1979. Dr. Lesko is Ann Marlow's brother.

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

For the purpose of this Order, the following definition shall apply:

The "Hair Implant Process" refers to any hair replacement product, process, operation or surgical procedure which involves the insertion or placement of (1) synthetic fibers or filaments which simulate hair or (2) non-living human hairs, into or under the scalp of a patient.

I

It is ordered, That Terrance D. Lesko, M.D., an individual, his agents, representatives, employees and persons under respondent's control, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale and sale of the Hair Implant Process, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Disseminating, or causing or permitting the dissemination of any advertisement or other representation or claim, express or implied, that the Hair Implant Process is safe or effective in the treatment of baldness, thinning hair or loss of hair, or for the replacement of lost hair.
2. Soliciting, recommending, promoting, offering for sale, selling, arranging for or performing the Hair Implant Process.

Provided, however, that nothing shall prevent respondent from filing with the Commission a petition to modify this order, *provided* that respondent is able to demonstrate to the satisfaction of the Commission by competent and reliable scientific tests that:

1. The Hair Implant Process is safe and effective (and affirmative approval by the Food and Drug Administration that the process is safe and effective shall be deemed sufficient proof of compliance with this provision), and
2. The Hair Implant Process will be performed by respondent (or by persons recommended by or under the control of respondent) in a safe and effective manner (and affirmative approval by the Food and Drug Administration that named respondent will perform the Hair Implant Process in a safe and effective manner shall be deemed sufficient proof of compliance with this provision.)

Provided, however, that if the Commission determines, upon

proper application of respondent, that the Hair Implant Process is safe and effective and that the Hair Implant Process will be performed by respondent (or by persons recommended by or under the control of respondent) in a safe and effective manner, and such determination shall be based upon respondent's proof of compliance with the provisions set forth in the preceding paragraph, and if the Commission determines that further relief is necessary in the public interest, the Commission may require respondent to provide further relief. Said further relief may include, but is not limited to: (1) affirmative disclosures that there is a high probability of discomfort and pain and a high risk of infection, skin disease and scarring; that continuing special care is necessary to minimize the probabilities and risks referred to herein; and that such care may involve additional costs for medications and assistance; (2) a cooling-off period, following execution of contracts for services; and (3) a recommended consultation with an independent duly-licensed physician before undergoing the Hair Implant Process.

II

It is further ordered, That if Terrance D. Lesko, M.D., an individual, his agents, representatives, employees and persons under respondent's control, directly or through any corporation, subsidiary, division or other device, are engaged in or affiliated with any business which offers methods of treating baldness, loss of hair or thinning hair, or the replacement of lost hair, and if such business advertises in any media during a one year period commencing thirty (30) days after this order becomes final, then respondent shall disclose in such advertising during that one year period, clearly and conspicuously, in type no smaller than the smallest type otherwise in the advertising or 10 point type, whichever is larger, the following notice:

WARNING

Hair implants, using artificial hair or human hair, are medically unsafe. We do not use this procedure.

III

It is further ordered, That if Terrance D. Lesko, M.D., an individual, his agents, representatives, employees and persons under respondents' control, directly or through any corporation, subsidiary, division or other device, are engaged in any business which offers methods of treating baldness, loss of hair or thinning hair, or the

replacement of lost hair, during a one year period commencing thirty (30) days after this Order becomes final, respondents shall place the following advertisement in the *Los Angeles Times*, the *Santa Ana Register*, the *Los Angeles Herald Examiner* and *Los Angeles Magazine*.

HAIR IMPLANTS ARE UNSAFE

Hair implants, the inserting of synthetic hairs or human hairs into the scalp, are medically unsafe.

Many hair implant patients have developed scalp infections, noticeable scarring and have lost the implanted hair.

The *Federal Trade Commission* advises anyone considering a hair implant—or any other “cure” for baldness—to see a doctor. If you had a hair implant and have developed any problems, you should go see a doctor immediately.

This notice was prepared by the FTC and placed at the expense of Hair Extension, Inc., as part of a recent consent agreement between it and the FTC.

Federal Trade Commission
Los Angeles Regional Office

A. The placement of the advertisement in the newspapers shall be as follows:

1. Said advertisements shall appear at least once per month in each and every newspaper and magazine identified above, for six consecutive months commencing thirty (30) days after the date this order becomes final.

2. Said advertisement shall appear in the Sunday edition of each above-identified newspaper.

3. Respondent shall request placement of the advertisements in the Sports section of each newspaper.

B. The size of the advertisement shall be as follows:

1. The advertisement to be placed in the *Los Angeles Magazine* shall be equal to or larger than one column in width and the full length of the page.

2. The advertisement to be placed in the *Los Angeles Times*, *Santa Ana Register* and *Herald Examiner* shall be equal to or larger than two columns in width and four inches in length.

C. Respondent shall endeavor to obtain bulk rates for placing said advertisements at the lowest possible rates. Respondent shall spend no less than \$8,000.00 for placing the advertisement required by this section.

D. The format, type size and type face of the advertisement shall

be subject to the approval by the Commission or its representative prior to its use by respondent.

IV

It is further ordered, That for a period of five (5) years from the effective date of this Order, respondent shall promptly notify the Commission of the discontinuance of his/her present business or employment and of his/her affiliation with a new business or employment which is engaged, during the time of such employment or affiliation, in methods of treating baldness, thinning hair, loss of hair or of the replacement of lost hair. Such notice shall contain respondent's current business address, a statement of the nature of the business or employment in which the respondent is newly engaged and a description of the respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

It is further ordered, That respondent shall, within sixty (60) days after service upon them of this Order, and within thirty (30) days after termination of the advertising required by Section III 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.

Complaint

IN THE MATTER OF
TOWLE MANUFACTURING COMPANY

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

Docket C-3029. Complaint, July 29, 1980—Decision, July 29, 1980

This consent order requires, among other things, a Newburyport, Mass. manufacturer, importer and distributor of silver products to cease establishing, maintaining or enforcing any agreement or arrangement with its dealers that has the effect of fixing and enforcing resale prices for its products and conditioning retention of dealerships on adherence to suggested resale prices. The firm is prohibited from inducing dealers or prospective dealers to report those who fail to adhere to suggested resale prices and barred from taking adverse action against reported dealers. Materials containing resale pricing information must include a statement advising that dealers are not bound to listed prices. Respondent is further required to reinstate those dealers who were terminated for failing to comply with the firm's pricing policy and maintain a file containing specified data for a period of three years.

Appearances

For the Commission: *Harold F. Moody and William F. Connolly.*

For the respondent: *John R. Hally, Nutter, McClennen & Fish,*
Boston, Mass.

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 Towle Manufacturing Company, a corporation, hereinafter sometimes 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. For purposes of this complaint the following definition shall apply:

"Dealer" means any person, partnership, corporation or other business entity who purchases Towle Manufacturing Company products for resale.

PAR. 2. Respondent Towle Manufacturing Company is a corporation organized, existing and doing business under and by virtue of