

IN THE MATTER OF
SITE FOR SORE EYES, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3411. Complaint, Jan. 15, 1993--Decision, Jan. 15, 1993

This consent order requires, among other things, a California chain of retail stores that sell eye-care products and services to have competent and reliable scientific evidence to substantiate any future claim that any lens, shade, coating or other material sold in connection with eyeglasses protects eyes from radiation from any source. In addition, the respondent is required to maintain materials relied upon to substantiate claims covered by the order and to distribute copies of the order to specified individuals and entities.

Appearances

For the Commission: *Linda K. Badger* and *Matthew D. Gold*.

For the respondent: *Pro se*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Site for Sore Eyes, Inc., a corporation, ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Site for Sore Eyes, Inc., is a California corporation, with its principal office or place of business at 3512 Breakwater Court, Hayward, California.

PAR. 2. Respondent operates a chain of retail stores offering a variety of eye care products and services. In the course and conduct of its business, respondent has engaged in the promotion, offering for sale, sale, and distribution to the public of a coating for eyeglasses to

protect the user from ultraviolet radiation (hereinafter referred to as "UV protective coating for eyeglasses").

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondent has disseminated, or has caused to be disseminated, advertisements for UV protective coating for eyeglasses, including, but not necessarily limited to, a place mat displayed on eyeglass fitting tables that contains promotional information. These advertisements contain the following statements:

PROTECTION FROM UV RAYS

Treatment: UV400

UV protective coating will protect your eyes from the harmful rays of the sun as well as from computer screens. UV radiation can cause redness and irritation to the eyes -- and can also cause irreversible damage to the retina and cornea. This clear, non-toxic formula protects your eyes by absorbing 99% of all harmful UV rays.

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including, but not necessarily limited to, the advertisement described in paragraph four, respondent has represented, directly or by implication, that computer screens emit UV radiation that is harmful to the eyes, and that UV protective coating will protect the eyes from such harmful radiation.

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph four, including, but not necessarily limited to, the advertisement described in paragraph four, respondent has represented, directly or by implication, that at the time it made the representations set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 7. In truth and in fact, at the time it made the representations set forth in paragraph five, respondent did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. The acts or practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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 San Francisco 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, its attorneys, 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 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. Respondent Site For Sore Eyes, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 3512 Breakwater Court, Hayward, California.

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

I.

It is ordered, That respondent Site for Sore Eyes, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any eyeglass or eyeglass related device or product, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product protects eyes from radiation from any source, unless at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

For purposes of this order, “*competent and reliable scientific evidence*” shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. For purposes of this order, “*eyeglass related device or product*” shall mean any lens, shade, coating, or other material sold in connection with eyeglasses.

II.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon

request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements, promotional materials, documents, or other materials relating to the offer for sale or sale of any product covered by this order that make any representation covered by this order;

B. All materials relied upon by respondent to substantiate any representation covered by this order;

C. All test reports, studies, experiments, analyses, research, surveys, demonstrations, or other materials in the possession or control of respondent that contradict, qualify, or call into question any representation covered by this order or the basis on which respondent relied for such representation, including complaints from consumers.

III.

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

IV.

It is further ordered, That respondent shall, within ten (10) days from the date of service of this order upon them, distribute a copy of this order to any individual or entity who or which is involved in the preparation and placement of advertisements or promotional materials, or communicates with customers or prospective customers regarding the use of any product covered by this order, and shall obtain from each such individual or entity a signed and dated statement acknowledging receipt of this order.

V.

It is further ordered, That respondent shall, within sixty (60) days from the date of service of this order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Complaint

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IN THE MATTER OF

AMERICAN FAMILY PUBLISHERS

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9240. Complaint, Apr. 16, 1990--Decision, Jan. 21, 1993*

This consent order prohibits, among other things, a New Jersey-based seller of magazine subscriptions from misrepresenting that an attorney is actively and substantially involved in the collection of any debt, and that legal action with respect to any alleged debt is about to be, or will be, initiated. Respondent also is prohibited from failing to instruct any debt collector it retains, engages or employs to comply fully with all the provisions of the Fair Debt Collection Practices Act.

Appearances

For the Commission: *David Medine, Roger J. Fitzpatrick and Christopher Keller.*

For the respondent: *Charles J. Miller and David H. Carlin, Loeb & Loeb, New York, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Family Publishers, a joint venture partnership of The Time Incorporated Magazine Company and AFP Associates, hereinafter referred to as respondent, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. American Family Publishers is a joint venture partnership of The Time Incorporated Magazine Company and AFP