

Amended Complaint

116 F.T.C.

IN THE MATTER OF

REVLON, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9231. Amended Complaint, Nov. 17, 1993--Decision, Nov. 17, 1993

This consent order requires, among other things, a New York-based corporation and its subsidiary to have scientific evidence to support any future claims regarding the effectiveness of cellulite treatments or sunscreen products. Respondents also are required to disclose the sun protection factor value in any sunscreen advertisement in which it proclaims the ability of the product to protect against the sun's rays.

Appearances

For the Commission: *Phoebe D. Morse, Gary S. Cooper and Brinley H. Williams.*

For the respondents: *Irvin Scher and Randy Tritell, Weil, Gotshal & Manges, New York, N.Y.*

AMENDED COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority invested in it by said Act, the Federal Trade Commission, having reason to believe that Revlon, Inc., and Charles Revson, Inc., corporations (collectively 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, alleges:

PARAGRAPH 1. Revlon, Inc., is a Delaware corporation, and Charles Revson, Inc., is a New York corporation, each having its office or principal place of business located at 767 Fifth Avenue, New York, N.Y. Charles Revson, Inc., is a wholly-owned subsidiary of Revlon, Inc.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed (1) Ultima II ProCollagen Anti-cellulite body complex ("Anti-cellulite body complex"); and (2) Photo Aging Shield.

PAR. 3. Anti-cellulite body complex and Photo Aging Shield are "drugs" or "cosmetics" within the meaning of Section 12 of the Federal Trade Commission Act, 15 U.S.C. 52.

PAR. 4. The acts and practices alleged in this complaint constitute the maintenance of a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Respondents have disseminated or have caused to be disseminated advertisements and promotional materials for Anti-cellulite body complex and Photo Aging Shield. These advertisements and promotional materials contain the following statements:

a. "Now, thanks to Ultima II Research, no woman has to resign herself to unattractive ripples, bumpy texture, and slackness caused by cellulite."

b. "Massaging Anti-cellulite body complex into the skin attacks your cellulite problems two ways: first, it increases skin circulation to help disperse toxins and excess water that contribute to cellulite pockets, and second, it builds sub-skin tissue strength and tone for smoother support."

c. "You'll see results after just seven to ten days of daily use."

d. "While you can't prevent biological aging, you can prevent Photoaging. That's because now Ultima II Research Laboratories have developed a product designed to prevent Photoaging. This revolutionary product acts as a shield for your skin."

e. "It's called Photo Aging Shield and it's so protective it actually intercepts damaging light waves before they penetrate your skin."

PAR. 6. Through the use of the statements referred to in paragraph five, respondents have represented, directly or by implication, that:

a. Anti-cellulite body complex significantly reduces cellulite;

b. Anti-cellulite body complex reduces skin's bumpy texture, ripples or slackness caused by cellulite;

- c. Anti-cellulite body complex helps disperse toxins and excess water from areas where cellulite appears;
- d. Anti-cellulite body complex increases sub-skin tissue strength and tone;
- e. Photo Aging Shield blocks all of the harmful rays which cause photoaging.

PAR. 7. Through the use of the statements referred to in paragraph five, respondents have represented, directly or by implication, that they possessed and relied upon a reasonable basis for the representations set forth in paragraph six at the time such representations were made.

PAR. 8. In truth and in fact, respondents did not possess and rely upon a reasonable basis for the representations set forth in paragraph six at the time such representations were made. Therefore, the representation set forth in paragraph seven was, and is, false and misleading.

PAR. 9. Respondents' dissemination of the false and misleading representations as alleged in this complaint, and the placement in the hands of others of the means and instrumentalities by and through which others may have used said false and misleading representations, constitute unfair or deceptive acts or practices in or affecting commerce, and false advertisements, in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having heretofore issued its Complaint charging the respondents named in the caption hereof with violations of Sections 5 and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorney, 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 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter 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 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Revlon, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 767 Fifth Avenue, New York, New York. Respondent Charles Revson, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 767 Fifth Avenue, New York, New York.

2. Respondents have been served with a copy of the aforesaid complaint issued on September 7, 1989, by the Federal Trade Commission in Docket No. 9231 charging respondents with violations of Sections 5 and 12 of the Federal Trade Commission Act, as amended. Respondents have filed an answer to that complaint denying the charges. Respondents have also been the subject of a separate investigation conducted by the Cleveland Regional Office of the Federal Trade Commission in File No. 882 3110. This decision and order is intended to resolve both the matters contained in the complaint issued on September 7, 1989, and the matters involved in the separate investigation in File No. 882 3110.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents; the proceeding is in the public interest; and respondents admit all the jurisdictional facts set forth in the amended complaint.

ORDER

DEFINITIONS

For purposes of this order:

1. "*Competent and reliable scientific evidence*" shall mean tests, analyses, research, studies, consumer surveys, samples 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.

2. "*Sunscreen product*" shall mean any chemical product which, pursuant to applicable federal standards, is entitled to display a Sun Protection Factor (SPF) of 2 or greater, and which is advertised or promoted to be used for prevention of skin damage caused by the sun's harmful rays including, but not limited to, sunburn, premature skin aging and skin cancer.

I.

It is ordered, That Revlon, Inc., and Charles Revson, Inc., corporations (collectively referred to as "respondents"), their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, packaging, offering for sale, sale, or distribution of Anti-cellulite body complex or any other product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication,

- A. Regarding the product's ability to reduce or eliminate cellulite;
- B. Regarding the product's ability to reduce bumpy texture, ripples, or slackness of the skin caused by cellulite;
- C. Regarding the product's ability to disperse toxins or excess water from areas where cellulite appears; or
- D. Regarding the product's ability to reduce or eliminate cellulite by increasing sub-skin tissue strength or tone, unless at the time of making such representation, they possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further ordered, That Revlon, Inc., and Charles Revson, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, packaging, offering for sale, sale, or distribution of Photo Aging Shield or any other sunscreen product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the efficacy, other than identifying the SPF value, of such product in providing protection against all or a specific amount of the sun's harmful rays, unless:

- A. At the time of making such representation, they possess and rely upon competent and reliable scientific evidence that substantiates the representation, provided that, with respect to any representation covered by this part, any tentative final or final standard promulgated by the Food and Drug Administration (FDA) which establishes that such representation is supported by scientific evidence acceptable to the FDA, shall (as long as it remains in

effect) also constitute adequate substantiation for such representation; and

B. Respondents disclose, clearly and prominently, the SPF value of the product.

III.

It is further ordered, That, for a period of three (3) years from the date that any representation covered by this order is last disseminated, respondents shall maintain and upon request make available to the Commission for inspection and copying,

A. All materials that were relied upon to substantiate such representation; and

B. All test reports, studies, surveys, demonstrations or other evidence in respondents' possession or control, that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation.

IV.

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

V.

It is further ordered, That respondents shall distribute a copy of this order to each of their current operating divisions, to each officer and other person responsible for the preparation or review of advertising or promotional material covered by this order, and to all of respondent Charles Revson, Inc.'s Beauty Advisors.

VI.

It is further ordered, That respondents shall, within sixty (60) days after service of this order 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 they have complied with this order.

Complaint

116 F.T.C.

IN THE MATTER OF

TRANS UNION CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION
OF THE FAIR CREDIT REPORTING ACT*Docket 9255. Complaint, Dec. 15, 1992--Decision, Nov. 18, 1993*

This consent order requires, among other things, an Illinois-based consumer reporting agency to require, in its contracts, that those who obtain consumer reports from the company, in the form of lists developed through credit prescreening, make a firm offer of credit to each person on the list, and to take reasonable steps to enforce those contract provisions. In addition, the respondent is required to provide company officials with a copy of the order, and obtain their signature acknowledging receipt.

Appearances

For the Commission: *Arthur B. Levin* and *David Medine*.

For the respondent: *Roger Longtin, Keck, Mahin & Cate*,
Chicago, IL.

COMPLAINT

The Federal Trade Commission having reason to believe that Trans Union Corporation, a corporation, hereinafter sometimes referred to as respondent, has violated the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, and alleges as follows: