

IN THE MATTER OF  
ADVANCE SPECTACLE COMPANY, INC., ET AL.

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

*Docket 6285. Complaint, Jan. 10, 1955—Decision, May 22, 1955*

Consent order requiring a Chicago firm to cease representing falsely in advertising that eyeglasses made according to prescriptions furnished by customers using its "14 LENS SAMPLE CARD" and other devices would correct defects in vision of all persons.

Before *Mr. Earl J. Kolb*, hearing examiner.

*Mr. Frederick J. McManus* for the Commission.

*Froelich, Grossman, Teton & Tabin*, of Chicago, Ill., for respondents.

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 Advance Spectacle Company, Inc., a corporation and Michael M. Egel, individually and as an officer of Advance Spectacle Company, Inc., hereinafter referred to as respondents have violated the provisions of the 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. Advance Spectacle Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its place of business located at 537 South Dearborn Street, Chicago, Illinois. Individual respondent Michael M. Egel is president and treasurer of corporate respondent and formulates the policy of said corporation and directs, controls and puts into effect all of its acts and practices including those hereinafter referred to. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for more than one year last past have been engaged in the business of selling eye glasses and as an inducement or instrumentality in the sale of said glasses make use of a certain device designated "14 LENS SAMPLE CARD" and other devices. Eye glasses are a device as "device" is defined in the Federal Trade Commission Act.

Respondents cause said devices, together with printed instructions for the use thereof, and an order blank upon which spaces are provided for the insertion of various measurements or figures obtained by the use of said devices, to be transported from their place of business in the State of Illinois to prospective purchasers and eye glasses to the purchasers thereof located in various other States of the United States. Respondents maintain, and at all times mentioned herein, have maintained a course of trade in said eye glasses in connection with the said "14 LENS SAMPLE CARD" and other devices and instructions for use thereof in commerce, between and among the various States of the United States.

PAR. 3. In the course and conduct of their business, respondents have disseminated and caused the dissemination of advertisements concerning said eye glasses and of the devices referred to above; by 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 and periodicals, and by means of circulars and form letters, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said eye glasses; respondents have also disseminated and caused the dissemination of advertisements concerning their said eye glasses and the devices referred to above, including, but not limited to the advertisement media referred to above, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said eye glasses in commerce as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the statements and representations contained in the said advertisements are the following:

**EYE GLASSES BY MAIL**

As Low as \$1.95

**WRITE FOR FREE CATALOG  
WITH 14 LENS SAMPLE CARD**

Thousands of Customers

Est. 1939

Quality reading Magnifying  
or bifocal glasses for  
far and near.

Advance Spectacle Company, Inc.  
537 South Dearborn Street,  
Department SP-1  
Chicago 5, Illinois

**EYE GLASSES BY MAIL**

Now buy attractive creations in  
modern reading-magnifying or bifocal

(Pictorial representa-  
tion of Pair of Glasses)

Complaint

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glasses for far or near from the oldest established U. S. firm offering this service! Thousands of customers coast to coast! We furnish 14-lens sample card with many combinations!

as low as \$1.95  
SEND NO MONEY!  
30 DAYS TRIAL!

(Picture of  
glasses)

SEND FOR ATTRACTIVE  
FREE catalog STYLES

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NAME-----  
STREET-----  
CITY-----STATE-----DEPT. E-6  
ADVANCE SPECTACLE CO., INC.  
537 S. Dearborn St.,  
Chicago 5, Ill.

DEAR FRIEND:

We're going to show you a way to make some good profits easily, simply and WITHOUT INVESTING ANY MONEY. We have had considerable experience in selling glasses direct to the wearer. This field has been profitable and you can cash in on it as so many others have. While we do not employ agents or canvassers to sell the glasses, we do have a number of attractive offers for you as a dealer.

Look in our catalog illustrating latest style of attractive quality spectacles. Note the reasonable prices quoted. We are willing to allow you, as a dealer, 25% discount from these prices.

\* \* \* \* \*

Advance Spectacle Company

PAR. 4. Respondents' "Eye Glasses by mail" advertising disseminated by them as aforesaid is being and has been answered by persons in various States of the United States. Said purchasers, in answering such advertising, have requested that respondents' catalog and the various devices above referred to, for use in testing of the eyes, be sent them. Said catalog and device have been ordered alike by individuals desiring to purchase eye glasses for themselves and by other individuals desiring to sell glasses by acting as dealers of respondents. Individuals receiving respondents' "14 LENS SAMPLE CARD" have attempted to use the device to determine the eye glasses necessary to correct defects in their vision, have written out their own prescriptions for respondents' eye glasses upon the forms provided by respondent, have mailed the prescriptions to respondents and respondents have shipped to them the eye glasses ordered pursuant to said prescriptions.

Dealers of respondents, located in various States of the United States receiving respondents' said "14 LENS SAMPLE CARD" have attempted to use the device to determine the eye glasses necessary to correct the defects in the vision of others and have written prescriptions or assisted in the writing of prescriptions for respondents' eye

glasses upon the forms provided by respondents, have mailed the prescriptions to respondents and respondents have shipped said glasses ordered pursuant to said prescriptions to various customers.

PAR. 5. Through the use of advertisements containing the statements hereinabove set forth and explanatory literature and directions which accompany the eye testing device designated "14 LENS SAMPLE CARD" sent by respondents to those requesting it, respondents represented, directly and by implication, that the eye glasses sold by them, made pursuant to the results of the tests of the eyes, using respondents' device, will correct the defects in vision of all persons.

PAR. 6. Said advertisements were and are misleading in material respects and constitute "false advertisements" as this term is defined in the Federal Trade Commission Act. In truth and in fact the eye glasses sold by respondents, made pursuant to the results of tests of the eyes, using respondents' device will not correct defects in vision of all persons. On the contrary, such glasses are capable of correcting defects in vision of only those persons approximately 40 years of age and over who do not have astigmatism or diseases of the eye and who require only simple magnifying lens.

PAR. 7. The use by the respondents of the foregoing advertisements containing the false, misleading and deceptive statements and representations above referred to have had and now have the capacity and tendency to mislead and deceive substantial numbers of the purchasing public into the erroneous and mistaken belief that such statements and representations were and are true and into the use of respondents' devices and the purchase of substantial quantities of respondents' eye-glasses, because of such erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

#### DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decisions of the Commission and Order to File Report of Compliance," dated May 22, 1955, the initial decision in the instant matter of hearing examiner Earl J. Kolb, as set out as follows, became on that date the decision of the Commission:

#### INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding charges the respondents Advance Spectacle Company, Inc., a corporation, and Michael M. Egel, individ-

ually and as an officer of Advance Spectacle Company, Inc., with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, in connection with the sale and distribution of eyeglasses through and by means of a self-testing device designated as "14 Lens Sample Card."

After the issuance of said complaint and the filing of their answer thereto, the respondents entered into a stipulation for a consent order with counsel for the complaint, disposing of all the issues in this proceeding, which stipulation was duly approved by the Director and Assistant Director of the Bureau of Litigation.

Respondents, pursuant to the aforesaid stipulation, admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations. Said stipulation further provides that the answer heretofore filed by respondents is to be withdrawn and that the parties expressly waive a hearing before the Hearing Examiner or the Commission, the filing of exceptions or oral argument before the Commission, and all other procedure before the Hearing Examiner and the Commission to which the respondents may be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission.

In said stipulation, respondents further agreed that the order to cease and desist issued in accordance with said stipulation shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived all right, power and privilege to challenge or contest the validity of such order.

It was further provided that said stipulation, together with the complaint, shall constitute the entire record herein; that the complaint therein may be used in construing the terms of the order issued pursuant to said stipulation; and that said order may be altered, modified or set aside in the manner prescribed by statute for the orders of the Commission.

The Hearing Examiner has considered such stipulation and the order therein contained, and it appearing that said stipulation and order provides for an appropriate disposition of this proceeding the same is hereby accepted and made a part of the record, and the following jurisdictional findings made, and the following order issued:

1. Respondent Advance Spectacle Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its place of business located at 537 South Dearborn Street, Chicago, Illinois. Individual respondent,

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## Order

Michael M. Egel, is president and treasurer of corporate respondent and formulates the policy of said corporation and directs, controls and puts into effect all of its acts and practices.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and this proceeding is in the interest of the public.

## ORDER

*It is ordered,* That respondents Advance Spectacle Company, Inc., a corporation, and its officers, and respondent Micheal M. Egel, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of eyeglasses, 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 represents, directly or by implication, that the eyeglasses sold by respondents, made pursuant to the results of tests of the eyes using respondents' devices, will correct, or are capable of correcting, defects in vision of persons unless expressly limited to those persons approximately forty years of age and older who do not have astigmatism or diseases of the eye and who require only simple magnifying lenses.

2. Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of their eyeglasses in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains the representation prohibited in paragraph 1 hereof.

## ORDER TO FILE REPORT OF COMPLIANCE

*It is 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 the order to cease and desist [as required by said declaratory decision and order of May 22, 1955].

IN THE MATTER OF  
JOSEPH TRINER CORPORATION

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

*Docket 5227. Modified Order, May 26, 1955*

Order modifying findings and order issued on June 27, 1945, 40 F. T. C. 668, in which the Commission found that respondent corporation had made false representations in advertisements and failed to reveal material facts, in connection with the sale of a medicinal preparation sold by it designated as "Triner's Bitter Wine", etc.

*Mr. Joseph Callaway and Mr. Daniel J. Murphy* for the Commission.

*Kerner, Jaros & Tittle and Mr. Henry Junge*, of Chicago, Ill., for respondent.

ORDER REOPENING PROCEEDING AND GRANTING IN PART AND DENYING  
IN PART PETITION FOR MODIFICATION OF FINDINGS AND ORDER

This matter coming on to be heard upon petition of respondent Joseph Triner Corporation, filed February 25, 1955, to reopen the proceeding and to modify the findings as to the facts and order to cease and desist, and upon answer thereto filed by the Legal Adviser on Deceptive Practices, Bureau of Litigation, opposing in part, and interposing no objection in part thereto; and

The Commission having duly considered the matter and having concluded that respondent's petition for modification should be granted in part and denied in part, as hereinafter indicated, and that the proceeding accordingly should be reopened for that purpose:

*It is ordered*, That said petition to reopen be, and it hereby is, granted.

*It is further ordered*, That Paragraphs Four and Five of the Findings as to the Facts herein be modified by deleting from each of said paragraphs the phrase "poor appetite", that Paragraph Six in said Findings be deleted, and that Paragraph Seven thereof be renumbered as Paragraph Six.

*It is further ordered*, That the Order to Cease and Desist herein be modified by deleting from Paragraph 1 (a) thereof the phrase "poor appetite", by deleting Paragraph 2 in its entirety, and by renumbering Paragraph 3 as Paragraph 2 and deleting from said paragraph the

