

## Complaint

## IN THE MATTER OF

## CARLTON FREDERICKS

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

*Docket 8668. Complaint, Oct. 25, 1965—Decision, Feb. 20, 1967*

Order dismissing a complaint against an author and radio lecturer on diet and nutrition which charged respondent with allegedly misrepresenting his academic background and status, the number of radio stations carrying his program, and the copyright data of his book on diets.

## 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 Carlton Fredericks, hereinafter 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 Carlton Fredericks is an individual whose home address is Spring Valley, Rockland County, New York, and whose business address is 1440 Broadway, New York, New York.

PAR. 2. Respondent is now, and has been for some time last past, engaged in selling and distributing a radio program concerning nutrition, diet and health. Respondent's said program is recorded on tape by him at his home and place of business, and said tapes are then distributed by respondent or his agents to various radio stations throughout the United States. Respondent also writes, and has written and published, books and pamphlets concerned with nutrition, diet and health, which books and pamphlets are sold and distributed by respondent or his agents to purchasers thereof located in various States of the United States.

Respondent maintains, and at all times mentioned herein has maintained, a substantial trade in said radio programs, books and pamphlets in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the sale and distribution of his radio program recordings to various radio stations throughout the United States, and of his books and pamphlets to the purchasing public, respond-

ent has made certain statements and representations with respect thereto in advertisements and promotional material, including advertising appearing in trade magazines and newspapers, and in brochures and circulars.

PAR. 4. Among and typical, but not all inclusive, of the statements and representations made and appearing in said advertisements are the following:

The scripts of the [respondent's] programs have been translated into braille by the Library of Congress \* \* \*.

His [respondent's] Ph.D. dissertation \* \* \* was entirely in the field of nutrition \* \* \*.

He [respondent] taught Nutrition \* \* \* as a member of the faculty of the School of Education of New York University \* \* \*.

Visiting Lecturer \* \* \* College of Pharmacy, Columbia [University].

For the public services rendered in his broadcasts, Dr. Fredericks has received an honorary Doctorate of Humanities degree \* \* \*.

Dr. Fredericks is a Founding Fellow in the International College of Nutrition, and has been awarded the Diplomate by this college.

Dr. Fredericks' biography appears in: \* \* \* [the] National Cyclopedia of American Biography.

These Top Stations KNOW Carlton Fredericks SELLS \* \* \* WEIV, Ithaca, New York, WOIV, Syracuse, New York, WJIV, Albany, New York \* \* \*.

Eat, Live and Be Merry—a New Book by Carlton Fredericks \* \* \* Copyright 1961, by Nutrition Surveys, Inc.

PAR. 5. Through the use of said statements and representations, and of others not specifically set out herein, respondent has represented, and now represents, directly or by implication in his advertising:

1. That scripts of respondent's radio programs have been reproduced in braille by, or at the instigation of, the Library of Congress, an agency of the United States Government;
2. That respondent's doctoral dissertation or thesis was written on the subject of, or in the field of, the science of nutrition;
3. That respondent at one time held or enjoyed the rank of member of the faculty of New York University, and of Visiting Lecturer in the College of Pharmacy of Columbia University;
4. That respondent has received an honorary Doctorate of Humanities degree from an institution or academic body lawfully authorized and empowered to award the same;
5. That respondent has been awarded the degree or status of "diplomate" by an institution or academic body lawfully authorized and empowered to award the same;
6. That respondent's biography has been published in a cer-

tain encyclopedia of professional biography, *viz.*, "The National Cyclopedia of American Biography";

7. That certain radio stations, *viz.*, Station WEIV, Ithaca, New York, Station WOIV, Syracuse, New York, and Station WJIV, Albany, New York, broadcast respondent's radio program;

8. That a certain book, *viz.*, "Eat, Live and Be Merry," was a "new" book authored by respondent, and was copyrighted in the year 1961 by "Nutrition Surveys, Inc."

PAR. 6. In truth and in fact:

1. Scripts of respondent's radio programs have not been reproduced in braille by, or at the instigation of, the Library of Congress or any other agency of the United States Government;

2. Respondent's doctoral dissertation or thesis was not written on the subject of, in the field of, nor was it concerned with, the science of nutrition;

3. Respondent has at no time been a member of the faculty of New York University, nor has he held the rank of Visiting Lecturer in the College of Pharmacy of Columbia University, nor has he held a teaching relationship with any institution of learning other than Fairleigh Dickinson University, Rutherford, New Jersey;

4. Respondent has not received the honorary degree of Doctor of Humanities from an academic institution lawfully entitled or empowered to award or grant the same, but on the contrary has been "awarded" the said degree by a foreign school of theological learning which said school is not entitled or empowered by its charter to award or grant the same;

5. Respondent has not been awarded the degree or status of "diplomate" by any institution or academic body lawfully authorized or empowered to award the same;

6. Respondent's biography has not appeared in the publication entitled "The National Cyclopedia of American Biography";

7. Radio Stations WEIV (Ithaca, New York), WOIV (Syracuse, New York), and WJIV (Albany, New York) have not broadcast respondent's radio program;

8. The edition of the book referred to as "Eat, Live and Be Merry, a new book by Carlton Fredericks \* \* \* copyright 1961 by Nutrition Surveys, Inc." was not a "new" and previously unpublished book, but on the contrary was essentially the same book which had been published under that title in 1951; said book was not copyrighted in 1961 and was never copyrighted by "Nutrition Surveys, Inc."

Therefore, the statements and representations made by re-

spondent as set forth and referred to in Paragraphs Four and Five were and are false, misleading and deceptive.

PAR. 7. The use by respondent of the foregoing false, misleading and deceptive statements and representations in advertising has had and now has the tendency and capacity to mislead and deceive those purchasing radio programs, and the purchasing public, into the mistaken belief that such statements and representations were, and are, true, and into substantial purchases of respondent's radio programs and books and pamphlets respectively by reason thereof.

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

*Mr. Richard Whittington Whitlock and Mr. Edward F. Downs*, supporting the complaint.

*Mr. Milton A. Bass* (assisted by *Mr. Robert Ullman*), of *Bass & Friend*, New York, N.Y., for respondent.

INITIAL DECISION BY JOSEPH W. KAUFMAN, HEARING EXAMINER

JULY 11, 1966

The complaint herein, issued on October 25, 1965, alleges the making of deceptive statements and misrepresentations constituting violation of the Federal Trade Commission Act, presumably Section 5 in particular. An answer was interposed, followed (on order of the examiner) by an amended answer. Various motions were filed directed to the complaint and the answer, and seeking discovery, as to which the examiner made various rulings.

A nonpublic prehearing conference was held, and is reported in the stenographic transcript, consisting of 99 pages. The examiner issued a detailed prehearing conference order of directions dated January 12, 1966, followed later by certain supplementary directions.

There was considerable discovery. Each side submitted lists of proposed witnesses and exhibits, and also indicated the issue to be proved by each witness and exhibit. Copies of exhibits were exchanged. Both sides were very cooperative.

The Commission authorized hearings in both Washington, D.C., and New York, adopting a recommendation by the examiner

that this be done pursuant to a plan obviating the necessity for going to New York more than once. The hearing commenced in New York City on March 30, 1966, where it continued until April 8, and concluded with one day in Washington, D.C., on April 12. There is a hearing transcript of 969 pages.

Practically all of the witnesses were called by complaint counsel, most of them being faculty members of New York University, where respondent took his Ph.D. and also briefly taught; they testified as to the meaning, particularly at said University, of a Ph.D. thesis "in nutrition" and of "faculty member," the subjects of two alleged misrepresentations. Although complaint counsel gave notice that they were calling two faculty members of the School of Pharmacy of Columbia University on whether or not respondent was a "visiting lecturer" there, they were not called, nor was any evidence presented as to whether or not respondent was a "visiting lecturer" there.

Complaint counsel also had listed a proposed witness from Canada, stating that he had specialized knowledge on Canadian academic institutions, on the issue of the authority of a certain institution there to issue an honorary doctorate degree held or claimed to be held by respondent; however, they did not produce him, nor any other specialized witness, or any general proof of Canadian law as to the authority to issue honorary degrees.

Paragraph Two of the complaint alleges that respondent has been engaged in selling and distributing a radio program concerning nutrition, diet and health, that the program is prerecorded by him and distributed by him or his agents to various radio stations throughout the United States. It also alleges that he has written and published various books and pamphlets, also concerning nutrition, diet and health, although the proof mainly and predominately concerns one book, to wit, "Eat, Live and Be Merry." Interstate commerce is duly pleaded, and does not seem to be seriously contested as such. But respondent strenuously denies that *he* made the representations in commerce, rather than independent third parties.

Paragraph Three of the complaint alleges that in the course of his business, and for the purpose of inducing the sale of his radio program recordings to radio stations, and of his books and pamphlets to the purchasing public, respondent has made "certain statements and representations with respect thereto in advertisements and promotional material, including advertising appearing in trade magazines and newspapers, and in brochures and circulars."

Said paragraph three expressly relates to representations not only to "radio stations" in connection with his radio program, but to the "purchasing public" in connection with his writings. However, the proof is, for all practical purposes, that all but one of the representations were made to radio stations, in connection with the sale of respondent's radio program. Only one representation was made to the general public, in connection with a book, pamphlet, or other writing, to wit, the book "Eat, Live and Be Merry."

Moreover, apart from the book representation to the public, all of the proved representations to radio stations are made in a single "large advertisement" in Broadcasting Magazine, except for one of them made in a single "small advertisement" in Broadcasting Magazine; both advertisements appeared as far back as 1961. Furthermore, both of these advertisements were subscribed by CF Productions, Inc., not by respondent, and were inserted by said company.

It will also be noted that the complaint alleges representations "in advertisements and promotional material." Complaint counsel at the hearing, in order to bolster up their proof, contended that various Who's Who and similar biographical sketches of the respondent come within the meaning of "advertisements and promotional material." The examiner ruled that they are neither advertisements nor promotional material—although relevant on the issue of respondent's responsibility for the derived representations in the advertising herein, since he referred the drafter of the advertising to the biographical sketches.

In general, the hearing examiner finds in this decision that complaint counsel have completely failed in their proof as to all the alleged misrepresentations to the radio stations, and have succeeded in their proof only as to the one representation to the general public in connection with the book "Eat, Live and Be Merry." In general, the examiner has found that none of the representations to the radio stations have been proved to be false, except perhaps two which were inadvertent and not worthy of serving as the basis for the issuance of a cease and desist order.

The following is a quotation of paragraph four of the complaint, purporting to quote the specific representations relied on. The subnumbering is added by the examiner but is the same as used in five and six of the complaint:

PAR. 4. Among and typical, but not all inclusive, of the statements and representations made and appearing in said advertisements are the following:

[1] The scripts of the [respondent's] programs have been translated into braille by the Library of Congress \* \* \*.

[2] His [respondent's] Ph.D. dissertation \* \* \* was entirely in the field of nutrition \* \* \*.

[3] He [respondent] taught Nutrition \* \* \* as a member of the faculty of the School of Education of New York University \* \* \*.

Visiting Lecturer \* \* \* College of Pharmacy, Columbia [University].

[4] For the public services rendered in his broadcasts, Dr. Fredericks has received an honorary Doctorate of Humanities degree \* \* \*.

[5] Dr. Fredericks is a Founding Fellow in the International College of Nutrition, and has been awarded the Diplomate by this college.

[6] Dr. Fredericks' biography appears in: \* \* \* [the] National Cyclopedica of American Biography.

[7] These Top Stations KNOW Carlton Fredericks SELLS \* \* \* WEIV, Ithaca, New York, WOIV, Syracuse, New York, WJIV, Albany, New York \* \* \*.

[8] Eat, Live and Be Merry—a New Book by Carlton Fredericks \* \* \* Copyright 1961, by Nutrition Surveys, Inc.

These representations are quoted, but in some instances more fully, in Part FOUR of this decision. There is a fuller quotation herein, particularly as to No. 2 and No. 8, both of which make liberal uses of asterisks; No. 2 also omits a preceding and a following sentence deemed by the examiner to be pertinent.

For convenience, and for further use in captions of various subparts of this decision, the alleged misrepresentations will be listed here in the following cryptic form:

1. *Brailleing of radio scripts by Library of Congress.*
2. *Ph.D. thesis in "nutrition."*
3. *Faculty member, New York University.*  
*Visiting lecturer, School of Pharmacy, Columbia Un.*
4. *Honorary Doctor of Humanities.*
5. *"Diplomate."*
6. *National Cyclopedica biographe.*
7. *On Ivy stations—WEIV, WOIV, WJIV.*
8. *New book, Copyright 1961; author thereof.*

Both sides have duly filed proposed findings and conclusions, together with legal argument, as well as supplemental submissions subsequently authorized by the examiner.—Important exhibits are reproduced herein as part of the decision.

#### FINDINGS OF FACT AND DISCUSSION

All findings of fact in this case are contained herein. Any proposed finding not found here is disallowed, although not necessarily on the ground of lack of proof.

Salient findings of fact are emphasized. Evidentiary facts and

discussion are not, except where unavoidably intertwined with fact.

These "Findings" are subdivided into various parts, which follow the numbering, and essential content, of each of the below paragraphs of the complaint, as follows:

- ONE. Identification of Respondent.
- TWO. His Occupation.—"Commerce."
- THREE. Chargeability as to Representations.
- FOUR. Text of Representations.
- FIVE. Meaning of Representations.
- SIX. Truth or Falsity.
- SEVEN) Substantial Effect.
- EIGHT.) Public Interest or Injury.

The following are typical abbreviations, and their meaning, used herein:

- TR 199—Transcript of testimony—page 199.
- TR 199:3—Same—page 199, line 3.
- CX 1—Complaint counsel's Exhibit 1 in evidence.
- RX 1—Respondent's Exhibit 1 in evidence.
- CPF 9—Complaint counsel's Proposed Findings, number 9.
- RPF 9—Respondent's Proposed Findings, number 9.

Any pending and undecided motions are hereby denied.

#### ONE

##### *Identification of Respondent*

Respondent Carlton Fredericks is an individual whose home address is 5 Patricia Drive, New City, Rockland County, New York State (TR 52:23), and whose business address is in New York City.

#### TWO

##### *His Occupation.—"Commerce."*

*Respondent is well known as a radio lecturer on the subject of nutrition, diet, and health. He has a popular radio program on this subject, and most of the challenged representations here concern the advertising of his program addressed to radio stations. His program is ordinarily prerecorded by him in New York, and at home or in his place of business, and the tapes are then sold and distributed by him, or others for him, to various radio stations throughout the United States, the program being widely broadcast—although sometimes his program, or a lecture, may be*



broadcast "live." Selling, distributing, and advertising the tapes, has been done, so far as concerns the present case, through CF Productions, Inc., of New York City.

Respondent is also the author of books and pamphlets concerned with nutrition, diet, and health, and is well known as the author of "Eat, Live and Be Merry." Said book, 1961 edition, is directly involved in this case but only in connection with one challenged representation, in two parts, to wit, the "New Book \* \* \* Copyright 1961" representation, on the paperback book's front cover. Said book, in said 1961 edition, as well as the 1951 edition, was sold, published, and distributed by respondent, or others for him, throughout the United States, and widely distributed throughout the country. Said book, in both editions, has been published by Paxton-Slade Publishing Corporation of New York and, presumably, directly distributed by it as the publisher.

The above findings, primarily as to respondent's radio program and his book or books, are not believed by the examiner to be in dispute. They have been pieced together by resort to the complaint, the amended answer, and the Proposed Findings, including supplements, on each side. They are supported by the evidence.

Respondent maintains and at all times mentioned herein has maintained a substantial trade in commerce in his said radio program and his said book or books, and presumably the pamphlets—as "commerce" is defined in the Federal Trade Commission Act. "Commerce" is proved largely through his two "agents" named above, and his close relationship to them, which will be detailed in THREE, *infra*.

As for his radio program, the challenged representations were all inserted by CF Productions, Inc., in two advertisements, both appearing in *Broadcasting Magazine*, circulated throughout the United States. Moreover, the "tapes" were distributed throughout the United States by said CF Productions, Inc.

"Substantiality" of commerce is also proved. Both respondent's program and his writings are, as already found, each widely distributed; and, viewing both together, with their same subject matter, the showing is clear. Substantiality is further indicated by the well-known popularity of books and broadcasts on respondent's subject of nutrition, diet, and health—to the extent, perhaps, of a national fad—so that respondent's books and writings have inevitably been competitive with similar programs and writings authored by others.

The alleged representations proved in this case, both in con-

*nection with advertising respondent's radio program to radio stations and with the "new book" \* \* \* representation advertising his book to the public, were "in commerce" within the meaning of the Federal Trade Commission Act for the purposes of jurisdiction.*

*However, and in conclusion, although the requisite commerce is found by the examiner in this case, the finding is dependent on the finding in THREE hereof that respondent is chargeable with the representations made by others.*

"Commerce" does not seem to be a real issue in this case, at least not as such.

Paragraph Two of the complaint alleges, in the first paragraph thereof, the movement of respondent's radio "tapes" and his writings throughout the United States:

The second paragraph of Paragraph Two alleges that respondent has maintained a substantial trade in his program and writings "in commerce."

The amended answer (Par. 2) of respondent does deny "each and every allegation" of the complaint and it affirmatively alleges that the "correct facts" are that respondent is "a renowned [radio] commentator" and a "distinguished author" on nutrition, diet, and health.—This may mean, of course, that respondent disassociates himself from any program distributor or book publisher making the representations "in commerce," and that therefore respondent claims he himself is not in commerce. However, this is more a question of the law of agency, a subject which is passed on in Part THREE, *infra*.

Moreover, respondent's formal motion to dismiss the complaint herein, filed on November 20, 1965, although it expressly denies "trade or commerce" (p. 3), does so only on the ground that the complaint "does not present a charge of public interest" (p. 3), citing and quoting (pp. 4,5) *F.T.C. v. Klesner*, 280 U.S. 19.

Respondent's Proposed Findings, in a presentation of 35 pages, does not contain a single reference to "commerce" or "substantial commerce." Furthermore, the sole reference to "jurisdiction" (Conclusions of Law, p. 4) is a naked statement that there is no showing that respondent sold or advertised the radio tapes or books. This again seems to raise the agency question, rather than the commerce question as such.

It is only in his supplemental proposed findings, answering complaint counsel, that respondent, attacking complaint counsel's proposal as to commerce, explicitly states (p. 5) that the "ques-

tion of commerce is very much in dispute and is denied and explained in respondent's answer and discussed in respondent's proposed finding, pages 2 through 4 thereof."

We have already examined respondent's answer, that is, his amended answer, as to how the question of commerce is "denied and explained." We have found that the allegation of "commerce" is not denied in the usual sense, although it is denied in the limited sense that respondent claims to be merely a radio lecturer and writer not bound up by the acts of a program distributor or book publisher coming within the commerce clause.

As for the reference to pages 2 through 4 of respondent's Proposed Findings, we now turn to them and find there simply two proposed findings with discussion to the effect that the radio program and the book or books were not sold by respondent but by C. F. Productions, Inc., and Paxton-Slade, respectively, and that respondent was just a radio performer and writer, nothing more. This again, as in the answer, contends that respondent is out of commerce only by presenting questions of the law of agency, which are treated in this decision in Part THREE.

Of course, the precise question here is whether the challenged representations (as attributable to respondent) were in commerce. Courts are not too strict in finding such requisite commerce. See, for instance, *John A. Guziak v. F.T.C.* (U.S.C.A. 8th, June 8, 1966) [8 S.&D. 188].

Finally, it may be noted here that, inasmuch as the decision herein finds no violation except as to the "new book" representation, the commerce question is moot except in respect to the "new book" representation, made to the general public. The commerce question is therefore hardly important as to the other representations directed to radio stations through the two advertisements in *Broadcasting Magazine*.

There are not too many statistics, but the following note is in order: First of all, there is no doubt that respondent's radio talks and his books are intertwined in his nation-wide coverage. At its apex, he testified, possibly as many as 300 stations carried his program, scattered over the whole country (TR 54:19-22). The 1951 edition of his book sold to the extent of possibly half a million copies (TR 497:7), throughout the country (TR 493:25-494:2). There are no figures in the record for the 1961 book, the book in question here, but this is simply the same book, with a few minor corrections, with the same publisher as the 1951 book (SIX (8), *infra*). The 1961 book sold until sometime in 1964 (TR 498:22-24).

## THREE

*Chargeability as to Representations*

The statements and representations as quoted in the complaint are set forth in part FOUR below, although with some supplementation. All these statements and representations were made to radio stations, i.e., readers of *Broadcasting Magazine*, for the purpose of selling respondent's radio programs—except for No. 8 (New book [Copyright 1961]) made to book readers or the general public, on respondent's paperback book itself, for the purpose of selling same.<sup>1</sup>

First, in the course and conduct of his business and for the purpose of inducing the sale and distribution of his radio program recordings to various radio stations throughout the United States, respondent has made, or is chargeable with having made, as will be shown below, certain but not all of these statements and representations, with respect thereto. These statements and representations, i.e., to radio stations, were all made, except one, in a single full-page advertisement in *Broadcasting Magazine*, dated November 20, 1961, the so-called "large advertisement."<sup>1</sup> The one exception, No. 7 (Ivy stations) was in an advertisement in the same magazine, dated November 6, 1961, the so-called "small advertisement"—one of the representations which respondent is held not chargeable with having made.

Both advertisements were inserted and subscribed by C. F. Productions, Inc., found here to be sufficiently respondent's agent, and held out as such by its initials referring to respondent's name with respondent's acquiescence.

The examiner holds that respondent so made, or is chargeable with having made, as distinguished from C. F. Productions, Inc., such statements and representations except that he is not chargeable with the following, for the reasons hereunder indicated:

No. 3 ("Visiting Lecturer" portion)—Not in advertisement. No evidence on falsity. [Second part of No. 3.]

No. 5 (*Diplomate*)—Not furnished by respondent. Respondent promptly "stopped" it.

No. 6 (*In National Cyclopaedia*)—Complete inadvertence; merely premature. Also *de minimis*.

<sup>1</sup> Representations similar to No. 1 (Braille by Library of Congress) also appear on the outside back cover of respondent's books, thus reaching the general public. For various reasons, including nonfalsity, this is an unimportant qualification to the above statement. See discussion at end of this Part THREE entitled *Book Representations*—latter part, entitled *Outside Back Cover, Braille Representation (No. 1)*.

No. 7 (*On Ivy Stations*)—Not furnished by respondent. Also *de minimis*. [No. 7 is in “small advertisement.”]

(Complaint counsel in their submissions after the hearing moved to reopen the hearing, so that they might rely on statements similar to the “Visiting Lecturer” portion of No. 3, and call witnesses not produced at the hearing to prove falsity. This motion has been denied, as set forth herein.)

*Second, in the course and conduct of his occupation as a writer and for the purpose of inducing the sale and distribution of his book “Eat, Live and Be Merry” (CX 45) to the purchasing public, respondent made, or is chargeable with having made, as distinguished from C. F. Productions, Inc., a certain statement or representations in respect thereto on the outside front cover of said paperback book, namely that it was a “new book” (No. 8, supra), which statement may be read together with the date 1961 of the copyright notice inside the book.*

*However, said “Copyright 1961” portion of No. 8 is not held to be a representation as such as distinguished from a copyright notice<sup>2</sup> or at least not a representation as such chargeable to respondent.*

More detailed discussion and findings as to both the radio program and the book representations will now be set forth.

#### *Large Advertisement*

*In General.*—The large advertisement contains representations 1 through 6—except, as already stated, the second part (Visiting Lecturer) of No. 3, which is not to be found therein or in any other promotional material (and as to which there is no proof of falsity).

The question as to respondent’s liability for the “large advertisement” subscribed and inserted by C. F. Productions, Inc., is not too critical in this case, inasmuch as the examiner finds that the representations have not been proved to be false or, in some instances, not chargeable to respondent for special reasons. (A similar observation also applies to the “small advertisement” containing representation No. 7 (Ivy stations) found to be not chargeable to respondent.)

The examiner holds that C. F. Productions, Inc., was sufficiently respondent’s agent, and by reason of having his initials in its name with his acquiescence, sufficiently his *apparent* agent, to hold him responsible for all representations (subject to any special

<sup>2</sup> Except that it is held that it is a representation (although not by respondent) that it was registered in the Copyright Office.

