

1 THE COURT: I think in order to set
2 everything in context we ought to understand that
3 Raymond Salani is a nutritionist and no matter what
4 happens here today he will continue to be a
5 nutritionist, he will be advising people what they
6 should do with regard to their diet and for their
7 general health, things of that nature.

8 We should also understand that we are
9 discussing Ph.D in quotes, we're not discussing the
10 term doctor which normally flows from the Ph.D,
11 because I think it's pretty well agreed that no
12 matter what happens today, he will not be holding
13 himself out with the word doctor, because there's
14 another statute which implicates medical connotations
15 to the word doctor, and it's pretty clear that he's
16 not medically qualified and that the public, that's
17 all we're talking about, the public may be misled in
18 some fashion which is why the State has properly
19 moved with regard to the use of doctor.

20 Ph.D does not implicate medical aspects
21 necessarily. But he will continue with or without
22 Ph.D to be nutritionist. That is his livelihood and
23 I think it is important to recognize the distinction
24 between one's livelihood and a title or letters,
25 because title involves pride in a sense, title

1 involves public recognition of academic striving, but
2 it doesn't involve making a living necessarily,
3 certainly Ph.D rarely involves making a living unless
4 you are going to go into the university departments
5 and move up in the departments.

6 Raymond Salani did get from a mail order
7 institution, Donnsback University of Huntington
8 Beach, California, a Ph.D degree, he applied in 1979,
9 I think the degree was given to him in 1980 and
10 certainly there's nothing improper about doing it,
11 there's nothing wrong about mail order education,
12 except insofar as what might happen as a result
13 of it.

14 Certainly nothing wrong with his practicing
15 as a nutritionist so long as that practice does not
16 implicate other statutory enactments which are there
17 for the general protection of the public. I think
18 it's certainly basic to government that the
19 government is there to protect people, to protect
20 them from being prayed upon and I'm using that
21 terminology not with reference to what he's doing but
22 in the general context.

23 One would say that people are generally dumb
24 and not very smart about things and it's up to the
25 government to look over the situation and be smart on

1 really doesn't apply to this situation. The Consumer
2 Fraud Act basically has to do with the
3 misrepresentations in the sale of things for people.
4 I-got-the-best-second-hand-car-you-ever-saw kind of
5 thing. The Consumer Fraud Act has been extended to
6 the sales of real property, too. But the Consumer
7 Fraud Act really is the square hole for the round peg
8 of this case.

9 What Mr. Salani is doing is not fraudulent as
10 far as the consumer is concerned because the consumer
11 goes to him as a nutritionist. What he wants to do
12 is in effect to continue to impress the consumer who
13 comes to him by saying I'm a Ph.D, too.

14 Now, there is a statute that tells him now
15 that he can't do that. The statute says very
16 plainly, a person shall not append to his name any
17 letters in the same form designated by the Board of
18 Higher Education as entitled to the protection
19 accorded to an academic degree unless the person has
20 received from a duly authorized institution of higher
21 education the degree or certificate for which the
22 letters are registered.

23 It's entirely clear that Donnsback University
24 of Huntington Beach, California is not nor has it
25 ever been a duly authorized institution of higher

1 education for the awarding of those degrees as far as
2 accreditation is concerned. It was allowed to
3 operate in the State California, that's true. And
4 California apparently allowed it to give the degree,
5 that's true, but as far as accreditation is concerned
6 is has never been accredited by any board and
7 especially the U.S. Department of Education which is
8 a recognized accrediting organization, that's where
9 accreditation takes place. It has never received
10 that.

11 The argument is that because he has been
12 saying to people since 1980 I'm a Ph.D, he ought to
13 be able to continue saying that and that if somehow
14 or other an injunction is entered against his doing
15 that, that will be a retroactive application of this
16 law which was enacted in 1986. I really can't see
17 that argument, I really can't understand that. If
18 the State, as I said before in discussing it, Ms.
19 Spencer, if the State were coming in and saying you
20 have been a villain in the past, Raymond Salani,
21 because you have been misrepresenting yourself under
22 this statute and, therefore, we're going to penalize
23 you for what you have done in the past, I would agree
24 with the argument, they couldn't do that.

25 But that's not what's before me. This is not

1 a penalty proceeding. This is an application for an
2 injunction, to enjoin him against prospective or
3 future use of that insofar as the statute is
4 concerned. And I agree that it's not a vested right
5 that he has. He may arguably have a vested right in
6 being a nutritionist but nobody has a vested right in
7 saying after the name Ph.D. That has nothing to do
8 with livelihood. That has to do with more personal
9 pride, really, that's all it is, than to say that's a
10 vested right which has constitutional protection
11 doesn't strike me as being logical or reasonable.

12 The legislature has the right to make laws.
13 In this case, it's a law to protect the people out
14 there in the sense that the Consumer Fraud Act
15 protects people out there in a particular way. This
16 is to protect people out there from relying on those
17 who put degrees after their name as something special
18 simply because they have degrees, I mean, Ph.D, well,
19 the next thing that follows from Ph.D in the mind of
20 most people is, well, he must be a doctor of some
21 sort, not medical doctor but what the academic degree
22 implicates, and whether or not he uses the word
23 doctor along with his name, the public is going to
24 think of him as Dr. Salani because he's got the Ph.D.
25 You know, the two really can't be distinguished

1 separately from one another, while he says I wouldn't
2 use the word doctor or Dr. after my name, but I want
3 to use Ph.D, that really is going to accomplish the
4 same purpose, the idea of doctor out there, somebody
5 who is super-extra because of the Ph.D, he's not
6 entitled to give that impression to people that he is
7 super extra because he did not get a Ph.D from an
8 accredited university, he did it by mail order
9 courses.

10 If the public was aware there were mail order
11 courses they would say it's a Mickey Mouse degree.
12 But they are not aware of mail order courses and they
13 are not aware of the validity of the degree and the
14 only way we can protect the public is to do what the
15 legislature said ought to be done, the person shall
16 not append to his name, and, therefore, I think the
17 matter is ripe for summary judgment and I will enter
18 a permanent injunction based on the summary judgment
19 which will direct Mr. Salani from henceforth not to
20 append to his name any letters Ph.D, and I'll sign
21 that order.

22 Thank you for presenting the matter.

23 MS. ERSHOW-LEVENBERG: Thank you, your Honor.

24 MS. SPENCER: Thank you, your Honor.

25 MS. ERSHOW-LEVENBERG: I have forms of order

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with me.

(Whereupon, the hearing was concluded.)

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I, HUGH PORTER, a Certified Shorthand
Reporter of the State of New Jersey certify the
foregoing to be a true and accurate transcript of
my stenographic notes.

Hugh Porter

HUGH PORTER, C.S.R.