

Complaint

IN THE MATTER OF
PERFOLASTIC, INCORPORATEDCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2010. Complaint, Feb. 12, 1932—Order, May 16, 1932*

Consent order requiring respondent corporation, its agents, etc., in connection with sale in interstate commerce of corsets and abdominal girdles, to cease and desist from representing (1) that the figure of the wearer takes on, instantly, youthful lines, use of corset or girdle breaks down the fat cells or takes years off the appearance of the wearer; or (2) that there is a special reduced price offer good for 10 days only, opportunity exists to make a purchase at a lower price than ever asked before, or than will ever be asked again, or that the price is special or reduced or article is sent on free trial, when such is not the fact; all as in said order set forth and qualified.

Mr. Richard P. Whiteley for the Commission.

Kaplan, Kosman & Streusand, of New York City, for respondent.

COMPLAINT

Acting in the public interest, pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that Perfolastic, Inc., a corporation, hereinafter referred to as respondent, has been and is now using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act, and states its charges in that respect as follows:

PARAGRAPH 1. That the respondent, Perfolastic, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business located in the city of New York in said State. It is now and for more than two years last past has been engaged in the manufacture of corsets and abdominal girdles and in the sale and distribution of such products in commerce between and among various States of the United States, has caused said products, when sold, to be shipped from its place of business in the State of New York, to purchasers thereof located in a State or States of the United States other than the State of New York. In the course and conduct of its busi-

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ness, Perfolastic, Inc., was at all times herein referred to in competition with other corporations, individuals, and partnerships likewise engaged in the sale and distribution in interstate commerce of corsets and abdominal girdles.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, Perfolastic, Inc., in soliciting the sale of and selling of aforesaid products, to wit, corsets and abdominal girdles, in interstate commerce between and among various States of the United States for more than two years last past has caused and now causes advertisements to be inserted in publications having general circulation between and among the various States of the United States and by means of other advertising matter, such as letters, circulars, and pamphlets circulated by it in interstate commerce, as aforesaid, has made the following statements and representations concerning its said corsets or abdominal girdles:

NEW VENTILATED GIRDLE REDUCES WAIST AND HIPS

OFTEN 2 TO 4 INCHES IN 10 DAYS

Here's a wonderful new ventilated girdle that makes you look slimmer instantly and actually reduces your bulky hips and waist—often from 2 to 4 inches in 10 days.

Your figure takes on—Instantly—straight, slender youthful lines.

With every breath you draw—every step you take—its constant, gentle massage-like pressure breaks down the fat cells—which are 85 per cent water—and molds away unwanted flesh just as a skilled masseuse would.

Now isn't it worth \$7.50 to you to have the bulky, unsightly fat on waist and hips removed—your waistline lengthened—your figure become erect and graceful—and take years off your appearance? * * *

Truly, the Perfolastic girdle is the ideal way to reduce—comfortable, healthful, quick!

The special reduced price offer is good for 10 days only.

Here is an opportunity for you to secure this valuable reducing girdle at a lower price than has ever been asked before. A lower price than will ever be asked again.

You'll enjoy the comfort of wearing it all day long, knowing that it is at work every moment, gently but surely taking off the fat.

I inclose a little booklet, telling you more about the bandeau, which will be sent to you—absolutely free—with the special reduced price offer—if you send your order at once.

Free illustrated booklet gives full details and particulars of our 10-day trial offer with money-back guarantee that protects you from all risks.

You are completely unaware that it is gently and constantly at work removing excess fat with every move you make.

It drives the fat away while you walk, dance, or play.

Reclaim your lost figure—have the fashionable slim waist and tapering hips.

When in truth and in fact the said corset or abdominal girdle is not a new girdle which reduces the waist and hips; the user's figure

does not take on—instantly—straight, slender, youthful lines; is not so constructed that when worn every breath drawn—every step taken—imparts a constant, gentle massagelike pressure; does not break down the fat cells; does not mold away unwanted flesh just like a skilled masseuse; is not in all cases a remover of fat on waist and hips; is not so constructed that it is at work every moment gently but surely taking off the fat; is not so constructed that when worn it is constantly at work removing excess fat with every move the user makes; does not drive away the fat while the user walks, dances or plays; and when in truth and in fact the said corset or abdominal girdle is not sent on free trial without risk to the purchaser but the prospective purchaser is required to make a deposit or payment prior to its receipt and trial; and the price of said corset or abdominal girdle is not special, reduced, or less than the regular or prevailing price at which the said corset or abdominal girdle is regularly sold; and the time within which an offer may be accepted is not actually limited and orders received after the expiration of the stated limits are accepted.

PAR. 3. The above and foregoing representations in statements of respondent by means of which it has offered for sale and sold or is selling its products as set forth in this complaint, have had and have the capacity and tendency to mislead and deceive, and have misled and deceived the purchasing public into the belief that the said representations are true, and have tended to induce, and have induced, the purchase of respondent's corsets or abdominal girdles in reliance upon such erroneous belief, and have tended to divert trade from, and have diverted trade from, and otherwise injured, competitors of respondent.

PAR. 4. The use by respondent of the false, misleading, and deceptive representations, statements and assertions as herein above set forth constitutes practices or methods of competition which tend to and do (a) prejudice and injure the public, (b) unfairly divert trade from and otherwise prejudice and injure respondent's competitors, and (c) operate as a restraint upon and a detriment to freedom of fair and legitimate competition.

PAR. 5. The above acts and things done by said respondent as aforesaid are unlawful and constitute unfair methods of competition in interstate commerce within the intent and meaning of section 5 of an act of Congress entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

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ORDER TO CEASE AND DESIST

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission on the 12th day of February, 1932, issued its complaint against Perfolastic, Inc., a corporation, respondent herein, and caused the same to be served upon said respondent as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

On May 16, 1932, respondent entered its appearance in this proceeding and filed its answer to said complaint formally stating in writing that it desired to waive hearing on the charges set forth in the complaint and not to contest the proceeding, and consented that the Commission might make, enter, and serve upon it an order to cease and desist from the violations of the law alleged in the complaint and more specifically enumerated in the following order. Respondent also requested in said answer that the Commission proceed to final disposition of this proceeding upon said answer pursuant to the provisions of paragraph 2 of Rule III of the Commission's Rules of Practice and without further hearings.

The said answer of respondent was duly accepted and filed by the Commission, and thereupon this proceeding came on before the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, and the Commission being now fully advised in the premises,

It is now ordered, That respondent, Perfolastic, Inc., its agents, representatives, servants, employees, and successors in business, in connection with or in the course of the sale or distribution of corsets and abdominal girdles in interstate commerce, do cease and desist:

(1) From representing that the figure of the wearer of said corset or girdle takes on—instantly—youthful lines, or that the use of the corset or girdle breaks down the fat cells.

(2) From representing that the said corset or girdle takes years off the appearance of its wearer.

(3) From representing that the special reduced price offer is good for 10 days only when such is not the fact.

(4) From representing that the opportunity exists for the purchaser to secure said corset or abdominal girdle at a lower price than has ever been asked before, when such is not the fact.

(5) From representing that the opportunity exists for the purchaser to secure said corset or abdominal girdle at a lower price than will ever be asked again.

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(6) From representing that the price of said corset or abdominal girdle is special or reduced or less than the regular or prevailing price at which the said corset or abdominal girdle is regularly sold unless such be the fact, or that the said corset or abdominal girdle is sent on free trial when the purchaser is required to make a deposit or payment prior to its receipt and trial, unless respondent, in said statement or advertisement, agrees that the purchase price of said corset or girdle, together with the return postage, is to be refunded upon the request of the purchaser of the same.

It is further ordered, That said respondent Perfolastic, Inc., shall, within 60 days after the service upon it of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF
GEORGE E. SITTENFELD, TRADING AS GOODYEAR
MANUFACTURING COMPANY

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1678. Complaint, June 1, 1929—Decision, May 24, 1932

Where an individual engaged in sale to consumer by mail order of raincoats purchased by him from various manufacturers, and neither operating nor controlling any factory making articles so dealt in,

- (a) Included word "Manufacturing" in his trade name and prominently displayed said name, and slogan "For less money direct to wearer," upon the circulars, letterheads, invoices, and other literature distributed by him, with capacity and tendency to mislead and deceive purchasers and consumers throughout the various States into the erroneous belief that said individual was a manufacturer of raincoats who could and did sell same direct to consumer at only one profit;
- (b) Made use of merchandising discount checks of a purported value of \$5 in connection with offer and sale of said raincoats and represented in circulars, invoices, and other advertising literature distributed to prospective customers that he would accept said check at its full value of \$5 in part payment of his "introductory wholesale price," and in acceptance blanks and otherwise set forth regular price as \$12.95, reduced to recipient through employment of said check to only \$7.95, notwithstanding fact said check had no actual value, but constituted said individual's usual procedure to attract attention to his offer and to identify style and material of particular article offered with check inclosed; with capacity and tendency to mislead and deceive prospective purchasers and ultimate consumers into erroneous belief that a special price was being made to consumer far below the ordinary and regular selling price of the coats concerned;
- (c) Made such statements in circulars, invoices, etc. sent as above set forth as "You're Lucky! You have been awarded a GOODYEAR ADVERTISING CHECK," with "a value of exactly \$5," of which "only a limited number" have "been issued," and advised prospect that "a definite sum for advertising purposes" had been set aside and that it had "been decided" that the wearing of the garment concerned by the prospect addressed would serve such "advertising purpose to the best advantage" and that "the inclosed \$5 check if endorsed on the back and mailed to us within ten days will be accepted by us as part payment * * * so that the actual cost to you will be only the small balance of \$7.95 * * *," notwithstanding fact that award of said valueless check was not result of chance, coats were not limited, but were offered to every prospective customer on precisely same terms, prices were not specially reduced, and there was no special investigation or selection of prospective customers, but circulars, etc., were mailed by said individual to thousands of names at a time, from lists of doctors, lawyers, teachers, etc., obtained by him; with capacity and tendency to mislead and deceive prospective purchasers