

Syllabus

IN THE MATTER OF
WILLIAMS BROS. TAILORING CORP.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2311. Complaint, Mar. 4, 1935—Decision, Jan. 16, 1936*

Where a corporation engaged in the manufacture of men's clothing and in the sale thereof through local agents whom it obtained through advertisements in periodicals and newspapers and supplied with kits consisting of sales instructions, style book, testimonials, sample swatches, order blanks, tape measures, and other things, and with whom, as with its customers solicited by them, it had no personal contact—

- (a) Set forth upon said order blanks detailed instructions for various measurements, for use, purportedly, in ordering clothes made to individual measurements of purchaser, published in trade literature furnished salesmen such statements as "dependably tailored, * * * direct from a famous New York tailoring house, * * * all orders * * * accurately filled, * * * designed, cut and built by expert craftsmen, hand tailored at important points", "that look of quality that only custom tailored garments can give", and "from maker to wearer direct", and in a book supplied agents for purchaser's examination, set forth the words "custom tailored" and such statements as "fashions correctly designed for men and young men", "the very newest models", "the up-to-the-minute style in your * * * suit is needled into it to last for the life of the garment", and the unqualified declaration that the suits were made to the measure of individual, etc.;

The facts being that said clothes were not, for the most part, made to individual measure or custom tailored, but it was its practice to finish 75 per cent of its said garments, except for bottoms of pants and sleeves, and after receipt of orders, to select and alter such ready-made garments according to measurements received, and only 25 per cent, involving unusual or abnormal sizes or higher prices, were made to special orders according to the individual measurements;

- (b) Set forth upon said order blanks upon the same side as called for customer's measurements and signature, its so-called "iron-clad guarantee", stating that garments were made in latest style, were designed, cut and built by expert union craftsmen in modern daylight shops, and all orders were accurately filled; and in a conspicuous place in advertising literature, to be shown by agents to prospective purchasers but not retained by them, stated that, in order "that we may merit your confidence we back your purchase with a \$25,000 guarantee bond binding us to give you a garment that will entirely please you in fabric, fashion, fit and wearing quality or return the money we received";

The facts being that on the reverse of the aforesaid order blank, not mentioned to or seen by customer before signing the order, was a condition denying right to refund for clothes' failure to fit until it had been given a second trial and failed to give satisfaction a second time, and agents and customers found it difficult or impossible to secure satisfactory alterations of

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garments which failed to conform to measurements or selections as to pattern or fabric, or to secure either refund of money paid or satisfactory new garments;

With capacity and tendency to mislead and deceive the purchasing public into the belief that said representations were true and into the purchase of garments from it in reliance on such erroneous belief, and to divert trade to it from competitors who sell garments truthfully represented, advertised and described:

Held, That such acts and practices were all to the prejudice of the public and competitors and constituted unfair methods of competition. .

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. James M. Brinson for the Commission.

Mr. Meyer D. Siegel, of New York City, for respondent.

COMPLAINT

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 having reason to believe that Williams Bros. Tailoring Corp., hereinafter designated respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Williams Bros. Tailoring Corp., has been since 1927, and now is, a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its office and principal place of business is located in the city of Troy and State aforesaid.

It has been for several years last past, and now is, engaged in the manufacture of men's clothes of the type commonly known as ready made clothes, and in their sale and distribution in commerce among and between the State of New York and the various other States of the United States and the District of Columbia. It has caused and causes its said clothes when sold to be transported, usually in the mails of the United States, from its said place of business, into and through the various States of the United States and the District of Columbia, other than the State of New York, to purchasers at their respective points of location.

In the course and conduct of such business respondent has been and is in competition with individuals, partnerships and corporations offering for sale and selling men's clothes in interstate commerce.

PAR. 2. Respondent has conducted its business under various trade names, among which were Avenue Tailoring Company, Mastercraft Tailors, Empire State Tailors, Metro Tailors, and Olympic Tailors, until 1930, since which time its business has been conducted under the corporate name, Williams Bros. Tailoring Corp.

In the course and conduct of such business it has offered for sale and sold its men's clothes by means of salesmen or agents employed by it in the various States of the United States, to secure orders from purchasers and prospective purchasers by direct solicitation. Orders so obtained have been and are forwarded to respondent at its place of business in Troy, N. Y. Respondent has supplied and continues to supply its salesmen or agents with swatch books, style books, order blanks, and other equipment necessary or useful to them in seeking orders for its clothes, and it has been and is the practice of its salesmen or agents to use such equipment for said purpose. The order blanks so furnished its salesmen or agents, and which have been and are used by them, bear or contain detailed instructions for measurements of men, and otherwise purport to be for use in connection with ordering tailor made clothes, tailored clothes, or clothes made in accordance with individual measurements of the purchasers. It has been and is the practice of salesmen or agents of respondents to display such order blanks to purchasers and prospective purchasers, which blanks also carry the corporate title of respondent, to wit, Williams Bros. Tailoring Corp.

In the course and conduct of its said business respondent, its salesmen and agents, as inducements for the purchase of respondent's men's clothes, have made false representations and statements to the effect that clothes furnished by respondent in response to orders received from purchasers and prospective purchasers were, would be and are tailored, or tailor made, that is to say, made according to the individual measurements of purchasers after receipt of their orders from and out of the cloth or fabric selected by purchasers and specified in their orders. Respondent has prepared, caused to be distributed and distributes, among and through its salesmen or agents, printed matter which implies or imports that clothes sold by respondent have been, are and will be tailor made, or tailored, or made according to the individual measurements of purchasers after receipt of their orders. Among the expressions and phrases referring to the products of respondent in such printed matter are the following: "Dependably tailored, perfectly styled" * * * "Direct from a famous New York tailoring house," "Hand Tailoring", "All orders are accurately filled; all garments are designed, cut and built by ex-

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pert craftsmen", and "Hand tailoring at important points" * * * "Assures a snug fit and easy drape", and "That look of quality that only custom tailored garments can give," Swatch cards distributed by respondent or its salesmen or agents bear the slogan "From Maker Direct to Wearer."

Respondent has in connection with the offering for sale and sale of its clothes in the regular course and conduct of its business described and referred to its products, or some of them, as "Finest all virgin wool worsteds", "The cream of the looms in De Luxe virgin wool worsteds", "Hard worsted suits", and "All wool worsted line." It has been its practice to distribute swatch cards bearing a pictorial representation of a sheep's head, around which have been and are inscribed the words "Pure Wool Fabric." It has been and is the practice of respondent also, in connection with offering for sale and selling its clothes, to represent that it furnishes "Complete satisfaction, or 100 per cent guarantee."

In truth and in fact suits sold and distributed by respondent in commerce among and between the State of New York and the various other States of the United States and the District of Columbia have not been, were not, and are not tailored, or tailor made, or made according to individual measurements of the purchaser, or made to order, but have been, were, and are suits or clothes of the so-called stock kind or type commonly known and described as ready made clothes.

It has been and is the practice of respondent to select from clothes already made garments which appear in a general way to come near the measurements given in the orders and thereupon to deliver them to purchasers without regard for or reference to measurements specified in the orders received.

Respondent has also delivered to purchasers ordering clothes from it suits which have not been, were not, and are not made from or out of cloth corresponding with the sample exhibited by its agents or salesmen and selected by the purchasers, but have been made from and out of cloth or fabric cheaper than, or inferior to, that so selected by the purchaser, and also different in color and style from the requirements or specifications of the orders received.

In truth and in fact the clothes offered for sale and sold by respondent and so represented as wool or worsted have not been and are not, in numerous instances, made from or out of wool entirely but have been and are composed to a substantial extent of a material or materials other than wool, and in numerous instances respondent has failed either to fill orders as received or in accordance with specifications of the orders, or to alter clothes failing to fit the purchaser, or to refund

the money paid by purchasers, or to furnish complete or any satisfaction to them, or to support or fulfill its guarantee either to the extent of 100 per cent or at all.

PAR. 3. There are individuals, partnerships and corporations offering for sale and selling in commerce among and between the various States of the United States men's clothes of various kinds in competition with respondent.

PAR. 4. The above and foregoing practices of respondent have had, and have, and each of them has had, and has, the capacity and tendency to mislead and deceive the public into the belief that clothes ordered from respondent would be tailor made, or tailored, or made according to the individual measurements of purchasers after receipt of orders, from and out of cloth or fabric selected by purchasers, and in numerous instances out of woolen cloth or worsted and that purchasers would be satisfied by respondent or their money refunded, and into the purchase of such clothes in reliance on such erroneous belief.

The aforesaid practices of respondent have had, and have, and each of them has had, and has, the capacity and tendency to divert trade from competitors offering for sale and selling men's clothes in interstate commerce by truthful representations.

PAR. 5. The above and foregoing acts and practices of respondent have been and are all to the prejudice of the public and of respondent's competitors, and have been and are unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 4th day of March, A. D. 1935, issued and served its complaint in this proceeding upon respondent, Williams Bros. Tailoring Corp., a corporation, charging it with the use of unfair methods of competition in violation of the provisions of said Act.

After the issuance of said complaint, and the filing of respondent's answer thereto, testimony and evidence, in support of the allegations of said complaint were introduced by James M. Brinson, attorney for the Commission, before Charles F. Diggs, an examiner of the Commission, theretofore duly designated by it and in defense of the

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allegations of the complaint by Meyer D. Siegel, attorney for the respondent; and said testimony and evidence was duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and evidence, briefs in support of the complaint and in defense thereto, and the oral arguments of counsel aforesaid; and the Commission having duly considered the same, and being fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Williams Bros. Tailoring Corp., has been since 1927 and now is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. Its office and principal place of business is located in the city of New York and State of New York, while its plant for the manufacture of said product hereinafter described is located at Troy in said State.

Respondent has been for several years last past, and now is, engaged in the manufacture of men's clothes, and in their sale and distribution in commerce among and between the State of New York and the various other States of the United States and in the District of Columbia. It has caused and causes its said clothes, when sold, to be transported, usually in the mails of the United States, from its said place of business into and through the various States of the United States and the District of Columbia, to purchasers at their respective points of location.

In the course and conduct of such business respondent has been and is in competition with individuals, partnerships and corporations offering for sale and selling men's clothes in interstate commerce.

PAR. 2. It has been and is the practice of respondent to offer for sale and sell its men's clothes by means of or through local agents in the various States of the United States. Respondent obtains such agents through advertisements in magazines or newspapers. Anyone answering the advertisements of respondent for agents must furnish the information required in a form of application which is furnished him by respondent. After examination of this application respondent thereupon consults a confidential black list of unsatisfactory and dishonest salesmen supplied by the National Association of Direct Selling Companies, of which respondent is a member. If the name of the applicant for the position of an agent of respondent is not found in such list, such applicant thereupon is appointed an agent

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by respondent, provided it is satisfied with the information the applicant has supplied on the blank form of application furnished him by respondent. All transactions of respondent in connection with the sale of its clothes and all communications with its agents and customers are conducted through the mail. There is no personal contact between the customer of respondent and respondent, or between respondent and its said local agents.

In the course and conduct of its business respondent furnishes and delivers to each of its local agents or canvassers at a substantial cost to the respondent, a salesman's kit or salesman's case containing the following material:

a. Booklet entitled "Sales Instruction for representatives of Williams Bros. Tailoring Corp.";

b. Style book consisting of a 13-page fashion plate book of the current modes and style garments, each plate and style being appropriately numbered for the purpose of identification;

c. A booklet of testimonials captioned "Your Questions Answered";

d. Folder containing advertising matter, giving specifications as to the quality of material used and character of recommendation;

e. Sample swatches of materials, each appropriately numbered and labeled, setting forth the type, quality of merchandise, and whether wool, worsted, hard worsted, or otherwise;

f. Card containing samples and swatches of linings;

g. Order blanks appended to which is a receipt and contract for the customer;

h. Pad of blanks for agents' correspondence with office;

i. Tape measure and transparent gauge for measurements;

j. Self-addressed cards and envelopes to facilitate correspondence of agents.

It has been and is the practice of the agents of respondent to use such equipment in soliciting purchasers for the clothes manufactured and sold by respondent.

The order blanks which respondent furnishes its agents and which it has been the practice of such agents to employ in soliciting purchasers of the product of respondent, contain detailed instructions for measurements of men and purport to be for use in connection with ordering clothes made in accordance with the individual measurements of the purchasers. They contain representations of various sections of the male form appearing to be in process of measurement. The form furnished by respondent for such purpose requires a statement thereon by the agent as to whether or not the purchaser is erect with full chest and flat back; or has regular chest and back; or regular chest and head forward; or is stooping with flat chest, with prominent blades; or is thick-set with regular back and chest; or is corpulent, full back and flat chest; or is corpulent, flat back and full chest. It requires information as to whether the purchaser has regular or stooping shoulders or high shoulders and

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short neck; or medium high shoulders and short neck. Information is also required on the blank as to whether the customer is tall, regular, or short, and as to whether the customer chooses the tight fit, medium fit or loose fit; as to whether he prefers cuffs on the pants or belt loops or suspenders. This order blank also requires the signature of the purchaser, who thereby at least is enabled to notice the above mentioned pictorial representations and to observe immediately above his signature the statement by respondent that the customer is entitled to the protection of respondent's falsely so-called iron-clad guarantee as hereinafter explained.

On the said receipt itself of the order or such blank which respondent gives the customer or purchaser appears a guarantee and among other things guaranteed is that garments are made in latest style; that all orders are accurately filled; that all garments are designed, cut and built by expert union craftsmen in modern daylight shops. But as hereafter appears, the receipt which is given the purchaser only after he has signed the order and paid the required deposit, contains on its face certain conditions and instructions not to be found on its back where the signature of the customer is attached and not mentioned before the order is signed or given. Among such conditions or instructions is a denial of any right on the part of purchaser to a refund because the clothes failed to fit, until respondent has been given a second trial and a second failure to fit follows the first failure. Yet at a conspicuous place in its advertising literature which agents of respondent are instructed to show and which they do show the prospective purchaser, but not to retain like the receipt detached from the order blank, appears the following:

However, so that we may merit your confidence we back your purchase with a \$25,000 guarantee bond binding us to give you a garment that will entirely please you in fabric, fashion, fit and wearing quality or return the money we received.

There is no reference in such advertising matter to any restriction or any condition. There is no reference to the fact that respondent has required or will require a second trial when the first trial is unsatisfactory, in order to entitle the purchasers or consumers to a refund of their money.

There is no request by respondent or its agents that, before receiving the receipt detached from the order, the language on the face of the receipt should be read, and as a matter of fact the time for reading such language before signing the order is circumscribed and limited.

The agents by whom respondent introduces and sells its products usually number about one hundred. Each of the agents representing respondent has, among the equipment in the salesman's kit which is

furnished him, literature of various kinds containing representations of which the following may be taken as typical: "Dependably tailored, perfectly tailored" * * * "direct from a famous New York Tailoring House" * * * "hand tailoring" * * * "all orders are accurately filled, all garments are designed, cut and built by expert craftsmen, hand tailored at important points" * * * "assures a snug fit and easy drape", * * * "that look of quality that only custom tailored garments can give", and "from maker to wearer direct."

There is on the first page of the book furnished agents the statement "Fashions correctly designed for men and young men", also an invitation from respondent to examine "the very newest models which all men conversant with tailoring fashions will immediately recognize as being correct." There is a clear and significant instruction for the purchaser to examine with care such book. In this book there appears the unadulterated declaration that its suits are manufactured according to the measurement of the individual, which is the significance and meaning of the words "custom tailored" the words actually employed by respondent on the first page of such book. There also appears in the publication of respondent distributed among purchasers and prospective purchasers the statement "the up-to-the-minute style in your Williams Brothers suit is needled into it to last for the life of the garment, the style, shape and drape of your Williams Brothers suit will not merely be pressed with an iron but will be actually tailored into each seam. You can expect your Williams Brothers suit to hold its style, shape and perfect drape from the very first day you put it on and to last many months." This representation is formulated and designed to convey the impression to the purchaser and prospective purchaser that Williams Brothers suits or clothes have needled into them for the life of the suits or clothes a something which carries with it a capacity which enables them to hold their style, shape and perfect drape from the first day you put them on to the last, many months later.

In truth and in fact the men's clothes manufactured and sold by respondent have not for the most part been made according to the individual measurements of the purchaser, have not been tailored, have not been custom tailored. It has been the practice of respondent to make special orders according to the measurements of the individuals in the case of unusual or abnormal sizes or in cases where a higher price has been made for such garment in accordance with the rules and the advertisements of respondent. These instances of garments especially made according to the individual measurements, or in other orders for custom tailored clothes have been about twenty-five per cent of the amount of garments manufactured and sold by respondent.

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On the whole, the business of respondent has been conducted upon an entirely different basis and seventy-five per cent of the garments manufactured and sold by respondent have not been custom tailored or tailored or made according to the measurements of the individual. The suits manufactured by respondent and used by it in the course and conduct of its usual business have not been made according to measurements of the purchasers or hand made or custom tailored. It has been and is the practice of the respondent when orders are received to cause an examination to be made of the clothes already manufactured by it and to determine from such examination which of the garments, if any, most closely corresponds with the measurements of the order or orders received.

These clothes are not semi-finished because there remains nothing to be done for their completion to render them ready-made clothes except the alteration of the pants at the bottom and of the sleeves at the bottom, all of which are left unfinished in order to enable respondents upon receipt of the orders to adjust them in accordance therewith. These suits after receipt of the orders therefor are subjected to alteration to a greater or lesser extent; sometimes the alterations occur about the neck or shoulder, sometimes in other parts of the suit, but in every instance this seventy-five percentage of the business of respondent consists of the sale of suits practically ready-made and altered to conform to measurements received from respondent.

They are not made according to measurements because at the time they are made the measurements have not been taken. They are not hand tailored or custom tailored because respondent has no method by which to anticipate the measurements of the individuals for whom they are made. They are manufactured for individuals en masse according to certain standard measurements. Even if some particular suit should comply absolutely with the measurements received it would not in such case be made to order or tailor made or custom tailor made, it would simply be a ready-made suit whose measurements corresponded with the measurements of the purchaser.

It is admitted that agents of respondent used this literature furnished by respondent and in which respondent used the representations relative to custom tailored clothes and to its guarantees. In the trial of this case respondent failed to produce any agents who failed to follow the instructions and representations in the literature furnished them by respondent, that is to say, respondent failed to show or produce any agent who failed to misrepresent the products of respondent just as respondent misrepresented them and just as respondent authorized its agents to misrepresent them in its adver-

tising literature. Indeed, there were no agents produced by respondent to testify as to the methods and practices of respondent except the agents introduced as witnesses by the Commission.

One of them, Joseph A. Ouellette testified that while acting as agent for the respondent he sold twenty-one suits and that only two of them were fits, that he had a local tailor make alterations for which he paid twenty dollars and was only able to procure two dollars and fifty cents of this amount from respondent. He testified that he sent the first suit back to respondent for alterations but after waiting six weeks or two months for its return he had further alterations made by local tailors and that he told the customers the suits would be made according to their measurements and that he guaranteed the fit, but that the suits received from respondent by his customers were a disgrace to him.

Another witness, H. E. Carrick, testified that he sold the clothing of respondent for a year, that he measured the customers and he left the impression on their minds that the suits would be made to measure but he did not so state, but that if any of the customers asked him he would say that the suits were to be an altered proposition; that he sold five or six suits and received no complaints concerning them except in one instance where the coat was too short, otherwise the suit was all right.

W. R. Hightower testified that he acted as agent of respondent in 1932 and 1933; and that he was instructed by respondent that the suits were made to measure and guaranteed to fit, that he so represented to his customers. He sold fourteen to sixteen suits and because they were all unsatisfactory he quit. That he saw only two of the suits sold by him, that they did not fit, that he received complaints from all of his other customers that they told him the suits received were not made from the materials selected by them, that he checked the two suits he sold with the measurements taken by him and he found that they did not correspond with his measurements and he advised the respondent that they did not fit, and received no reply.

W. T. Matthews testified that he acted as agent for respondent in February 1933, that he sold six or eight suits, that he had been in the clothing business since 1909 and had experience in taking measurements for clothes and the measurements taken were strictly in accordance with the order blank furnished by respondent, that he told the customers that the suits would be made to measure and he guaranteed a proper fit, that he sold one suit to a farmer's boy which did not fit but the customer was easily pleased and kept it. He sold a suit to his son which did not fit and his son sold the suit, and that he saw a customer try on one of the suits that he sold him and it did not fit at all and he compared the suit with the measurements taken by him

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and found a substantial variation. The suit was returned and the one sent in exchange was also unsatisfactory. That a suit sold to one customer did not fit and the customer paid five dollars and seventy-five cents to have the suit altered, and that he sold one suit which was not delivered stating that it had not been received, and the respondent stating that it had not received the order, so he refunded the deposit.

Peter Dalke testified that he acted as respondent's agent in 1932 and 1933, that he sold nine suits, that he measured the customers and guaranteed the fit, that four of the suits he sold were satisfactory except that in one case the trousers were not exactly the right length, that one of the suits sold was made of a cloth different from and inferior to the sample selected and did not fit, that he compared that suit with his measurements and there was a vast difference, that he complained a number of times to the respondent concerning this suit and wrote the postal authorities, and after nearly a year another suit was sent in exchange. This was a pretty good fit. That one suit which was sold by him fit very well, that one customer complained that his suit did not fit but that witness did not see it, that the cloth in one suit was different from that ordered and the suit did not fit, another was sent in its place and was made of the cloth selected but the coat was too small and the customer said that rather than send it back he would have it fixed by a tailor. That another suit sold by him did not fit and he found they did not correspond with his measurements but the customer accepted it.

PAR. 3. There are now and for several years last past have been individuals, partnerships and corporations offering for sale and selling in interstate commerce in competition with respondent men's clothing or men's garments truthfully represented, advertised or described.

PAR. 4. The above and foregoing representations of respondent as described in paragraph 2 hereof have had and have and each of them has had and has the capacity and tendency to mislead and deceive the purchasing public into the belief that they were and are true and into the purchase of clothes or garments from respondent in reliance upon such erroneous belief.

Such representations have also had and have the capacity and tendency to divert to respondent trade from competitors described in paragraph 3 hereof.

CONCLUSION

The above and foregoing acts and practices of respondent as described in paragraph 2 have been and are and each of them has been and is, all to the prejudice of the public and of respondent's competitors, and they have been and are unfair methods of competi-

tion in commerce in violation of the provisions of Section 5 of the 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of respondent, testimony and evidence taken before Charles F. Diggs, an examiner of the Commission theretofore duly designated by it, in support of the charges of said complaint, and in opposition thereto, briefs filed herein and oral arguments by James M. Brinson, counsel for the Commission, and by Meyer D. Siegel, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated 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",

It is ordered, That the respondent, Williams Bros. Tailoring Corp., its officers, agents, employees and representatives, in connection with offering for sale or selling men's clothes in interstate commerce, cease and desist, directly or indirectly, from:

(1) Representing that the men's clothes offered for sale or sold by it have been or are made to order according to the individual measurements of the purchaser, that is, have been or are custom tailored, unless and until it has become and is the established policy and practice of respondent that all clothes represented as custom tailored or made according to the individual measurements of purchasers have been and are so made after receipt of orders therefor.

(2) Failing to refund promptly to purchasers of its clothes money received therefor when notified or by any other means informed that the clothes sold by it have not been and are not custom tailored clothes made according to the measurements of the individual purchaser after receipt of the order therefor, or when informed that said clothes do not please the customer in fabric, fashion, fit or wearing quality after respondent has so represented or guaranteed.

It is further ordered, That the respondent shall within 30 days after the service upon it 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 hereinabove set forth.

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IN THE MATTER OF

W. J. THOMPSON, INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2570. Complaint, Oct. 7, 1935—Order, Jan. 17, 1936*

Consent order requiring respondent, its officers, etc., in connection with the offer or sale of any publication in interstate commerce to cease and desist from—

- (a) Representing, directly or otherwise, that a person solving a problem presented in an advertisement and sending said solution to it will, without being required to do any other thing, be given a prize or reward, when such is not the case, or that the mere mailing of the correct solution of the problem presented in an advertisement of a puzzle prize contest will be sufficient to win the first, or any other, prize therein, when such is not the case;
- (b) Representing, etc., that it will give to the winner of any puzzle prize contest an extra award for promptness and, inferentially or otherwise, that such extra award is a separate and distinct one when in fact included within that advertised as the prize to be awarded, or issuing any writing to a person interested in any such contest which purports to be a certificate or other evidence of recipient's right to a prize or states on the face thereof "First Prize Certificate", at any time prior to the actual awarding of first prize, or representing that a contestant in any such contest has achieved a more advanced position toward success therein than is the fact;
- (c) Using in any such puzzle prize form of contest any progressive plan to secure subscriptions to its publications unless every step or stage of the plan is clearly set forth in the initial or contact advertisement or first mailing to the prospect before any money or service is accepted, showing exactly what will be required of the prospect or what compensation or reward will be given for each act or payment required in contending for a prize, award, premium, gift, or reward; or
- (d) Publishing the rules of any puzzle prize contest in other than clear and readable type.

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. T. H. Kennedy for the Commission.

Black, Varian & Simon, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions 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, the Federal Trade Commission, having reason to believe that W. J. Thompson, Inc., a corporation, hereinafter referred to as respondent,