

IN THE MATTER OF
GEORGE LANDON AND M. M. WARNER, TRADING AS
LANDON & WARNER

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

Docket 2701. Complaint, Jan. 31, 1936—Decision, Dec. 4, 1936

Where two partners engaged in the offer, sale, and distribution of the so-called "Director" elastic fabricated belt for use as an abdominal support and in the reduction of surplus fat in that region; in advertising the same in periodicals and newspapers of general circulation among the States, and through published descriptive letters, circulars, booklets, and other printed matter, including testimonial reproductions—

- (a) Falsely represented that said belt, worn, provided a gentle changing pressure or massage-like action which reduced the wearer's waistline, and that wearing thereof brought about results formerly obtained by massage and exercise, with result that excess fatty tissues in said region were caused to disappear, and that, through use thereof, the wearer's waistline would be permanently reduced, and that it provided and constituted a safe and effective remedy and method of treatment of abdominal obesity and the reduction of weight; and
- (b) Falsely represented that the use thereof made the wearer feel fifteen years younger, and eliminated tired bloated feeling after meals and relieved shortness of breath and restored the user's vigor, and that use thereof would cure constipation and increase elimination in a normal way without the use of harsh, irritating cathartics;

With effect of confusing, misleading, and deceiving members of the public, through such false and, generally, inaccurate, unfounded or greatly exaggerated representations, into the erroneous belief that use of their said belt would reduce excess fat around the abdomen and bring about the beneficial results to the wearer stated and implied by their said advertisements and literature, and with tendency and capacity to induce members of the public to buy and use such belt because of the erroneous beliefs thus engendered, and thereby to divert trade to them from competitors engaged in the sale and distribution in commerce of devices and belts designed, sold, and used for the same or similar purposes as their said belt, and who do not, by false and misleading representations or advertising, induce purchasers and consumers to buy or use such competitors' products:

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

Before *Mr. William C. Reeves*, trial examiner.

Mr. Allen C. Phelps for the Commission.

Brelín, Britton & Landon, of Chicago, Ill., for respondents.

Complaint

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 George Landon and M. M. Warner, a copartnership trading as Landon and Warner; hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce as "commerce" is defined in said act of Congress, and it appearing to said 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. Respondents, George Landon and M. M. Warner, above named, are the sole partners of a copartnership organized, existing, and operating under the name and style of Landon and Warner, with its principal office and place of business located at 360 North Michigan Avenue, in the city of Chicago, in the State of Illinois. Respondents, trading as said copartnership, are now, and have been for more than five years last past, engaged in the business of offering for sale, selling, and distributing an elastic fabricated belt, known and designated as the "Director" belt, to ultimate consumers located in the several States of the United States and the District of Columbia. Said belt is offered for sale, sold, and distributed for use as an abdominal support, to provide a means of massaging the abdominal area of the wearer, for use in the reduction of surplus fat around the abdomen and for the relief of obesity in that region.

PAR. 2. In the course and conduct of their said business, respondents cause their said "Director" belt, when so sold, to be transported from their place of business in the city of Chicago, State of Illinois, to, into, and through States of the United States other than the State of Illinois, including the District of Columbia, to the various members of the consuming public to whom they are or have been sold, who are located in the different States of the United States. Respondents usually sell and distribute their said product directly to members of the purchasing public by and through the use of the United States mails.

PAR. 3. That during the time above mentioned, other individuals, firms, and corporations in various States of the United States are, and have been, engaged in the sale and distribution in interstate commerce of medicines, preparations, belts, and devices designed, intended, and used for the same general purpose as respondents' said "Director" belt, as above described, and also medicines, preparations,

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devices, and belts designed, intended and used for the treatment of the various bodily ailments that accompany or produce the condition of obesity for which respondents' product is advertised as a remedy, as hereinafter shown, and such other individuals, firms, and corporations have caused and do now cause their said medicines, preparations, devices, and belts, when sold by them, to be transported from the various States of the United States in which said products are manufactured or held for distribution to, into, and through States other than the State of the origin of the shipment thereof. That said respondents have been, during the aforesaid time, in competition in interstate commerce in the offering for sale, sale, and distribution of the said "Director" belt with such other individuals, firms, and corporations above described. That said competing products are sold by such other individuals, firms, and corporations, through the medium of the United States mails and otherwise directly to the consumers, and also at wholesale to retail outlets of various kinds for resale to the consumer.

PAR. 4. That respondents in advertising their said elastic fabricated belt designated as the "Director" belt, have and do cause advertisements, descriptive of the product and its purported uses, to be inserted in various magazines, newspapers, and periodicals having general circulation between and among various States of the United States, and further publish and circulate or cause to be published and circulated in aid of the sale of said product certain descriptive letters, circulars, booklets, and other literature which are usually transmitted to purchasers or prospective purchasers through the United States mails. That said advertisements, letters, circulars, booklets, and other literature so circulated in the several States by the respondent to customers and prospective customers represent and imply:

That said elastic fabricated belt, known and designated as the "Director" belt, as a result of being worn and used as directed and without the use of drugs and without dieting, reduces and has the capacity to reduce the measure of the waistline of the wearer thereof from four to six inches or some greater amount up to eleven inches; that by the faithful use of said "Director" belt practically all adipose tissue can surely be eliminated; that the elastic action of said "Director" belt, when worn, causes a gentle changing pressure on the abdomen, bringing results formerly obtained only by regular massage and exercise; that the use of said belt makes the wearer thereof feel 15 years younger and eliminates a tired and bloated feeling after meals; that the use of said belt helps to relieve shortness of breath, restores the vigor of the user, and makes him look years younger the

minute he starts to wear it; that the use of said belt breaks the constipation habit, cures constipation, and increases the elimination and regularity in a normal way without the use of harsh, irritating cathartics; that the use of said belt adds years to the wearer's life; that the use of said belt reduces the weight of the wearer, eliminates excess fat around the abdomen, and corrects or eliminates obesity in said region; that the use of said belt constitutes a remedy for, and a safe, proper, and efficacious method of treatment for abdominal obesity; and other representations of like import.

PAR. 5. That a sample of an advertisement caused by respondents to be inserted in a magazine of general circulation between and among the several States is as follows:

(Pictorial representation of a man with an arrow pointing to the abdomen)

REDUCE 4 to 6 inches without drugs without dieting
or your money Refunded

"I wore the Director Belt and reduced my waistline from 42 to 33 inches. Practically all adipose tissue can surely be eliminated by its faithful use. I have recommended it to many of my patients."

(Signed) R. A. LOWELL,
Physician and Surgeon.

HOW DIRECTOR WORKS

Director is fitted to your individual measure without laces, hooks or buttons. Its elastic action causes a gentle changing pressure on the abdomen bringing results formerly obtained only by regular massage and exercise. Now all you have to do is slip on Director and watch results.

IMPROVE YOUR APPEARANCE

This remarkable belt produces an instant improvement in your appearance the moment you put it on. Note how much better your clothes fit and look without a heavy waistline to pull them out of shape.

RESTORE YOUR VIGOR

"I received my belt last Monday," writes S. L. Brown, Trenton, N. J. "I feel 15 years younger; no more tired and bloated feeling after meals."

Director puts snap in your step, helps to relieve "shortness of breath," restores your vigor. You look and feel years younger the moment you start to wear a Director.

BREAK CONSTIPATION HABIT

"I was 44 inches around the waist—now down to 37½—feel better—constipation gone—and know the belt has added years to my life." D. W. Bilderback, Wichita, Kans.

Loose, fallen abdominal muscles go back where they belong. The gentle changing action of Director increases elimination and regularity in a normal way without the use of harsh, irritating cathartics.

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REDUCE LIKE THIS

Let us prove our claims. We'll send a Director for trial. If you don't get results you owe nothing.

SENT ON TRIAL

MAIL COUPON NOW!

LONDON & WARNER,
360 N. Michigan Ave., Chicago, Ill.

Dept. A-49

GENTLEMEN: Without obligation on my part please send me the complete story of Director Belt and give full particulars of your trial offer.

Name_____

Address_____

City_____ State_____

PAR. 6. That in truth and in fact: Respondents' said elastic fabricated belt, known as the "Director" belt, when worn and used as directed, does not, and will not, reduce the measure of the waistline of the wearer from four to six inches, or some greater amount up to eleven inches without the use of drugs and without dieting; the faithful use of said "Director" belt will not eliminate nor has it ever eliminated practically all adipose tissue; the elastic action of said belt does not cause a gentle changing pressure on the abdomen bringing results formerly obtained only by regular massage and exercise; the use of said belt does not make the wearer feel 15 years younger or eliminate a tired and bloated feeling after meals; the use of said belt does not help to relieve shortness of breath nor does it restore the vigor of the user or make him look years younger the minute he starts to wear it; the use of said belt does not break the constipation habit, cure constipation, or increase elimination and regularity in a normal way without the use of harsh, irritating cathartics; the use of said belt does not add years to the wearer's life; the use of said belt does not reduce the weight of the wearer, eliminate excess fat around the abdomen, or cure or alleviate obesity in that region; the use of said belt is not a remedy for, or a safe, proper or efficacious method of treatment for abdominal obesity. All the statements, representations, and implications set forth in paragraph 4 above are either wholly unfounded in fact or greatly exaggerated, or wholly inaccurate.

PAR. 7. That the representations of respondents above set forth and made as aforesaid, have had, and do have the tendency and capacity to and do confuse, mislead, and deceive members of the public into the belief that the use of respondents' said elastic fabricated belt does and will reduce excess weight and does and will bring about the beneficial results to the wearer which said advertisements and litera-

ture state and imply have been and will be achieved by the use of said belt, all as set forth in paragraph 4 hereof, when in truth and in fact such statements and representations are false, misleading, or true only with qualifications and to a limited extent. Said representations so made by respondents have had, and do have, the tendency and capacity to induce members of the public to buy and use said belt because of the erroneous beliefs engendered as above set forth, and to divert trade to respondents from competitors engaged in the sale and distribution in interstate commerce of devices and belts designed, sold, and used for the same or similar purposes as respondents' belt, and of medicines and preparations designed, adapted, and used for the treatment of obesity and the various ailments and conditions that accompany and induce the same, who do not by false and misleading representations or advertising induce purchasers and consumers to buy or use their products.

PAR. 8. The above acts and things done by the respondent are all to the injury and prejudice of the public and the competitors of respondent 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.

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 January 31, 1936, issued and served its complaint in this proceeding upon respondents George Landon and M. M. Warner, a copartnership, trading as Landon & Warner, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the respondent's answer thereto, testimony and other evidence in support of the allegations of the said complaint were introduced by Allen C. Phelps, attorney for the Commission before William C. Reeves, an examiner of the Commission, theretofore duly designated by it, and in opposition to the allegations of the complaint by George Landon, attorney for the respondents; and said testimony and other evidence were 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 other evidence and briefs in support of the complaint and in opposition

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thereto (oral arguments of counsel having been waived); and the Commission having duly considered the same and being now 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. Respondents, George Landon and M. M. Warner, are the sole partners of a copartnership engaged in business at Chicago, Ill., under the name and style of Landon & Warner. Respondents, trading as said copartnership are engaged in the business of offering for sale, selling, and distributing an elastic, fabricated belt known and designated as the "Director" belt, to ultimate consumers located in the several States of the United States and in the District of Columbia. Said belt is offered for sale, sold, and distributed for use as an abdominal support, to provide a means of massaging the abdominal area of the wearer, for use in the reduction of surplus fat around the abdomen and for the relief of obesity in that region.

PAR. 2. In the course and conduct of the said business respondents sell and distribute their said "Director" belt directly to members of the purchasing public, by and through the use of the United States mails. Said respondents cause their said "Director" belt when sold to be transported from their place of business in the city of Chicago, State of Illinois, into and through the several States of the United States other than the State of Illinois, including the District of Columbia, to the various members of the consuming public to whom they have been sold, said purchasers being located in all of the different States of the United States and the District of Columbia.

PAR. 3. There are and have been other individuals, firms, and corporations in various States of the United States engaged in the sale and distribution in interstate commerce, of belts and devices designed, intended and used for the same general purpose as respondents' said "Director" belt, and such other individuals, firms, and corporations have caused and do cause their said devices and belts when sold by them to be transported from the various States of the United States in which said products are manufactured or held for distribution, to, into and through States other than the State of origin or shipment thereof. Said respondents have been and are in competition in interstate commerce in the offering for sale, sale, and distribution of the said "Director" belt with such other individuals, firms, and corporations above mentioned. Said products so sold in competition with respondents' said "Director" belt are sold by such other individuals,

firms, and corporations, through the medium of the United States mails and otherwise directly to the consumers, and also at wholesale to retail outlets of various kinds for resale to the consumer.

PAR. 4. Respondents in advertising their said elastic, fabricated belt designated as the "Director" belt have and do cause advertisements descriptive of the product and its purported uses to be inserted in various magazines, newspapers, and periodicals having general circulation between and among the various States of the United States, and further publish and circulate in aid of the sale of said product, certain descriptive letters, circulars, booklets, and other printed matter which are usually transmitted to purchasers or prospective purchasers through the United States mails. Through said advertisements, letters, circulars, booklets, and other literature so circulated in the several States by the respondents to purchasers and prospective purchasers respondents represent and imply that said elastic, fabricated belt known and designated as the "Director" belt, as the result of being worn and used as directed and without the use of drugs and without dieting, reduces and has the capacity to reduce the measure of the waist line of the wearer thereof from four to six inches, or some other greater amount up to eleven inches; that by the use of said "Director" belt practically all adipose tissue can surely be eliminated; that the elastic action of said "Director" belt when worn causes a gentle changing pressure on the abdomen bringing results formerly obtained only by regular massage and exercise; that the use of said belt makes the wearer thereof feel fifteen years younger and eliminates a tired and bloated feeling after meals; that the use of said belt helps to relieve shortness of breath, restores the vigor of the user, makes him look years younger the minute he starts to wear it; that the use of said belt breaks the constipation habit, cures constipation and increases elimination and regularity in a normal way without the use of harsh and irritating cathartics; that the use of said belt adds years to the wearer's life; that the use of said belt reduces the fat of the wearer, eliminates excess fat around the abdomen and corrects or eliminates obesity in said region; that the use of said belt constitutes a remedy for and is a safe and efficacious medium of treatment for abdominal obesity; and makes other representations of similar import.

PAR. 5. Typical statements by respondents in their said advertisements, letters, circulars, booklets, and other literature so circulated in offering for sale and selling the said "Director" belt are the following:

Eight inches off waistline. Director Belt reduced my waistline from 42 to 34 inches. I feel 10 years younger. Constipation gone—no tired, bloated feeling after meals. G. Newton, Troy, N. Y. Director belt instantly improves your appearance, puts snap in your step, relieves "shortness of breath" restores your

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vigor as fat vanishes, loose, fallen abdominal muscles go back where they belong. Gentle, massage-like action increases elimination and regularity in a normal way without the use of harsh, irritating cathartics. You look and feel years younger. Sent on trial. Let us prove our claims. No obligation. Write today for trial offer. New, easy way—no drugs, no diet.

Must reduce waistline three inches or no cost. Massage reduces—so does "Director." Its elastic action with every movement of your body causes a gentle, changing, vibrating pressure that easily and comfortably works away abdomen fat, restores vigor. You look and feel years younger as soon as you wear Director Belt. Sent on Trial—Let us prove our claims. If you don't get results you owe nothing.

Reduce 4 to 6 inches without drugs, without dieting, or your money refunded * * * How Director works. Director is fitted to your individual measure without laces, hooks or buttons. Its elastic action causes a gentle changing pressure on the abdomen bringing results formerly obtained only by regular massage and exercise. Now all you have to do is to slip on a Director and watch results. Reduce Like This. Let us prove our claims. We'll send a Director for trial. If you don't get results you owe nothing.

A sure, simple easy way to reduce your girth two to four inches instantly and then acquire a permanent reduction. Results assured—or not a penny's cost to you. We want an opportunity to prove to you that Director will accomplish wonders in reducing your weight and waist measure. So we ask permission to send you a Director for one week's trial.

Trial Offer. We have tried to give you some idea of what Director is and how it is warranted to reduce excess fat. But nothing we can say will be half so convincing as an actual test. So we invite a test on this basis. Use the Order Form enclosed with this letter—send today for a Director. Wear it for one week. Then, if you don't agree with each and every statement we have made herein, simply return the belt and we will refund your money promptly and the trial won't cost you a penny. We can think of no more fair or liberal offer than this. In fairness to yourself please make this test. Fill in and mail the Order Form today. We warrant every Director Belt to be fitted to your measure and woven from the finest fabrics for the purpose, and we warrant that it will perfectly fit the wearer. Director Belt is to satisfy you in every way. You are to have the privilege of examining it and wearing it for two weeks. If for any reason it does not meet your approval you may return it and we will refund the money sent with the order, which will be held as a deposit, pending your decision to keep or return the belt. You, the wearer, are to be the judge.

Your waistline is too large. It needs attention. By letting it go it will continue to grow—bigger and bigger. Your stomach has no stopping point. Once it starts to sag and bulge health suffers—appearance too. Why not follow my suggestion. Director will reduce your growing paunch to a size consistent with good health and rebuild your body. Here's my offer. If Director doesn't reduce your stomach within two weeks, the trial will cost you nothing. If for any reason you are not entirely satisfied, I'll refund your money—every penny of it—without delay or conversation. That's fair—Isn't it? Every day I receive letters from enthusiastic Director users. They have found that the easy comfort of Director reducing belt is just what they need; that it does them a world of good. Here is a letter that came in this morning. After 2 weeks the sum of \$6.50 is to be refunded to me by Landon & Warner if I am not satisfied with the Director Belt.

Wear Director on trial. Reduce your waistline this natural and easy way. Director will reduce waistline 4 and 6 inches; improve appearance; eliminate constipation; promote digestion; renew vitality. * * * Fat disappears. The improvement that Director makes in your appearance will please you. You will enjoy a feeling of restored vitality and new life but the knowledge that excess fat is surely disappearing during every moment of the day is the most comforting feeling of all. Director does more than just relieve—it effects a permanent reduction of waist measurement and fat as well. Director actually promotes the absorption and elimination of all excess fat. We warrant every Director Belt to be fitted to your measure and woven from the finest fabrics for the purpose, and we warrant that it will perfectly fit the wearer. Director Belt is to satisfy you in every way. You are to have the privilege of examining it and wearing it for two weeks. If for any reason it does not meet your approval you may return it and we will refund the money sent with the order, which will be held as a deposit pending your decision to keep or return the belt. You, the wearer, are to be the judge.

PAR. 6. In truth and in fact: Respondents' said "Director" belt when worn and used as directed does not and will not reduce the measure of the waistline of the wearer from four to six inches or some greater amount up to eleven inches without the use of drugs or without dieting. The faithful use of said "Director" belt will not eliminate, nor has it ever eliminated, practically all adipose tissue. The elastic action of said belt does not cause a gentle changing pressure on the abdomen bringing results formerly obtained only by regular massage and exercise. The use of said belt does not make the wearer feel fifteen years younger, or any certain number of years younger, or eliminate a tired, bloated feeling after meals. The use of said belt does not help to relieve shortness of breath nor does it restore the vigor of the user or make him look years younger the minute he starts to wear it. The use of said belt does not break the constipation habit, cure constipation, or increase elimination and regularity in a normal way without the use of harsh irritating cathartics. The use of said belt does not add years to the wearer's life. The use of said belt does not reduce the fat of the wearer, eliminate excess fat around the abdomen or cure obesity in that region. Said belt is not a remedy for, or a safe, proper or efficacious medium of treatment for abdominal obesity. In general, the statements, representations and implications referred to or set forth in paragraphs 4 and 5 above are inaccurate, unfounded in fact, or greatly exaggerated.

PAR. 7. The representations of respondents above set forth and made as aforesaid have had and do have the tendency and capacity to and do confuse, mislead and deceive members of the public into the false belief that the use of respondents' "Director" belt does and will reduce excess fat around the abdomen and does and will bring about the beneficial results to the wearer which said advertisements

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and literature state and imply have been and will be achieved by the use of said belt. Said representations so made by respondents have had and do have the tendency and capacity to induce members of the public to buy and use said belt because of the erroneous beliefs so engendered and to thus divert trade to respondents from competitors engaged in the sale and distribution in interstate commerce of devices and belts designed, sold and used for the same or similar purposes as respondents' belt who do not by false and misleading representations or advertising induce purchasers and consumers to buy or use their products.

CONCLUSION

The aforesaid acts and practices of the respondents, George Landon and M. M. Warner, a copartnership trading as Landon & Warner, are to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein by Allen C. Phelps, counsel for the Commission, and by George Landon, counsel for the respondents (oral arguments having been waived); and the Commission having made its findings as to the facts and its conclusion that said respondents have 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 respondents, George Landon and M. M. Warner, individually, and as partners in the copartnership of Landon and Warner, and their representatives, agents, and employees, in connection with the offering for sale, sale and distribution of that certain elastic fabricated abdominal belt, known as the "Director" belt or any other belt of substantially similar construction, in interstate commerce or in the District of Columbia, by the use, publication or circulation of advertisements, letters, circulars, booklets, or other printed matter, or by the inclusion of testimonials in such ad-

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vertising literature or by any other means whatsoever, do forthwith cease and desist from representing:

1. That as a result of wearing said belt the waistline of the wearer will be permanently reduced in circumference.
 2. That the said belt, when worn, provides a gentle, changing pressure or massage-like action which will reduce the waistline of the wearer.
 3. That the wearing of said belt will bring about results formerly obtained by massage and exercise.
 4. That by the use of said belt excess fat or fatty tissue at the waistline or around the abdomen will be absorbed, eliminated, rubbed off or caused to disappear.
 5. That the wearing of said belt in and of itself makes the wearer feel 15 years younger, or any certain number of years younger, or eliminates a tired, bloated feeling after meals, relieves shortness of breath or restores the vigor of the user.
 6. That the wearing of said belt will break the constipation habit, cure constipation or increase elimination and regularity in a normal way without the use of harsh irritating cathartics.
 7. That the wearing of said belt will reduce body weight or cure or relieve obesity.
 8. That the wearing of said belt provides a remedy for or constitutes a safe, proper or efficacious method of treatment for abdominal obesity.
- It is further ordered,* That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
MARION VAULT MANUFACTURING COMPANY

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

Docket 2712. Complaint, Feb. 4, 1936—Decision, Dec. 4, 1936

Where a corporation engaged in the manufacture of two types of metal burial vaults, i. e., its "New Imperial Burial Vault" and "Gold Seal Burial Vault," and in the sale thereof to jobbers, funeral directors, and undertakers—

- (a) Represented, in circulars advertising its said products, distributed among undertakers, funeral directors, and morticians, that its said Imperial Vaults would "protect through the years" and that they were "inherently qualified to provide enduring protection," and, as to said "Patented Double Seal," that it was "permanently secure" and that it "improves as time goes on"; and represented that the former were watertight both at time of interment and after, and were waterproof and endured as such under all conditions for fifty years, and would give permanent protection; and
- (b) Made use of certificates of warranty or guarantee, in connection with sale and offer of latter, that said vaults were guaranteed "to be vermin, moisture, water, and air-proof, and to give positive protection for an indefinite number of years," and authorized "the undersigned funeral directors" "to countersign this guarantee to the purchaser";

The facts being that, while its said vaults were equal to the standard metal vaults made by the industry and were not inferior products or made of an inferior grade of metal or by methods of construction which differed from those used by reputable and responsible members of the industry in question, but were made with great care by skilled workmen, of the highest grade and quality of metals obtainable by it for the manufacture of such vaults, impervious and impenetrable by moisture, vermin, and water during the life of the metals, such metals were not rust or corrosion resistant to the extent that they would never rust or corrode after burial and, once rusted or corroded to a certain extent during a period of years, they would crumble and disintegrate; corrosive qualities, present in all soils, vary greatly, so that, while in many sections throughout the United States in which soil corrosion is not a problem, and in some of which a 12-gauge metal vault, buried, would resist penetration by corrosion for more than one hundred years, in other soils its said vaults would pit through and cease to be waterproof in from eight to ten years; conjunction of conditions, which does not always exist, must obtain in the case of said vaults in order to provide protection from entering water; its vaults and the materials from which made have not been tested under ground for the full period of fifty years; disinterment is rare and it had rarely been called upon to replace its said vaults;

With capacity and tendency, as result of such misleading acts and practices, to induce the public to purchase and use the same in the belief that said statements and representations, which were each and all to the prejudice of the public, were true, and to divert unfairly trade to it from its com-