

Syllabus

IN THE MATTER OF
JUNIOR LEAGUE LINGERIE, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4124. Complaint, May 1, 1940—Decision, Nov. 12, 1940*

Where there had existed for well over 30 years, in various cities and towns throughout the United States, organizations of young women which, known as Junior Leagues, were benevolent, nonprofit organizations devoted to charitable purposes and improvement of social conditions in their respective communities, and which sponsored various benevolent activities, including financial assistance of hospitals and other charitable enterprises and, in order to obtain funds with which to carry on their activities, frequently engaged in various money-raising functions such as operation of gift shops, rummage sales, and tearooms and the conducting of fashion shows, often in cooperation with local merchants, and where there had long been incorporated an association known as the Association of The Junior Leagues of America, Inc., purpose of which was to unite in a central organization all the Junior Leagues throughout the United States, Canada, and Mexico, and which had come to have approximately 130 local or members leagues with total membership of some 35,000, and published and sold to public, as well as to members of various local organizations, its "Junior League Magazine" with numerous articles and suggestions with respect to women's apparel and current fashions and styles therein, and name "Junior League" had come, for many years last past, to be associated in minds of substantial portion of purchasing public with aforesaid organizations to such an extent that use of such name to designate or describe articles of merchandise, particularly women's apparel, served as representation to public, and caused public to believe, that articles so designated were sponsored or approved by said Junior League; and thereafter, a corporation engaged in sale and distribution of women's apparel, including slips and other lingerie, to purchasers thereof in various other States and in the District of Columbia—

- (a) Represented, through inclusion and use of words "Junior League" as part of its corporate name, that it had some connection with said organization, and that its said products were sponsored or approved thereby; and
- (b) Represented that its said products were thus sponsored or approved, through tags and labels attached thereto and through invoices, letters, circulars, and other advertising material distributed among prospective purchasers and otherwise, and including, as typical of such false and misleading representations, use of legends "Junior League Distinctive Lingerie" and "Junior League Buds," which it caused to appear on labels attached to certain of its slips and other such products, and statement "This garment is unconditionally guaranteed by the makers of Junior League Lingerie," which it placed on tags attached to aforesaid slips; and
- (c) Supplied to dealers purchasing its products, newspaper mats, and other advertising material with which to promote sale thereof, and in all of which words "Junior League" were prominently and conspicuously displayed;

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Notwithstanding fact none of its said products were sponsored or approved by Junior League, and it was not connected in any way with such organization, and had no authority therefrom to use said organization's name to designate its products, and representations aforesaid were misleading and deceptive;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that its said products were sponsored or approved by the Junior League, and with result, as consequence of such erroneous and mistaken belief, that such public was induced to and did purchase substantial quantities of its products, and with further effect of placing in hands of uninformed and unscrupulous dealers means and instrumentalities whereby they were enabled to mislead and deceive members of purchasing public:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. James L. Fort and *Mr. L. E. Creel, Jr.*, for the Commission.

Mr. Martin Selig, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Junior League Lingerie, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Junior League Lingerie, Inc., is a corporation organized under the laws of the State of New York, with its principal office and place of business located at 152 Madison Avenue, New York City, N. Y. Respondent is now and for more than 1 year last past has been engaged in the sale and distribution of women's apparel, including slips and other lingerie.

Respondent causes its products, when sold, to be transported from its place of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Since the year 1901 there have existed in various cities and towns throughout the United States organizations of young women known as Junior Leagues. Such organizations are benevo-

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lent, nonprofit organizations devoted to charitable purposes and the improvement of social conditions in their respective communities. They sponsor various benevolent activities, including the financial assistance of hospitals and other charitable enterprises. In order to obtain funds with which to carry on their activities the Junior Leagues frequently engage in various money-raising activities, such as the operation of gift shops, rummage sales, and tearooms. Also prominent among such activities is the conducting of fashion shows, many of which are conducted in cooperation with local merchants.

In the year 1921 there was incorporated under the laws of the State of New York an association known as the Association of the Junior Leagues of America, Inc., which had and has as its purpose the uniting in a central organization of all of the Junior Leagues throughout the United States, Canada, and Mexico. This central organization now comprises approximately 130 local or member leagues, with a total membership of approximately 27,000. As a part of its activities the said association publishes a periodical known as the "Junior League Magazine" which is sold to the public, as well as to the members of the various local organizations. This magazine contains numerous articles and suggestions with respect to women's apparel and with respect to current fashions and styles in such apparel.

The name "Junior League" is now and for many years last past has been associated in the minds of a substantial portion of the purchasing public with the aforesaid organizations to such an extent that the use of such name to designate or describe articles of merchandise, particularly women's apparel, serves as a representation to the public, and causes the public to believe, that the articles so designated are sponsored or approved by the Junior League. Such name, when associated with women's apparel, connotes to such portion of the purchasing public superior quality and distinctive and preeminent style and fashion.

PAR. 3. In the course and conduct of its business as described herein the respondent has falsely represented that its products are sponsored or approved by the Junior League, such representations being made by means of tags and labels attached to its products, by invoices, by letters, circulars, and other advertising material distributed among prospective purchasers, and by other means. Among and typical of such false and misleading representations are the legends "Junior League Distinctive Lingerie," and "Junior League Buds," which the respondent causes to appear on labels attached to certain of its slips and other lingerie, and the statement, "This gar-

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ment is unconditionally guaranteed by the makers of Junior League Lingerie," which the respondent places on tags attached to such slips.

The respondent also supplies to dealers purchasing its products newspaper mats and other advertising material with which to promote the sale of such products. In all of such advertising material the words "Junior League" are prominently and conspicuously displayed.

In truth and in fact, none of the respondent's products are sponsored or approved by the Junior League. Respondent is not connected in any way with such organization and has no authority from such organization to use its name to designate respondent's products.

PAR. 4. The use by the respondent of the words "Junior League" as a part of its corporate name constitutes within itself a false and misleading representation that respondent is connected with the Junior League and that respondent's products are sponsored or approved by such organization.

PAR. 5. The use by the respondent of the acts and practices herein referred to has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products are sponsored or approved by the Junior League, and as a result of such erroneous and mistaken belief the purchasing public has been induced to, and has, purchased substantial quantities of respondent's products.

PAR. 6. By the means herein set forth the respondent has also placed directly in the hands of uninformed or unscrupulous dealers a means and instrumentality whereby such dealers have been and are enabled to mislead and deceive members of the purchasing public.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 1st day of May 1940, issued and subsequently served its complaint in this proceeding upon Junior League Lingerie, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony, and other evidence in support of the allegations of said complaint were introduced by James L. Fort and L. E. Creel, attorneys for the Commission, and in opposition thereto by Martin Selig, attorney for the respondent, be-

fore Robert S. Hall, an examiner of the Commission theretofore duly designated by it, 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, answer, testimony, and other evidence, and brief in support of the complaint (respondent not having filed brief, and oral argument not having been requested), and the Commission having duly considered the matter, 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. Respondent, Junior League Lingerie, Inc., is a corporation, organized under the laws of the State of New York, with its principal office and place of business located at 152 Madison Avenue, New York City, State of New York. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of women's apparel, including slips and other lingerie.

PAR. 2. Respondent causes its products, when sold, to be transported from its place of business in the State of New York, to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Since the year 1901 there have existed in various cities and towns throughout the United States organizations of young women known as Junior Leagues. Such organizations are benevolent, non-profit organizations devoted to charitable purposes and the improvement of social conditions in their respective communities. They sponsor various benevolent activities, including the financial assistance of hospitals and other charitable enterprises. In order to obtain funds with which to carry on their activities the Junior Leagues frequently engage in various money-raising activities, such as the operation of gift shops, rummage sales, and tearooms. Also prominent among such activities is the conducting of fashion shows, many of which are conducted in cooperation with local merchants.

In the year 1921 there was incorporated under the laws of the State of New York an association known as the Association of The Junior Leagues of America, Inc., which had and has as its purpose the uniting in a central organization of all of the Junior Leagues throughout the United States, Canada and Mexico. This central

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organization now comprises approximately 130 local or member leagues, with a total membership of approximately 35,000. As a part of its activities, the said association publishes a periodical known as the "Junior League Magazine" which is sold to the public, as well as to the members of the various local organizations. This magazine contains numerous articles and suggestions with respect to women's apparel and with respect to current fashions and styles in such apparel.

PAR. 4. The Commission finds that the name "Junior League" is now and for many years last past has been associated in the minds of a substantial portion of the purchasing public with the aforesaid organizations to such an extent that the use of such name to designate or describe articles of merchandise, particularly women's apparel, serves as a representation to the public, and causes the public to believe, that the articles so designated are sponsored or approved by the Junior League.

PAR. 5. In the course and conduct of its business as described herein, the respondent has represented that its products are sponsored or approved by the Junior League, such representations being made by means of tags and labels attached to its products, by invoices, by letters, circulars, and other advertising material distributed among prospective purchasers, and by other means. Among and typical of such false and misleading representations are the legends, "Junior League Distinctive Lingerie" and "Junior League Buds," which the respondent causes to appear on labels attached to certain of its slips and other lingerie, and the statement, "This garment is unconditionally guaranteed by the makers of Junior League Lingerie," which the respondent places on tags attached to such slips. The respondent also supplies to dealers purchasing its products newspaper mats and other advertising material with which to promote the sale of such products. In all of such advertising material the words "Junior League" are prominently and conspicuously displayed.

The use by the respondent of the words "Junior League" as a part of its corporate name constitutes an additional representation that respondent has some connection with the Junior League and that respondent's products are sponsored or approved by the Junior League.

PAR. 6. The Commission finds that these representations are misleading and deceptive. In truth and in fact, none of the respondent's products are sponsored or approved by the Junior League. Respondent is not connected in any way with such organization and has no authority from such organization to use its name to designate respondent's products.

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PAR. 7. The Commission further finds that the use by the respondent of the acts and practices herein referred to has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products are sponsored or approved by the Junior League, and as a result of such erroneous and mistaken belief the purchasing public has been induced to purchase, and has purchased, substantial quantities of respondent's products. The acts and practices of respondent serve also to place in the hand of uninformed and unscrupulous dealers means and instrumentalities whereby such dealers are enabled to mislead and deceive members of the purchasing public.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony, and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief filed herein by counsel for the Commission (no brief having been filed on behalf of the respondent, and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Junior League Lingerie, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of women's apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Junior League," or any other word or words of similar import or meaning, in respondent's corporate name, or otherwise representing that respondent is connected in any way with the organization known as the Junior League.

2. Using the words "Junior League," or any other word or words of similar import or meaning, to designate, describe, or refer to re-

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spondent's products, or otherwise representing that respondent's products are sponsored or approved by the organization known as the Junior League.

It is further ordered, That the respondent shall within 60 days after 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 this order.

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IN THE MATTER OF
ELY & WALKER DRY GOODS COMPANY

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

Docket 4216. Complaint, Aug. 5, 1940—Decision, Nov. 12, 1940

Where a corporation engaged in sale and distribution of men's clothing in commerce among the various States—

(a) Advertised in two periodicals, in connection with offer, sale and distribution of certain men's robes, in commerce, as aforesaid, said products as "Camel Suede Robe," and featured said words in large display type across the top of the page, and set forth, near the bottom thereof, in comparatively small type and, except as otherwise indicated, "Constructed of North American Brushed Rayon. * * * Soft rich colors have been specially dyed for the CAMEL SUEDE ROBE, of Natural Tan, Dubonnet Wine, * * * YOU MUST SEE THE CAMEL SUEDE ROBE * * *," and displayed, between featured words "CAMEL SUEDE ROBE" and aforesaid explanatory matter, several relatively large depictions of men attired in such robes, with result of thus widely separating the two; and

(b) Permanently attached, during period concerned, to robes aforesaid, yellow labels reading "CAMEL SUEDE Tailored by COURTLEIGH" and bearing illustrations of a camel with a background of palm trees and pyramids;

Notwithstanding fact robes aforesaid, thus labeled and described, were not composed in any part of the hair or wool of the camel, as might be implied by designation "Camel Suede," and were not garments thus made from hair or wool of the camel, believed generally by many dealers and retailers and members of general purchasing public to be more desirable than those made from any other materials for similar uses, and for which, when thus made in whole or in predominant part, there is a preference, consequently, on part of substantial number of purchasing and consuming public, but were made of rayon, which, when so manufactured as to simulate hair or wool of camel, has appearance and feel thereof and is, by purchasing and consuming public, without rayon designation, practically indistinguishable therefrom, and, under such circumstances, may be considered and accepted by some dealers and retailers and purchasing and consuming public as being such hair or wool; and

(c) Attached, by means of sewing, to above described yellow label, small black cloth tabs or labels with single word "Rayon" in white, and also, to guard of belt of said robes, paper string ticket bearing words, on one side, "Brushed Rayon," and on the other, "To be dry cleaned";

With result, through method of attaching by sewing aforesaid black cloth tab or label, and of attaching by string aforesaid label and ticket to belt of said robes, of supplying means of misleading and deceiving prospective purchasers, dealers in and retailers of said robes by means of fact that such labels and paper string tickets were capable of being easily removed through cutting or tearing, leaving on garment only aforesaid illustrated label "Camel Suede, Tailored by Courtleigh," and with capacity and tendency, through its said acts and practices in using such statements in advertise-