

IN THE MATTER OF
**THE COAL CARBURETOR COMPANY, AND THORNTON W.
PRICE, INDIVIDUALLY AND AS PRESIDENT THEREOF**

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

Docket 4070. Complaint, Mar. 20, 1940—Decision, Mar. 5, 1941

Where a corporation engaged in manufacture of its "Coal Carburetor" equipment to facilitate combustion of coal and gases in coal burning furnaces and in interstate sale and distribution thereof, and an individual who was its president and dictated its business policies, and had been owner of said business prior to such corporation; in advertising material circulated to purchasers and prospective purchasers—

- (a) Represented or implied that said "Coal Carburetor" was officially indorsed by the United States Government, and that use thereof was advocated and approved by the United States Bureau of Mines and indorsed and approved by public health authorities and other recognized health groups or organizations; facts being it had not been officially indorsed by the Government or by any of the branches thereof, or otherwise, as above set forth; and
- (b) Represented that it was the most efficient means known for producing heat from coal, and that such efficiency had been established by comparative tests with other equipment and devices designed for same general purposes; facts being any such claim was greatly exaggerated and not based on any known facts or upon any such comparative tests;

With capacity and tendency to mislead and deceive purchasers and prospective purchasers of their said "Coal Carburetor" into the erroneous belief that such representations were true, and thereby induce their purchase thereof:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Mr. Henry S. Thomas, of New Brunswick, N. J., for respondents.

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 The Coal Carburetor Co., a corporation, and Thornton W. Price, individually and as president of said corporation, hereinafter referred to as respondents, have violated the provisions of 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. Respondent, The Coal Carburetor Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business on Woodbridge Avenue, in the city of New Brunswick, State of New Jersey. Respondent, Thornton W. Price, is the president of said corporate respondent.

PAR. 2. Respondent, The Coal Carburetor Co., is now and has been since February 23, 1939, engaged in the manufacture of certain equipment designated and described as "Coal Carburetor," which is designed for the purpose of facilitating the combustion of coal and gases incident thereto in coal burning furnaces to which said equipment is attached, and in the sale and distribution of said equipment in commerce between and among the various States of the United States. Said respondent, in the course and conduct of its business during the time aforesaid, caused and does now cause its said equipment to be transported from its place of business in New Jersey to, into and through States of the United States other than New Jersey to the purchasers thereof in such other States.

PAR. 3. Said individual respondent, Thornton W. Price, as president of said corporation, is, and has been, its directing head and dictates and controls its business policies with respect to the acts and practices hereinafter set forth. Immediately prior to the operation of said business by said corporate respondent, it was operated by respondent, Thornton W. Price, as owner thereof, under the trade name "The Coal Carburetor Company." Prior to said individual ownership, the business was operated by a corporation of the same name as the present corporate respondent with said Thornton W. Price as president and directing head.

PAR. 4. Respondents, in the sale of said equipment as aforesaid, have made various misleading representations in advertising material circulated to purchasers and prospective purchasers of said equipment which represent or imply that the said "Coal Carburetor" is officially endorsed by the United States Government; that its use is advocated and approved by the United States Bureau of Mines; that it is endorsed and approved by Public Health authorities or other recognized health groups or organizations; that it is the most efficient means known for producing heat from coal and that such efficiency has been established by comparative tests with other equipment and devices designed for the same general purpose.

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Examples of statements made by respondents in advertising literature as aforesaid are the following:

Coal Carburetor is endorsed by its many users, including U. S. Government.

Advocated by U. S. Bureau of Mines as to basic principle of combustion.

Endorsed by Health Authorities as to maintenance of even temperatures.

Many Laboratory and Comparative Tests have proven Coal Carburetor the most efficient means known today for producing heat from coal.

PAR. 5. In truth and in fact said equipment has not been officially endorsed by the United States Government or by any of its branches. Its use has not been advocated nor has it been approved by the United States Bureau of Mines. It has not been endorsed or approved by any Public Health authority or other recognized health group or organization. Any claim that said equipment constitutes the most efficient means known for producing heat from coal is greatly exaggerated and is not based on any known fact or facts or upon comparative tests made in conjunction with other equipment or devices designed and intended for the same general purpose.

PAR. 6. The aforesaid acts and practices used by respondents in connection with the offering for sale and sale of said "Coal Carburetor" have had, and now have, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations, as herein alleged, are true, and to induce them to purchase such equipment on account thereof.

PAR. 7. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice 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 20th day of March 1940, issued, and on the 22d day of March 1940, served, its complaint in this proceeding upon the respondents, Coal Carburetor Co., a corporation, and Thornton W. Price, individually and as president of said corporation, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On April 12, 1940, the respondents filed their answer in this proceeding. Thereafter a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may

be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved, accepted and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The correct corporate name of the respondent named in the complaint as The Coal Carburetor Co. is Coal Carburetor Co., and said respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business in the city of New Brunswick, State of New Jersey. Respondent Thornton W. Price is the president of said corporate respondent, for which corporation a receiver was appointed by the New Jersey Court of Chancery in September 1939, but which has not been formally and legally dissolved as a corporate entity.

PAR. 2. Respondent, Coal Carburetor Co., is now and has been since February 23, 1939, engaged in the manufacture of certain equipment designated and described as "Coal Carburetor," which is designed for the purpose of facilitating the combustion of coal and gases incident thereto in coal burning furnaces to which said equipment is attached, and in the sale and distribution of said equipment in commerce between and among the various States of the United States. Said respondent, in the course and conduct of its business during the time aforesaid, caused and does now cause its said equipment to be transported from its place of business in New Jersey to, into, and through States of the United States other than New Jersey to the purchasers thereof in such other States.

PAR. 3. Said individual respondent, Thornton W. Price, as president of said corporation, was its directing head and dictated and controlled its business policies with respect to the acts and practices hereinafter set forth. Immediately prior to the operation of said business by said corporate respondent, it was operated by respondent, Thornton

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W. Price, as owner thereof, under the trade name "The Coal Carburetor Company." Prior to said individual ownership, the business was operated by a corporation of the same name as the present corporate respondent with said Thornton W. Price as president and directing head.

PAR. 4. Respondents, in the sale of said equipment as aforesaid, have made various misleading representations in advertising material circulated to purchasers and prospective purchasers of said equipment which represent or imply that the said "Coal Carburetor" is officially endorsed by the United States Government; that its use is advocated and approved by the United States Bureau of Mines; that it is endorsed and approved by Public Health authorities or other recognized health groups or organizations; that it is the most efficient means known for producing heat from coal and that such efficiency has been established by comparative tests with other equipment and devices designed for the same general purpose.

Examples of statements made by respondents in advertising literature as aforesaid, are the following:

Coal Carburetor is endorsed by its many users, including U. S. Government.

Advocated by U. S. Bureau of Mines as to basic principle of combustion.

Endorsed by Health Authorities as to maintenance of even temperatures.

Many Laboratory and Comparative Tests have proven Coal Carburetor the most efficient means known today for producing heat from coal.

PAR. 5. In truth and in fact said equipment has not been officially endorsed by the United States Government or by any of its branches. Its use has not been advocated nor has it been approved by the United States Bureau of Mines. It has not been endorsed or approved by any Public Health authority or other recognized health group or organization. Any claim that said equipment constitutes the most efficient means known for producing heat from coal is greatly exaggerated and is not based on any known fact or facts or upon comparative tests made in conjunction with other equipment or devices designed and intended for the same general purpose.

PAR. 6. The aforesaid acts and practices used by respondents in connection with the offering for sale and sale of said "Coal Carburetor" have had the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations, as herein stated are true, and to induce them to purchase such equipment on account thereof.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice 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 the respondents and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Coal Carburetor Co., a corporation, its officers, agents, representatives, servants, and employees, and Thornton W. Price, his agents, representatives, servants, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of equipment designed for the purpose of facilitating the combustion of coal and gases in furnaces and designated as "Coal Carburetor," in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that said equipment designated as "Coal Carburetor" has been endorsed, approved, or recommended by the United States Government or any of its branches, departments, bureaus, or agencies; or that its use has been advocated or approved by the United States Bureau of Mines; or that it has been endorsed, approved or recommended by any public health authority or any other recognized group, association, or organization for the advancement, promotion, protection or preservation of health.

2. Representing that "Coal Carburetor" is the most efficient means known for producing heat from coal or that such efficiency has been established by comparative tests with other equipment and devices

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designed for the same general purpose, unless and until the truth of such representation has been actually established by such tests.

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.

Complaint

IN THE MATTER OF

RUTH GOWNS, INC.

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

Docket 4426. Complaint, Dec. 20, 1940—Decision, Mar. 5, 1941

Where a corporation engaged in manufacture of various grades and types of dresses and other wearing apparel for women, and in interstate sale and distribution of such products, including various garments made in whole or in part of rayon, which, when so manufactured as to simulate silk, has appearance and feel thereof and is by purchasing public practically indistinguishable therefrom, and, when manufactured as aforesaid and not designated as rayon, is believed and accepted by a portion of purchasing public as being silk, product of cocoon of silkworm; in connection with sale in commerce of its said last-named products or garments—

Made no disclosure by tag, label, or advertising, or otherwise than in invoicing, or at all in some instances, of rayon content of said garments which, composed entirely of said chemically manufactured fiber or fabric, but with appearance and feel of silk, were accordingly sold through wholesalers, jobbers and retailers to purchasing public with no disclosure of rayon content thereof;

With result of placing in hands of uninformed or unscrupulous jobbers, wholesalers, and retailers means and instrumentality whereby they might deceive or mislead members of purchasing public into erroneous and mistaken belief that in purchasing aforesaid rayon garments they were buying those made from silk, and with tendency and capacity to mislead and deceive substantial portion of purchasing public into erroneous and mistaken belief that they were composed of silk, product of cocoon of silkworm, products of which have long been held in great public esteem and confidence for the preeminent qualities thereof, and with result, as consequence thereof, that number of consuming and purchasing public bought its said products in substantial volume:

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.

Mr. Robert Mathis, Jr. for the Commission.

Wachtell, Manheim & Grouf, 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 Ruth Gowns, Inc., a corporation, hereinafter referred to as respondent, has violated