

Syllabus

IN THE MATTER OF
 WILLIAM E. EVANS, TRADING AS PIONEER MATTRESS
 COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
 OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4483. Complaint, Apr. 5, 1941—Decision, July 10, 1941

Where an individual engaged in the manufacture and interstate sale and distribution of mattresses through advertising letters and cards bearing purported signatures of certain women's clubs, prepared subject to his approval and mailed by a New York advertising agency to addresses of numerous prospective purchasers supplied by him, and also through circulars, letters, cards, and other advertising material, and through tags and labels attached to his products, and otherwise—

- (a) Represented that his said mattresses had been designed, sponsored or recommended by a physician, and were the products of a certain competitor long engaged in manufacture and sale of nationally advertised and widely and favorably known mattresses, through use of words "Dr." and "Simmons" in such statements as "Dr. Simmons Spring-filled Mattress * * *" " * * * Dr. Simmons Inner-Spring mattress is nationally known * * *" notwithstanding the fact his said mattresses were not designed, sponsored, or recommended by any physician and were not the product of the Simmons Co.;
- (b) Represented that his said mattresses were approved or sponsored by women's clubs or organizations through use of various purported offers and such statements as "HAS BEEN APPROVED BY US" and "THE WORLD'S BEST INNER-SPRING MATTRESS" over such names as "American Good Housekeeper Club" and "The Great Northern Women's Club," and "Recommended by the leading Women's Clubs * * *"; the facts being that such names were wholly fictitious, their purported addresses being the address of the advertising agency referred to;
- (c) Misrepresented the customary or regular retail prices of his products through placing on tags and labels attached to certain mattresses, and inserting in advertising material, "\$39.50," notwithstanding fact mattresses in question never sold at any price approximating said amount, but were customarily offered and sold at retail for about \$10.95;
- (d) Represented that his prices were special or reduced prices or applicable for a limited time only, or for advertising purposes, or represented only cost of manufacture, and that prospective purchasers were selected and might obtain his products at prices less than those at which they were customarily sold, through such statements as "LAST OPPORTUNITY! CAMPAIGN CLOSES * * * DB. SIMMONS SPRING-FILLED MATTRESS MADE BY Pioneer Mattress Company * * *," and "HAS BEEN APPROVED BY US. This mattress retails for \$39.50. During this campaign you can buy one for \$10.95 if you will phone or write them at once, as your name was selected to get one at the actual manufacturers cost. * * * AMERICAN GOOD HOUSEKEEPERS CLUB * * *," and " * * * I recently had the pleasure of selecting your name to receive a beautiful new Dr. Simmons Health Inner-Spring Mattress for advertising purposes, and have instructed The Pioneer Mattress Company, Spartanburg, S. C., to deliver this mattress to you at \$10.95 which is the actual manufac-

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turers cost. This mattress retails for \$39.50. * * * THE GREAT NORTHERN WOMEN'S CLUB," and " * * * Your name carrying Number 9380, by the American Good Housekeepers Club, * * * has been selected to receive one of our beautiful new * * * Mattresses for advertising purposes * * *" and other similar statements; facts being the prices at which his said products were offered were as aforesaid, his regular and customary retail prices, and names of purchasers were not selected on any particular basis, but merely formed part of the general mailing lists used by said individual and his said advertising agency; and

- (e) Represented that his said mattresses were made entirely of new and unused materials and were germ and vermin proof, through such statements as " * * * We absolutely guarantee the mattress to be all new material * * *" and, in advertising, "CLEAN, NEW, SANITARY, GERM AND VERMIN PROOF * * *," and, on the label, " * * * contains all new materials"; facts being, in many cases his said products were made of used or second-hand materials, and were neither germ nor vermin proof;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to his products, and to induce it to purchase substantial quantities thereof as a result of such erroneous belief:

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

Mr. Jesse D. Kash for the Commission.

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 William E. Evans, an individual trading as Pioneer Mattress Co., hereinafter referred to as respondent, has 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 William E. Evans is an individual trading and doing business under the name of Pioneer Mattress Co., with his office and principal place of business located at 980 Church Street, in Spartanburg, S. C.

PAR. 2. Respondent is now, and for more than 3 years last past has been, engaged in the manufacture, sale, and distribution of mattresses. Respondent causes his said products, when sold, to be transported from his aforesaid place of business in the State of South Carolina to 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 his said mattresses in commerce among and between the various States in the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his products, the respondent

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entered into an agreement with an advertising or mailing agency located in the city of New York, under which agreement such agency prepared form of advertising letters and cards and forwarded such forms to the respondent at his place of business in Spartanburg, S. C., for approval. The respondent had letters and cards printed from such forms and sent such letters and cards to said advertising agency, which proceeded to mail them to numerous prospective purchasers of respondent's products, the names and addresses of such prospective purchasers being supplied to said agency by the respondent. These advertising letters and cards bore the signatures of certain purported women's clubs, namely "American Good Housekeepers Club" and "The Great Northern Women's Club."

Among and typical of the statements and representations appearing in such advertising material are the following:

LAST OPPORTUNITY!

CAMPAIGN CLOSES

FEBRUARY 4, 1939

DR. SIMMONS SPRING-FILLED

MATTRESS

MADE BY

Pioneer Mattress Company

Spartanburg, S. C.

HAS BEEN APPROVED BY US This mattress retails for \$39.50. During this campaign you can buy one for \$10.95 if you will phone or write them at once, as your name was selected to get one at the actual manufacturers cost. However, you must act immediately.

AMERICAN GOOD HOUSEKEEPERS CLUB,

210-5th Avenue, Suite 1102,

New York City, Tel. Ashland 4-9221.

* * * I recently had the pleasure of selecting your name to receive a beautiful new Dr. Simmons Health Inner-Spring Mattress for advertising purposes, and have instructed The Pioneer Mattress Company, Spartanburg, S. C., to deliver this mattress to you at \$10.95 which is the actual manufacturers cost. This mattress retails for \$39.50. * * *

THE GREAT NORTHERN WOMEN'S CLUB

THE WORLD'S BEST INNER-SPRING MATTRESS

Made by

PIONEER MATTRESS COMPANY

CLEAN, NEW, SANITARY, GERM AND VERMIN PROOF MATTRESS

This mattress is plainly labeled to retail for \$39.50. During this campaign you can buy one for \$14.95 and your old mattress. * * *

AMERICAN GOOD HOUSEKEEPERS CLUB

THIS OFFER WILL NEVER HAPPEN AGAIN

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PAR. 4. In addition to the foregoing representations, the respondent has made other representations to prospective purchasers of his products, such representations being disseminated by means of circulars, letters, cards, and other advertising material distributed among prospective purchasers, by means of tags and labels attached to respondent's products, and by other means.

Among and typical of the statements and representations appearing in such advertising material are the following:

* * * Your name carrying Number 9380, by the American Good Housekeepers Club, 210—5th Avenue, New York City, N. Y., has been selected to receive one of our beautiful new \$39.50 Dr. Simmons Health Inner-Spring Mattresses for advertising purposes.

PIONEER MATTRESS CO.

* * * Here, now is a mattress designed to bring uncommon luxury into one-third of your life—one that will frankly spoil you for guest week-ends at the Joneses. A deep, tempting come-to-bed mattress. This Dr. Simmons Inner-Spring mattress is nationally known. Recommended by the leading Women's Clubs and is absolutely guaranteed for 15 years. During this campaign, you can save \$27.55 on this mattress as our wholesale price is \$16.95 and the attached coupon for \$5.00 when properly endorsed by you brings the actual cost down to \$11.95.

THE PIONEER MATTRESS CO.
By W. E. EVANS (Manager)

SPARTANBURG, S. C.,
August 28th, 1939.

Dear Madam: We have selected your name to receive a beautiful new WORLD'S BEST INNER-SPRING MATTRESS for only \$11.95 and your old mattress which will be passed on to the needy, or sold for junk.

* * * This mattress is plainly labeled to retail for \$39.50. We absolutely guarantee the mattress to be all new material and to please you in every respect or we will refund you every penny of your money.

THE PIONEER MATTRESS CO.

(Label) This article contains all new materials.

PAR. 5. Through the use of the foregoing representations, and others of similar import not specifically set out herein, the respondent has represented that his said mattresses are designed, sponsored or recommended by a physician; that the prospective purchaser's name has been selected or chosen on some basis, and that by reason thereof such prospective purchaser is given an opportunity to obtain one of respondent's mattresses at a special or reduced price which represents the actual cost of manufacture of such mattress; that such offer is open for a limited time only; that such offer is made in connection with a special advertising campaign; that respondent's mattresses are made entirely of new and unused materials; that such mattresses are germ proof

and vermin proof; that such mattresses are approved or recommended by various women's clubs.

PAR. 6. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's mattresses are not designed, sponsored, or recommended by any physician. The use by the respondent of the legend "Dr." to designate his mattresses is within itself misleading and deceptive. The names of prospective purchasers are not selected or chosen on any particular basis, but such names merely form a part of general mailing lists used by the respondent and by the respondent's advertising agency as aforesaid. The prices at which respondent's mattresses are offered for sale are not special or reduced prices, nor do they represent only the cost of the manufacture of such mattresses. Such prices are in fact the regular and customary retail prices of respondent's mattresses. Such offers are not limited as to time, nor are they made in connection with any special advertising campaign.

In many cases respondent's mattresses are not made entirely of new or unused materials, but are made of used or second-hand materials. Respondent's mattresses are neither germ proof nor vermin proof. They are not approved or recommended by any women's club. In truth and in fact, the names of the purported women's clubs appearing in respondent's advertising are wholly fictitious, the purported addresses of such clubs being the address of respondent's advertising agency.

PAR. 7. A further practice on the part of respondent is the use of fictitious price markings in connection with his products, such markings being placed on tags and labels attached to said products, and also inserted in other advertising material. Among and typical of such price markings is the legend "\$39.50" which the respondent uses in connection with certain of his mattresses. Through the use of this legend, the respondent represents that the customary retail price of said mattress is \$39.50. This representation is false and misleading, in that said mattresses have never been sold at retail for \$39.50 or for any price approximating such amount. In truth and in fact, the price at which said mattresses are customarily offered for sale and sold at retail in the normal and regular course of business is only about \$10.95.

PAR. 8. One of the competitors of the respondent, namely, Simmons Co., has for many years manufactured and sold mattresses under the trade name "Simmons." Such mattresses have been nationally advertised under such trade name and are widely and favorably known among members of the purchasing public. The use by the respondent of the name "Simmons" to designate his products serves as a repre-

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sentation to the public that respondent's mattresses are the product of the Simmons Co. In truth and in fact, respondent's mattresses are not the product of said Simmons Co., and the use by the respondent of the name "Simmons" to designate such mattresses constitutes a false and misleading representation.

PAR. 9. The use by the respondent of the aforesaid acts and practices has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's products, and to induce such portion of the public to purchase substantial quantities of respondent's products as a result of such erroneous and mistaken belief.

PAR. 10. 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 April 5, 1941, issued and subsequently served its complaint in this proceeding upon respondent William E. Evans, an individual trading as Pioneer Mattress Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Subsequently, respondent filed his answer in which he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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 William E. Evans is an individual trading and doing business under the name of Pioneer Mattress Co., with his office and principal place of business located at 980 Church Street, in Spartanburg, S. C.

PAR. 2. Respondent is now, and for more than 3 years last past has been, engaged in the manufacture, sale, and distribution of mattresses. Respondent causes his said products, when sold, to be transported from his aforesaid place of business in the State of South

Carolina to 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 his said mattresses in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his products, the respondent entered into an agreement with an advertising or mailing agency located in the city of New York, under which agreement such agency prepared forms of advertising letters and cards and forwarded such forms to the respondent at his place of business in Spartanburg, S. C., for approval. The respondent had letters and cards printed from such forms and sent such letters and cards to said advertising agency, which proceeded to mail them to numerous prospective purchasers of respondent's products, the names and addresses of such prospective purchasers being supplied to said agency by the respondent. These advertising letters and cards bore the signatures of certain purported women's clubs, namely, "American Good Housekeepers Club" and "The Great Northern Women's Club."

Among and typical of the statements and representations appearing in such advertising material are the following:

LAST OPPORTUNITY!

FEBRUARY 4, 1939

DR. SIMMONS SPRING-FILLED

MATTRESS

MADE BY

Pioneer Mattress Company

Spartanburg, S. C.

HAS BEEN APPROVED BY US This mattress retails for \$39.50. During this campaign you can buy one for \$10.95 if you will phone or write them at once, as your name was selected to get one at the actual manufacturers cost. However, you must act immediately.

AMERICAN GOOD HOUSEKEEPERS CLUB

210—5th Avenue, Suite 1102,

New York City, Tel. Ashland 4-9221.

* * * I recently had the pleasure of selecting your name to receive a beautiful new Dr. Simmons Health Inner-Spring Mattress for advertising purposes, and have instructed The Pioneer Mattress Company, Spartanburg, S. C., to deliver this mattress to you at \$10.95 which is the actual manufacturers cost. This mattress retails for \$39.50. * * *

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THE GREAT NORTHERN WOMEN'S CLUB

THE WORLD'S BEST INNER-SPRING MATTRESS

Made by

PIONEER MATTRESS COMPANY

CLEAN, NEW, SANITARY, GERM AND VERMIN PROOF MATTRESS.

This mattress is plainly labeled to retail for \$39.50. During this campaign you can buy one for \$14.95 and your old mattress. * * *

AMERICAN GOOD HOUSEKEEPERS CLUB

THIS OFFER WILL NEVER HAPPEN AGAIN

PAR. 4. In addition to the foregoing representations, the respondent has made other representations to prospective purchasers of his products, such representations being disseminated by means of circulars, letters, cards, and other advertising material distributed among prospective purchasers, by means of tags and labels attached to respondent's products, and by other means.

Among and typical of the statements and representations appearing in such advertising material are the following:

* * * Your name carrying Number 9380, by the American Good Housekeepers Club, 210—5th Avenue, New York City, N. Y., has been selected to receive one of our beautiful new \$39.50 Dr. Simmons Health Inner-Spring Mattresses for advertising purposes.

* * * Here, now is a mattress designed to bring uncommon luxury into one-third of your life—one that will frankly spoil you for guest week-ends at the Joneses. A deep, tempting come-to-bed mattress. This Dr. Simmons Inner-Spring mattress is nationally known. Recommended by the leading Women's Clubs and is absolutely guaranteed for 15 years. During this campaign, you can save \$27.55 on this mattress as our wholesale price is \$16.95 and the attached coupon for \$5.00 when properly endorsed by you brings the actual cost down to \$11.95.

THE PIONEER MATTRESS CO.

By W. E. Evans (Manager)

Spartanburg, S. C.

August 28th, 1939

Dear Madam: We have selected your name to receive a beautiful new WORLD'S BEST INNER-SPRING MATTRESS for only \$11.95 and your old mattress which will be passed on to the needy, or sold for junk.

This mattress is plainly labeled to retail for \$39.50. We absolutely guarantee the mattress to be all new material and to please you in every respect or we will refund you every penny of your money.

THE PIONEER MATTRESS CO.

(Label) This article contains all new materials.

PAR. 5. Through the use of the foregoing representations, and others of similar import not specifically set out herein, the respondent has represented that his said mattresses are designed, sponsored, or recommended by a physician; that the prospective purchaser's name has been selected or chosen on some basis, and that by reason thereof such prospective purchaser is given an opportunity to obtain one of respondent's mattresses at a special or reduced price which represents the actual cost of manufacture of such mattress; that such offer is open for a limited time only; that such offer is made in connection with a special advertising campaign; that respondent's mattresses are made entirely of new and unused materials; that such mattresses are germ proof and vermin proof; that such mattresses are approved or recommended by various women's clubs.

PAR. 6. The foregoing representations are grossly exaggerated, false, and misleading. In truth and in fact, respondent's mattresses are not designed, sponsored, or recommended by any physician. The use by the respondent of the legend "DR." to designate his mattresses is within itself misleading and deceptive. The names of prospective purchasers are not selected or chosen on any particular basis, but such names merely form a part of general mailing lists used by the respondent and by the respondent's advertising agency as aforesaid. The prices at which respondent's mattresses are offered for sale are not special or reduced prices, nor do they represent only the cost of the manufacture of such mattresses. Such prices are in fact the regular and customary retail prices of respondent's mattresses. Such offers are not limited as to time, nor are they made in connection with any special advertising campaign.

In many cases respondent's mattresses are not made entirely of new or unused materials, but are made of used or second-hand materials. Respondent's mattresses are neither germ proof nor vermin proof. They are not approved or recommended by any women's club. In truth and in fact, the names of the purported women's clubs appearing in respondent's advertising are wholly fictitious, the purported addresses of such clubs being the address of respondent's advertising agency.

PAR. 7. A further practice on the part of respondent is the use of fictitious price markings in connection with his products, such markings being placed on tags and labels attached to said products, and also inserted in other advertising material. Among and typical of such price markings is the legend "\$39.50" which the respondent uses in connection with certain of his mattresses. Through the use of this legend, the respondent represents that the customary retail price of said mattress is \$39.50. This representation is false and misleading,

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in that said mattresses have never been sold at retail for \$39.50 or for any price approximating such amount. In truth and in fact, the price at which said mattresses are customarily offered for sale and sold at retail in the normal and regular course of business is only about \$10.95.

PAR. 8. One of the competitors of the respondent, namely, Simmons Co., has for many years manufactured and sold mattresses under the trade name "Simmons." Such mattresses have been nationally advertised under such trade name and are widely and favorably known among members of the purchasing public. The use by the respondent of the name "Simmons" to designate his products serves as a representation to the public that respondent's mattresses are the product of the Simmons Co. In truth and in fact, respondent's mattresses are not the product of said Simmons Co., and the use by the respondent of the name "Simmons" to designate such mattresses constitutes a false and misleading representation.

PAR. 9. The use by the respondent of the aforesaid acts and practices has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's products, and to induce such portion of the public to purchase substantial quantities of respondent's products as a result of such erroneous and mistaken belief.

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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, William E. Evans, individually and trading as Pioneer Mattress Co., or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of mattresses in commerce, as "commerce" is defined

in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Doctor" or the abbreviation "Dr." to designate, describe or refer to respondent's products, or otherwise representing that respondent's products are designed, sponsored, or recommended by any physician.

2. Using the word "Simmons," alone or in conjunction or connection with any other word or words, to designate, describe or refer to respondent's products, or otherwise representing that respondent's products are products of the concern known as Simmons Company.

3. Soliciting the purchase of respondent's products through the use of offers which purport to have originated with women's clubs or organizations sponsoring respondent's products.

4. Representing that respondent's products are approved or recommended by any women's club or organization.

5. Representing as the customary or regular retail prices of respondent's products prices which are in excess of the prices at which such products are regularly and customarily sold by respondent at retail in the normal and usual course of business.

6. Representing that the prices at which respondent offers his products for sale are special or reduced prices, or that such prices are applicable for a limited time only, or that such prices are for advertising purposes, or that such prices represent only the cost of the manufacture of such products, when in fact such prices are the usual and customary prices at which respondent sells his products at retail in the normal and usual course of business.

7. Representing that the names of prospective purchasers which are taken from general mailing lists are "selected," and that such prospective purchasers may obtain respondent's products at prices less than the prices at which such products are customarily sold.

8. Representing that products which contain any used or second-hand materials are made entirely of new or unused materials.

9. Representing that respondent's products are germ proof or vermin proof.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
REFRIGERATION & AIR CONDITIONING INSTITUTE, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 3811. Complaint, Oct. 31, 1939¹—Decision, July 11, 1941

Where a corporation engaged in competitive interstate sale and distribution of a course of study in refrigeration and air conditioning, which consisted primarily of a series of lessons to be pursued at home, followed by a period of shop training and instruction at its school in Chicago;

In advertising, through newspapers of wide circulation and extensively by means of radio programs, for the purpose, primarily, of arousing the interest of prospective purchasers and of causing them to make inquiries of it for additional information, and by oral representations of its field representatives or agents, through whom it conducted actual solicitation of prospective purchasers—

- (a) Represented, directly or by implication, that there was a great and unusual demand for new employees, and that as many as 5,000 or more new employees per year were needed in the refrigeration and air conditioning industry, that unusual and extraordinary opportunities for employment were open to persons completing its course of study, and that employment in said industry was assured to such persons;

The facts being that, while there are opportunities for employment in said industry, there is no unusual or extraordinary demand for employees therein, instruction and training in subject being offered also by many other correspondence schools, as well as universities and colleges, and the industry and the trade unions also supplying additional workers; even assuming that the industry could absorb 5,000 new workers a year, it was doubtful, in view of the large number of persons seeking to enter it, that the major portion of its 2,000 annual graduates would be able to obtain employment, and in no event could such graduates be assured thereof; and

- (b) Represented that its said school was under the direction and supervision of the industry and was conducted in cooperation therewith;

Facts being that, while it maintained as a part of its organization a group of individuals holding responsible positions in the industry, and known as its "Board of Governors," which, at bi-monthly meetings, discussed various school matters and offered suggestions and criticisms, the work of such "Board," generally speaking, was advisory only: it did not undertake to direct or supervise in detail operations of the school, and the companies with which its individual members were connected fell far short of constituting the entire industry, though occupying prominent places therein; and while certain individuals in the industry had evinced interest in the school and cooperated with it to a limited extent, there had been no cooperative action by it as such, and no member thereof had contributed in any way to its financial support;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public, and to cause it, as a result of the erroneous belief thus

¹ Amended.