

Complaint

IN THE MATTER OF

MONTGOMERY WARD & COMPANY, INC.

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

Docket 4447. Complaint, Jan. 15, 1941—Decision, June 23, 1942

Where a corporation, engaged in interstate sale and distribution by mail order of merchandise, including certain devices for feminine use described by it as "Ward's Posture-Aid Health Belts," "Diab Reducers," and "DuPont Velutex Perforated Reducers"—

- (a) Made such statements, in its catalogs, along with illustrations of such devices, as "Reduce Excess Flesh," "Correct Figure Faults," "Reduce your diaphragm and abdomen," "Mold your abdomen gently," "Correct pendulous abdomens," "Take 2 to 3 inches from abdomen and diaphragm," and "Make reducing easy";

The facts being that, while such devices would afford artificial support, lessen the prominence of pendulous abdomens, and change the physical appearance by compressing that portion of the body about which they were placed, they would not cause a reduction of local body tissue, or effectively remove fat; and

- (b) Represented, through use of terms "Health" and "Reducers" as part of the name of said devices, that the use thereof promoted health and reduced wearer's weight; when in fact such results were not thus obtainable;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said statements were true, thereby inducing it to purchase said devices, because of such mistaken belief:

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. William C. Reeves*, *Mr. John W. Addison*, and *Mr. John J. Keenan*, trial examiners.

Mr. Eldon P. Schrup for the Commission.

Mr. Francis D. Roth and *Mr. L. E. Oliphant*, of Chicago, Ill., 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 Montgomery Ward & Co., 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:

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PARAGRAPH 1. Respondent, Montgomery Ward & Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located in the city of Chicago, State of Illinois.

Respondent, Montgomery Ward & Co., Inc., is now and for a number of years last past has been engaged in the sale and distribution in commerce among and between the various States of the United States and in the District of Columbia of articles of general merchandise. In the course and conduct of said business respondent maintains and operates various so-called mail order houses located in Chicago, Ill.; Baltimore, Md.; Albany, N. Y.; Kansas City, Mo.; St. Paul, Minn.; Denver, Colo.; Portland, Oreg.; Oakland, Calif., and Fort Worth, Tex., together with a large number of retail stores, and many so-called catalog order offices situated in numerous cities and towns throughout the United States and in the District of Columbia.

For the purpose of inducing the purchase of its various articles of merchandise, respondent from time to time issues and distributes catalogs to the purchasing public by means of the United States mails and by various other means in commerce. Said catalogs contain illustrations, drawings, and descriptive matter concerning the various articles of merchandise offered for sale and the prices at which said articles can be purchased. Respondent also supplies its various retail stores and so-called catalog order offices with copies of said catalog for inspection by the general public, and from which the public can make purchases of articles of merchandise not carried in stock by the retail store.

Respondent causes said merchandise when sold to be transported, by means of the United States mails and otherwise, from its places of business located in the State of Illinois and in various other States to the purchasers thereof located in a State or States other than the State or States wherein such shipments of merchandise from respondent originate.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said articles of general merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Among the articles of general merchandise so offered for sale, sold, and distributed by respondent are certain devices for feminine use advertised and described by respondent in respondent's said mail order catalogs as "Ward's Posture-Aid Health Belts," "Diab Reducers," and "Du Pont Velutex Perforated Reducers."

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and is now disseminating, and has caused

and is now causing the dissemination of, false advertisements concerning said devices by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning said products by various means, for the purpose of inducing, and which are likely to induce directly or indirectly, the purchase of said devices in commerce, as commerce is defined in the Federal Trade Commission Act.

Among, and typical of, the false, misleading, and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth, by means of catalogs and other advertising material, are the claims by respondent that the wearing of the aforementioned devices, "Ward's Posture-Aid Health Belts," "Diab Reducers," and "Du Pont Velutex Perforated Reducers" will accomplish the following:

- Reduce excess flesh;
- Correct figure faults;
- Reduce your diaphragm and abdomen;
- Mold your abdomen gently;
- Correct pendulous abdomens;
- Take 2 to 3 inches from abdomen and diaphragm;
- Make reducing easy.

PAR. 4. By the use of the representations hereinabove set forth, and other representations similar thereto not specifically set out herein, and by use of the terms "Health" and "Reducers" in the trade names of such devices, and also by means of illustrations and drawings contained in said catalogs, respondent represents that the aforementioned devices when worn will reduce excess flesh, correct figure faults, reduce the wearer's diaphragm and abdomen, mold the abdomen gently, correct pendulous abdomens, take 2 to 3 inches from abdomen and diaphragm, and make reducing easy.

PAR. 5. The aforesaid representations and claims used and disseminated by the respondent, as hereinabove described, are grossly exaggerated, misleading and untrue. In truth and in fact, the wearing of such devices will not reduce flesh, make reducing easy, reduce the diaphragm and abdomen, or take 2 to 3 inches from the abdomen and diaphragm. The wearing of these devices will afford artificial support and lessen the prominence of pendulous abdomens, and by compressing that portion of the body about which they are placed change the wearer's physical appearance. They will not correct this condition, but instead will cause further loss of the functioning of the abdominal muscles. The use of said devices will not cause a

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reduction of local or body tissue or effectively remove fat or overcome or lessen a condition of excess weight. Said devices have no value in maintaining or restoring bodily health.

PAR. 6. The use by the respondent of the foregoing false, deceptive and misleading statements, representations and advertisements, disseminated as aforesaid, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and advertisements are true and induces a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase said devices.

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 15th day of January A. D. 1941, issued and thereafter served its complaint in this proceeding upon the respondent, charging it with unfair and deceptive acts and practices in commerce, in violation of the Federal Trade Commission Act.

After the issuance of the complaint and filing of respondent's answer, testimony, and other evidence in support of the allegations of the complaint were introduced by Eldon P. Schrup, attorney for the Commission, and testimony in opposition to the allegations of the complaint was introduced by F. D. Roth, attorney for the respondent, before duly appointed trial examiners of the Commission designated by it to serve in this proceeding. 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 complaint, answer, testimony, and other evidence, the trial examiners' report and exceptions thereto, briefs in support of, and in opposition to the complaint, and oral argument: 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, Montgomery Ward & Co., Inc., a corporation, is a corporation, organized under the laws of the State of

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Illinois, with its principal office and place of business in the city of Chicago, State of Illinois, and branch stores located in numerous States.

PAR. 2. Respondent is now, and for a number of years last past has been, engaged in conducting a mail order business, and in this connection has sold and now sells and distributes merchandise, including certain devices for feminine use described by respondent as "Ward's Posture-Aid Health Belts," "Diab Reducers," and "DuPont Velutex Perforated Reducers." Respondent causes said merchandise, when sold, to be transported by means of the United States mail, and otherwise, from its various places of business to purchasers thereof located in States other than the States wherein such shipments originate, and maintains and has maintained during all of the time mentioned herein, a course of trade in said articles of merchandise, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. Respondent, for the purpose of inducing the purchase of the devices referred to in paragraph 2 hereof, issues and distributes its catalogs to the purchasing public by means of the United States mail and by various other means. Among and typical of the statements and representations contained in respondent's advertisements appearing in its catalogs are the claims that the wearing of respondent's said devices will accomplish the following:

- Reduce Excess Flesh;
- Correct Figure Faults;
- Reduce your diaphragm and abdomen;
- Mold your abdomen gently;
- Correct pendulous abdomens;
- Take 2 to 3 inches from abdomen and diaphragm;
- Make reducing easy.

PAR. 4. Respondent, by use of the representations set forth in paragraph 3 hereof, and by means of illustrations and drawings contained in its catalogs, represents that its said devices, when worn, will reduce excess flesh, correct figure faults, reduce the wearer's diaphragm and abdomen, mold the abdomen gently, correct pendulous abdomens, take 2 to 3 inches from abdomen and diaphragm, and make reducing easy.

PAR. 5. The representations and claims of respondent, as set forth in paragraphs 3 and 4 hereof, are grossly exaggerated, false, and misleading. The wearing of said devices will afford artificial support and lessen the prominence of pendulous abdomens; will change the physical appearance by compressing that portion of the body about which they are placed; but will not cause a reduction of local body tissue, or effectively remove fat, or overcome or lessen the condition of

excess weight; nor have such devices any value in retaining or restoring bodily health. In truth and in fact, the wearing of respondent's said devices will not reduce excess flesh, correct figure faults, reduce the wearer's diaphragm and abdomen, take 2 to 3 inches from abdomen and diaphragm, or make reducing easy.

PAR. 6. Respondent, by use of the terms "Health" and "Reducers," as part of the name of said devices, represents and causes the purchasing public to believe, that the use of its devices promotes health and reduces the weight of the wearer, when in truth and in fact, such results are not obtainable by the use of said devices.

PAR. 7. The said exaggerated, false and misleading statements, representations, and advertisements disseminated by respondent have the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, representations, and advertisements are true, and have the capacity and tendency to induce, and have induced, the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's devices.

CONCLUSION

The aforesaid acts and practices of the respondent 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 the respondent, testimony and other evidence introduced before William C. Reeves, John W. Addison, and John J. Keenan, trial examiners of the Commission, theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, and briefs in support of and in opposition to the complaint, 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, Montgomery Ward & Co., Inc., a corporation, its officers, directors, agents, representatives, and employees, jointly or severally, directly or through any corporate or other device, in connection with offering for sale, sale and distribution of devices for feminine use designated by the respondent as "Ward's Posture-Aid Health Belts," "Diab Reducers," and "Du Pont's Velutex Perforated Reducers," or otherwise designated, or any device of sub-

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stantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated, any advertisement (a) by means of United States mails, or (b) by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference,

(1) That the wearing of any of said devices will remove excess flesh from the human body, or from the diaphragm or abdomen or any particular part or area of the body.

(2) That the wearing of any of said devices will mold the abdomen gently or correct figure faults in excess of compressing that portion of the body about which said devices are placed, and to that extent only improve the appearance of the wearer while the devices are actually being worn.

(3) That the wearing of said devices, or any of them, will correct pendulous abdomens, or take 2 or 3 inches, or any certain number of inches, from the wearer's diaphragm and abdomen.

(4) That said devices, or any of them, will make it easy for the wearer to reduce.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said devices, or any of them, which advertisement contains any of the representations prohibited in paragraph 1 hereof;

3. Using as a part of the designation or trade name of said devices the words "Health" or "Reducers," when such devices are offered for sale, sold or distributed in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

LASHER'S SILK MANUFACTURING COMPANY, INC.

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

Docket 4612. Complaint, Oct. 9, 1941—Decision, June 23, 1942

Where a corporation engaged in the manufacture and interstate sale and distribution of ribbon seam binding material and other products—

Offered and sold its ribbon seam binding wound on spools, cardboard rolls or cards upon which was imprinted, in conspicuous type and plainly visible to purchasers, along with said corporation's brand name and other descriptive matter, the legend "100 yds."; when in fact, due to shrinkage in dyeing, said spools or cards contained less than said amount;

With result of placing in the hands of dealers purchasing its products for resale a means whereby they were enabled to mislead and deceive the purchasing public, and of misleading and deceiving a substantial portion of such dealers into the false belief that said spools, cardboard rolls and cards contained said quantity, and of thereby inducing their purchase of substantial quantities of its said product; to their loss and injury and that of the 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. Clyde M. Hadley*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. George J. Beldock, 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 Lasher's Silk Manufacturing Co., Inc., a corporation, 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, Lasher's Silk Manufacturing Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 545 Eighth Avenue, in the city of New York, State of New York, and a manufacturing plant in the city of Bethlehem, State of Pennsylvania.