

IN THE MATTER OF
WORLD'S STAR-MALLOCH, INC., ALSO HAVING TRADED
AS "STRAND-SEALED HOSIERY CO."

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

Docket 3623. Complaint, Oct. 4, 1938—Decision, Jan. 9, 1943

Where a corporation, engaged in competitive interstate sale and distribution to the purchasing public of various articles of wearing apparel, including lingerie, hosiery, shirts, and dresses, principally through sales agents whom it obtained through advertisements in newspapers and periodicals of wide distribution and to whom it forwarded, upon receipt of inquiries, circular letters and other advertising material, supplying to those who agreed to serve in such capacity a sales kit which included various leaflets, circulars, pamphlets and other advertising material to be used by them and exhibited to prospective purchasers—

- (a) Represented through representations in its said advertising, directly and by implication, that its "Strand-Sealed" hosiery was made by a secret process, use of which greatly increased its wearing qualities and enabled it to give two or three times as much wear as other hosiery; and
- (b) Represented that its said product was proof against snags and runs, and that the number of turns or twists used therein was greatly in excess of that used in other hosiery;

The facts being that, as disclosed by examination and report made by the Bureau of Standards, the process employed by it was not secret but was in fairly common use among manufacturers; the number of turns or twists used by it was about the same as that of other hosiery on the market; and process commonly employed among modern manufacturers of "sealing" their hosiery or silk yarn used therein through subsection to certain solutions had not been used to any extent in its said hosiery, which was not proof against snags or runs, and which did not give any degree of wear substantially greater than other hosiery; and

- (c) Portrayed in a pamphlet a purported sample of the silk thread used in the manufacture of its said products which had a fairly high degree of twist, and a sample of the thread used in "ordinary" silk hosiery which had very little twist, in connection with which it claimed superior advantages for its hosiery with respect to snags and breaks;

Notwithstanding that the pictured strands or threads claimed to be representative of those used in its said product had a considerably higher degree of twist than the strands in the product itself; and

- (d) Represented that persons acting as sales agents for it might reasonably expect, under normal conditions, to earn amounts ranging up to \$1.30 per hour, \$15 per day, and \$47 per week;

The facts being that the highest amount which had ever been earned by its representatives was \$20 per week and that not in recent years; and figures given were greatly in excess of the amounts which agents could reasonably expect to earn under normal conditions; and

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(e) Represented that its representatives received from it free of charge a sample outfit and various articles of merchandise for their own use through such statements, among others, as "Outfit Free"; "Your Own Lingerie Free"; "Sample outfit with 2 stockings offered free"; "Free Dresses"; etc.;

The facts being it did not supply sample outfits to its representatives free of charge or give them any free articles for their own use; a "gift" referred to in its advertising was in fact only a coupon which entitled representative to an article of clothing in event of sale by him of enough products within ten days to earn commissions amounting to \$5; and articles referred to as given "free" were in no sense a gift, but were in fact part of the agent's compensation for services rendered in sale of its merchandise;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to said hosiery, thereby causing its purchase thereof, and also causing it to undertake sale of said products in preference to those of competitors, whereby trade was diverted unfairly to said corporation from them:

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

Before *Mr. Arthur F. Thomas, Mr. John W. Addison and Mr. Miles J. Furnas*, trial examiners.

Mr. J. R. Phillips, Jr. and Mr. Carrel F. Rhodes for the Commission.
Butterfield, Keeney & Amberg, of Grand Rapids, Mich., 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 World's Star-Malloch, Inc., a corporation, also having traded as Strand-Sealed Hosiery Co., hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a preceeding 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, World's Star-Malloch, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Michigan and having its office and principal place of business at 501 Ottawa Avenue, N. W., in the City of Grand Rapids, State of Michigan. The respondent has also traded as Strand-Sealed Hosiery Co.

PAR. 2. Respondent is now and has been for more than six years last past engaged in the business of selling and distributing lingerie, hosiery, underwear, shirts, dresses, and other wearing apparel. The respondent sells said products by direct selling methods and

by means of salespersons and representatives (hereinafter referred to as "distributors"). Respondent sells said products to members of the purchasing public situated in various States of the United States and in the District of Columbia and causes said products when sold by it to be transported from its aforesaid place of business in the State of Michigan to the purchasers thereof at their respective points of location in various States of the United States, other than the State of Michigan, and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in commerce in said products among and between the various States of the United States and in the District of Columbia.

PAR. 3. The respondent is engaged in substantial competition in commerce among and between the various States of the United States and in the District of Columbia, with other corporations and with partnerships, firms, and individuals selling and distributing lingerie, hosiery, underwear, shirts, dresses, and other wearing apparel. Among such competitors in said commerce are many who do not in any manner misrepresent the quality and character of their products, the earnings of the distributors of their products, the merchandise which they give free of charge to such distributors, and who do not make any other false statements in connection with the sale and distribution of their products.

PAR. 4. In the course and conduct of its said business and for the purpose of inducing the purchase of its said products and to procure the services of distributors to sell its said products, respondent has caused false advertisements containing representations and claims with respect to the quality and character of its hosiery, the earnings of the distributors of its products and the merchandise purported to be given free of charge by the respondent to such distributors to be disseminated in commerce, as defined in the Federal Trade Commission Act, through the use of advertisements in newspapers, trade magazines, and other publications, having a general circulation throughout various States of the United States, through letters, catalogs, circulars, and leaflets distributed among prospective purchasers and prospective distributors of its said products, situated in various States of the United States, and through other means. Among and typical of representations contained in said false advertisements so used and disseminated as aforesaid are the following:

Help Wanted—Female. Earn \$15 Commission Daily. Free dresses. Sell frocks, three for \$3.98. Amazing values, stunning fabrics, enchanting styles. Quick sales. Experience unnecessary. Outfit free.

Help Wanted—Female. Your own lingerie free. Up to \$20 per week with amazing new form-tailored lingerie. World's Star-Malloch, Department 554, Grand Rapids, Mich.

Sales Agents Wanted—Ladies.

Earn \$28 Commissions in week. Demonstrate amazing "Strand-Sealed" Silk Hosiery; secret weaving process doubles wear; strongest money-back guarantee; order your hosiery free; sample outfit with two stockings offered free; state size. Strand-Sealed Co., Dept 94, Grand Rapids, Mich.

Even spare-time will bring you up to \$5 in a day.

Lots of folks working with me are making \$1.30 an hour right from the start. Spare-time workers are making from \$18 to \$47 a week. Full-time workers are making much more.

Every hour you devote to selling our lines means an average of \$1.30 an hour clear profit to you.

You, too, can have FREE DRESSES and FREE HOSIERY, LINGERIE and UNDERWEAR, too!

"Strand-sealing". It makes silk thread stronger and more elastic—"proofs" it against SNAGS, RUNS and ordinary WEAR.

Strand-Sealed Silk hosiery doubles the wear in every pair.

DOUBLE—even triple wear you have been getting.

Secret weaving process—doubles wear.

A remarkable scientific discovery insures a much longer wear.

Free handbag selling outfit, including two actual stockings.

Ordinary silk hosiery (not "Strand-Sealed") snaps so easily because it is woven of thin, delicate silk thread. Under the microscope you would see that this thread is made of many strands of raw silk twisted together. The raw silk fibers are fuzzy and seem to reach out to catch on any rough object. When one is caught and breaks, the thread is snagged and a run results.

That problem has been solved by our new and exclusive, "Strand-Sealed" silk process. With this wonderful new secret process all loose, tiny strands are first twisted together. Then the silk thread is placed in a secret solution which "solidifies" each and every strand. The fibers are smoothed down, making a thread that is smooth, strong and slippery. It glides easily, over rough objects that would snag ordinary silk, hosiery thread. It is this marvelous treatment that enables "Strand-Sealed" Silk Hosiery to give much longer wear.

WHY ORDINARY SILK HOSIERY SNAGS SO EASILY. Silk hosiery thread is made up of so many hair-like strands, so delicate as to be almost invisible to the naked eye. In ordinary silk hosiery these fragile strands are loosely twisted together and the thread has a "fuzzy" surface. It snags easily, for there are many separate strands to catch and break. This is responsible for the destruction of thousands of dollars worth of hosiery every year. Now, on the opposite page, see how this problem has been solved by our exclusive "Strand-Sealing" process. See for yourself—Why ordinary silk hosiery snags so easily, and how exclusive "Strand-Sealed" silk thread resists snags and runs.

The pamphlet, distributed by the respondent as aforesaid, from which the last above quotation is taken portrays what respondent represents to be a sample of the silk thread used in the manufacture of "ordinary silk hosiery" and a sample of the silk thread used in the

manufacture of respondent's hosiery. The sample of the silk thread which respondent represents to be used in the manufacture of ordinary hosiery has very little twist. The sample of the silk thread which respondent represents is used in the manufacture of its hosiery is a three-thread silk, each thread being composed of nine strands.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto, not herein set out, which purport to be descriptive of the quality and nature of respondent's hosiery and the income earned by the distributors of respondent's products and the articles of merchandise given free of charge by the respondent to such distributors, respondent has represented directly and by implication, among other things, that respondent's hosiery is manufactured pursuant to a secret weaving process or a remarkable scientific discovery which triples or doubles the wear thereof; that such hosiery is manufactured pursuant to a secret process not used in the manufacture of the hosiery sold and distributed by competitors of respondent; that such hosiery is "proof" against snags, runs, and ordinary wear; that such hosiery contains a number of turns or twists greatly in excess of those used in the manufacture of a hosiery sold and distributed by competitors of respondent; that the above described pamphlet contains a true representation of the silk threads used in the manufacture of ordinary silk hosiery and the silk thread used in the manufacture of respondent's hosiery; that the average income earned by the distributors of respondent's products is comparable to the income represented to be earned by such persons in the aforesaid advertisements and that a person who contracts or agrees with the respondent to distribute its products may expect, under normal conditions or circumstances, to earn such amounts; that distributors of respondent's products receive free of charge from the respondent dresses, hosiery, lingerie, underwear, and a sample outfit.

PAR. 6. The aforesaid representations used and disseminated by the respondent in the manner above described are grossly exaggerated, misleading and untrue and constitute false advertisements. In truth and in fact the hosiery sold and distributed by the respondent as aforesaid is not manufactured pursuant to a secret manufacturing process or a remarkable scientific discovery which triples or doubles the wear thereof. Such hosiery is not manufactured pursuant to a secret process, not used in the manufacture of the hosiery sold and distributed by the said competitors of respondent. Such hosiery is not "proof" against runs, snags, or ordinary wear. Such hosiery does not contain

a number of twists or turns greatly in excess, or in excess, of those used in the manufacture of the hosiery sold and distributed by competitors of respondent. The above described pamphlet does not contain a true representation of the silk thread used in the manufacture of respondent's silk hosiery. The average earnings of the distributors of respondent's products, under normal conditions or circumstances, are much less than the amounts represented as being earned by such persons in the aforesaid statements and representations. Such distributors do not consistently earn amounts equal to or comparable to the amounts described in such advertisements. The distributors of respondent's products do not receive from the respondent free dresses, hosiery, lingerie, underwear, or a sample outfit.

The true facts are that the respondent's hosiery is manufactured from a four-thread silk, having approximately 18.5 turns left (Z) per inch. It is the opinion of experts in the hosiery business that in the manufacture of hosiery the use of a higher twist makes the hosiery more durable and less likely to snag or run. The aforesaid twist used by the respondent in the manufacture of its hosiery is not an unusual or extraordinary twist in silk hosiery and does not exceed the twist used in the manufacture of the ordinary silk hosiery sold and distributed by the said competitors of respondent. Respondent does not give to the distributors of its products a free outfit or free hosiery, lingerie, dresses, or underwear, but in truth and in fact supplies bonus coupons to such persons and after sales are made and commissions earned in certain designated amounts, by such persons, the said coupons may be exchanged by such distributors with the respondent for hosiery, lingerie, underwear, shirts, and dresses.

PAR. 7. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid with respect to the quality and character of its hosiery 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 such false statements, representations, and advertisements are true and that respondent's hosiery possesses the properties claimed and represented and causes a substantial portion of the purchasing public, because of said erroneous and mistaken belief, to purchase substantial quantities of respondent's hosiery. The use by the respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements, disseminated as aforesaid, with respect to the income earned by distributors of respondent's products and the articles of merchandise

purported to be given free by the respondent to such distributors has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial number of prospective distributors of respondent's products into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and into agreeing or contracting with the respondent to become distributors of its products and into distributing such products in preference to distributing the products of the competitors of the respondent.

As a result trade has been diverted unfairly to the respondent from its said competitors in said commerce who truthfully advertise the quality and nature of their products, the income earned by the distributors of their products and the articles of merchandise which they give free of charge to such distributors, as described in paragraph 3 hereof. In consequence thereof, injury has been, and is now being done, by respondent to competition in commerce among and between the various States of the United States, and in the District of Columbia.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition and 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 October 4, 1938, issued and subsequently served its complaint in this proceeding upon the respondent, World's Star-Malloch, Inc., a corporation, also having traded as "Strand-Sealed Hosiery Co.," charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondent's answer, testimony and other evidence in support of the allegations of the complaint were introduced by the attorneys for the Commission, and in opposition thereto by the attorneys for the respondent, before trial examiners of the Commission theretofore duly designated by it, and such 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, the answer thereto, testimony and other evidence, report of the trial examiners upon the evidence and the exceptions to such report, and brief in support of the complaint (no brief having been filed by respondent 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. The respondent, World's Star-Malloch, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 501 Ottawa Avenue, N. W., Grand Rapids, Mich. Respondent has also operated under the trade name "Strand-Sealed Hosiery Co.," but the use of this name was discontinued in 1937. Respondent is now and for a number of years last past has been engaged in the sale and distribution of various articles of wearing apparel, including, among others, lingerie, hosiery, shirts, and dresses.

PAR. 2. In the course and conduct of its business respondent causes and has caused its products, when sold, to be transported from its place of business in the State of Michigan to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in its products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the sale and distribution of its merchandise respondent is and has been in substantial competition with other corporations, and with partnerships, firms, and individuals, engaged in the sale and distribution of similar merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. Respondent's sales are made principally through sales agents or representatives who contact and solicit the purchasing public in their respective localities and territories. To obtain such agents and representatives, respondent inserts advertisements in numerous newspapers and periodicals published in various places throughout the United States and having wide distribution among the members of the public. Upon obtaining inquiries from prospective agents, respondent forwards to such prospects circular letters and other advertising material soliciting their services in the sale of its products and containing numerous statements with respect to respondent's products and the earnings which may be obtained by such prospects from the sale thereof. To those who agree to serve as sales representatives respondent supplies a sales kit which includes, among other things, various leaflets, circulars, pamphlets, and other advertising

material to be used by the representative and exhibited to prospective purchasers. Among and typical of the statements and representations which have appeared in respondent's newspaper advertisements, circular letters, and other advertising material are the following:

Earn \$15 commission daily. Free dresses. Sell Frocks, 3 for \$3.98. Amazing values, Stunning Fabrics, Enchanting styles. Quick Sales. Experience unnecessary. Outfit free. (Com. Ex. No. 19-B)

YOUR own lingerie free and up to \$20 in a week with amazing new "Form-Tailored" lingerie. World's Star-Malloch, Dept. 5404, Grand Rapids, Mich. (Com. Ex. No. 3)

EARN to \$28 commissions in week; demonstrate amazing "Strand-Sealed" silk hosiery; secret weaving process doubles wear; strongest money-back guarantee; earn your hosiery free; sample outfit with 2 stockings offered free; state size. Strand-Sealed Co., Dept. 94, Grand Rapids, Mich. (Com. Ex. No. 4)

* * * Even spare-time will bring you up to \$5 in a day. (Com. Ex. No. 8)

Lots of folks working with me are making \$1.30 an hour right from the start. Spare time workers are making from \$18 to \$47 a week. Full time workers are making much more.

* * * Every hour you devote to selling our lines means an average of \$1.30 an hour clear profit to you. * * *

You, too, can have FREE DRESSES and FREE HOSIERY, LINGERIE and UNDERWEAR, too! * * * (Com. Ex. No. 21-A)

* * * Free Handbag Selling Outfit, including 2 actual stockings. * * * (Com. Ex. No. 13)

* * * "Strand-Sealing." It makes silk thread stronger and more elastic—"proofs" it against SNAGS, RUNS and ordinary WEAR. * * * (Com. Ex. No. 7)

"Strand-Sealed"

SILK HOSIERY

"Double the Wear

in Every

Pair" (Com. Ex. No. 6)

* * * DOUBLE—even TRIPLE the wear you have been getting * * * (Com. Ex. No. 8)

* * * secret weaving process doubles wear. * * * (Com. Ex. No. 22)

A Remarkable Scientific Discovery Assures Much Longer Wear (Com. Ex. No. 9)

Ordinary silk hosiery (not "Strand-Sealed") snap so easily because it is woven of thin, delicate silk thread. Under the microscope you would see that this thread is made of many strands of raw silk, twisted together. The raw silk fibres are fuzzy and seem to reach out to catch on any rough object. When one is caught and breaks, the thread is snagged and a run results.

That problem has been solved by our new and exclusive, "Strand-Sealed" silk process. With this wonderful new secret process all loose, tiny strands are first twisted together. Then the silk thread is placed in a secret solution which "solidifies" each and every strand. The fibres are smoothed down, making a thread that is smooth, strong and slippery. It glides easily over rough objects that would snag ordinary silk hosiery thread. It is this marvelous new treat-

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Findings

ment that enables "Strand-Sealed" Silk Hosiery to give much longer wear.
(Com. Ex. No. 8)

SEE FOR YOURSELF.

Why
Ordinary Silk
Hosiery Snags
So Easily * * *
and
how
Exclusive
"STRAND-SEALED"
Silk Thread
Resists Snags and
Runs

* * * * *

WHY
Ordinary Silk
Hosiery
SNAGS
So Easily

Silk hosiery thread is made up of many hair-like strands, so delicate as to be almost invisible to the naked eye. In ordinary silk hosiery these fragile strands are loosely twisted together and the thread has a "fuzzy" surface. It snags easily, for there are many separate strands to catch and break. This is responsible for the destruction of thousands of dollars worth of hosiery every year. Now on the opposite page, see how this problem has been solved by our exclusive "Strand-Sealing" process. (Com. Ex. No. 24)

The last excerpt quoted above is from a pamphlet which purported to portray a sample of the silk thread used in the manufacture of respondent's hosiery and a sample of the silk thread used in the manufacture of other hosiery.

PAR. 5. Through the use of the foregoing statements and representations, and others of a similar nature, respondent has represented, directly and by implication, that its hosiery designated as "Strand-Sealed" hosiery is manufactured by a secret process not used in the manufacture of other hosiery; that the use of such process greatly increases the wearing qualities of respondent's hosiery and that such hosiery gives two or three times as much wear as other hosiery; that such hosiery is proof against snags and runs; that the number of turns or twists used in the manufacture of such hosiery is greatly in excess of the number used in other hosiery; that the pamphlet referred to above portrays true samples of the silk threads used in the manufacture of respondent's hosiery and the silk threads used in the manufacture of other hosiery; that persons acting as sales agents for respondent may reasonably expect under normal conditions or circumstances to earn amounts ranging up to \$1.30 per hour, \$15.00 per

day, and \$47.00 per week; and that such persons receive from respondent free of charge a sample outfit and various articles of merchandise for their own use.

PAR. 6. Examinations and tests of respondent's hosiery were made by the National Bureau of Standards and the written report of the Bureau is in evidence, together with the testimony of the representative of the Bureau who conducted the tests and the testimony of another expert on hosiery who witnessed the tests. The hosiery was found to be made of what is known as a four-thread silk yarn, each thread having ten filaments. The amount of twist in the yarn was determined from an examination of ten threads, each ten inches in length. The average twist of these ten specimens was 12.7 turns per inch. The range of the threads was from 11.5 turns per inch to 15.3 turns per inch. The filaments in the threads were twisted together with a very small amount of twist. Upon examination it was found that the filaments separated readily from one another, which disclosed that there was no permanent sealing or solidification among the threads or filaments.

The number of turns or twists used in the manufacture of silk hosiery varies considerably, depending upon the type and grade of hosiery and upon the practice of the various manufacturers. Generally speaking, hosiery having a higher number of twists is regarded as possessing greater durability than hosiery having a smaller number. The average or more frequently used twist is approximately fifteen turns per inch. It thus appears that respondent's hosiery is of about the same twist as other hosiery on the market. It is a common practice among modern manufacturers of hosiery to subject their hosiery or the silk yarn used therein to certain solutions, the process being sometimes referred to as "sealing." As a result of this process the threads and filaments are coated with a fairly insoluble material, resinous in nature. The threads and filaments are bound more closely together and are made smoother, thus increasing the resistance of the hosiery to snags and runs. The tests made of respondent's hosiery demonstrate, however, that this process had not been used to any substantial extent, there being no sealing or solidification of the threads or filaments in the hosiery.

An examination was also made by the Bureau of Standards of the purported samples appearing in respondent's advertising pamphlet (Com. Ex. No. 24). It was found that the strands or threads claimed by respondent to be representative of the material used in "ordinary" silk hosiery had very little twist, whereas the strands claimed to be representative of those used in respondent's hosiery had a fairly high degree of twist. The latter sample, however, was found not to be

representative of the material actually used in respondent's hosiery, the strands in the sample having a considerably higher twist than the strands in the hosiery itself.

Respondent's hosiery is not proof against snags or runs. It is of average quality and durability, but does not give two or three times as much wear as other hosiery, or any degree of wear which is substantially greater than other hosiery. The process used in the manufacture of respondent's hosiery is not a secret process but is in fairly common use among hosiery manufacturers.

The record further discloses that the average earnings of respondent's sales representatives are not in excess of approximately \$50 per month. It appears that the highest amount which has ever been earned by such representatives was \$20 per week, and none of the sales agents has earned that much during recent years. The figures given by respondent in its advertising of \$1.30 per hour, \$15 per day, and \$47 per week appear to be clearly excessive, being greatly in excess of the amounts which agents could reasonably expect to earn under normal conditions or circumstances. Respondent does not supply sample outfits to its representatives free of charge, nor does respondent give its representatives any free articles of merchandise for their own use. The "gift" referred to by respondent in its advertising is in fact only a coupon which entitles the representative to an article of clothing if the representative sells enough of respondent's products within ten days to earn commissions amounting to \$5. The articles referred to by respondent as being given "free" are in no sense a gift but are in fact a part of the agent's compensation for services rendered in the sale of respondent's merchandise.

PAR. 7. The Commission therefore finds that the representations made by respondent with respect to its hosiery, the amounts to be earned in the sale of its products, and its offers of free sample outfits and merchandise, as set forth herein, are erroneous and misleading. The Commission further finds that the use by respondent of samples purporting to depict the difference between respondent's hosiery and other hosiery is misleading, in that the purported sample of the material used in respondent's hosiery is not a true sample.

PAR. 8. The acts and practices of the respondent as herein described have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the nature, characteristics, and quality of respondent's hosiery, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's hosiery as a result of such deception. Re-

spondent's representations with respect to the earnings and purported gifts which may be obtained from the sale of respondent's products also have the tendency and capacity to cause a substantial number of members of the public to undertake the sale of respondent's products in preference to the products of respondent's competitors. In consequence thereof, substantial trade has been diverted unfairly to the respondent from its competitors, among whom are those who do not engage in such acts and practices.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and 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 in support of and in opposition to the allegations of the complaint taken before trial examiners of the Commission theretofore duly designated by it, report of the trial examiners upon the evidence and the exceptions to such report, and brief in support of the complaint (no brief having been filed by respondent and oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, World's Star-Malloch, Inc., a corporation, trading under its corporate name or under the name "Strand-Sealed Hosiery Co." or any other name, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondent's hosiery, lingerie, shirts, dresses, and other wearing apparel, do forthwith cease and desist from:

1. Representing that respondent's hosiery designated as "Strand-Sealed" hosiery, or any other hosiery of substantially similar type or construction, is manufactured by a secret process not used in the manufacture of other hosiery.

2. Representing that said hosiery gives two or three times as much wear as other hosiery, or that the wearing qualities of said hosiery are substantially greater than those of other hosiery.

3. Representing that said hosiery is proof against snags or runs.

4. Representing that the number of turns or twists used in the manufacture of said hosiery is substantially in excess of the number used in other hosiery.

5. Using in respondent's advertising or supplying to respondent's sales agents or representatives samples purporting to portray the material used in the manufacture of respondent's hosiery when such purported samples are not in fact representative of the material actually used in such hosiery.

6. Representing that respondent's sales agents or representatives earn \$1.30 per hour, \$15 per day, or \$47 per week, or any amounts in excess of those which are usually or customarily earned by such agents or representatives under normal conditions and circumstances.

7. Representing that respondent supplies sample outfits to its agents or representatives free of cost when a charge is in fact made for such outfits.

8. Using the word "free" or "gift," or any other word of similar import, to designate, describe, or refer to any merchandise which is not in fact given by respondent free of charge but is furnished as compensation for services rendered.

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.

IN THE MATTER OF
THEOPHILUS J. CRAIG

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

Docket 4600. Complaint, Sept. 29, 1941—Decision, Jan. 9, 1943

Where a corporation engaged in competitive interstate sale and distribution of tombstones and monuments; through advertisements in newspapers of general circulation and in periodicals, circulars, and other advertising material—

- (a) Represented that the prices at which he offered said products were 30 percent below retail prices therefor and greatly less than competitors' prices, and that his price of \$189 was special and that the regular and customary price was \$260; when in fact his said prices were not less than the usual retail prices or 30 percent less than competitors'; and said price of \$260 was wholly fictitious, and usual price therefor was said lesser figure plus certain charges for polishing;
- (b) Represented that he quarried the granite from which his products were manufactured in quarries which he owned and operated; when, in fact, he filled orders for such products with granite produced in quarries which he did not own, operate, or control;
- (c) Represented, through picturizations, that his said product was polished in its entirety, including the front, back, top, sides, and base; when in fact he did not finish his tombstones and monuments in their entirety but made additional charges for polishing certain portions thereof; and
- (d) Represented and implied that said products were made from granite quarried in the vicinity of Barre, Vt., Quincy, Mass., or Westerly, R. I.; when in many instances they were made from granite produced in quarries in other parts of the United States;

With effect of misleading and deceiving a substantial portion of the purchasing public, which prefers to deal directly with the owner of the quarry as affording such advantages as better price, selection, and adjustments, into the mistaken belief that said misrepresentations and implications were true, and as a result, into purchasing its said products; whereby trade was diverted to him from competitors, including those who do not misrepresent their products or prices:

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

Mr. B. G. Wilson 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 Theophilus J. Craig, an individual, hereinafter referred to as respondent, has violated the