

IN THE MATTER OF
HOLLYWOOD MAGIC GARMENT CO.

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

Docket 4702. Complaint, Feb. 5, 1942—Decision, Jan. 19, 1943

Where a corporation, engaged in interstate sale and distribution of its so-called "Hollywood Magic Garment" for removal of excess flesh, made of rubberized cloth and fitted tightly about the neck, wrists, and ankles—or the thighs in the event a shorter garment was desired—to induce perspiration; by means of advertisements disseminated through the mails, and by various other means, directly or by implication—

Represented that use of its device constituted an effective means for removing excess weight or flesh, and that it might be used with entire safety, through such statements, among others, as "LOSE A POUND A DAY"; "TAKE INCHES OFF!"; "MELT POUNDS AWAY"; "* * * lose as much as a pound a day safely, leisurely"; etc;

The facts being that the reduction in weight brought about through perspiration induced by the increased body temperature and inability of perspiration to escape, with further increase of temperature and further loss by the body of water and salt, was only temporary, due to marked thirst and consumption of water or other liquids thereby induced, and resulting substantial restoration of weight; the only method recognized by medical science, as established by expert testimony, for effective reduction of weight in the usual case is curtailment of the food intake, particularly as to fats and carbohydrates; use of such devices is, accordingly, regarded as wholly ineffective, is not safe in all cases, especially of elderly and over-fat persons, and never in presence of any serious pathological condition and especially heart disease;

With tendency and capacity of misleading and deceiving a substantial portion of the purchasing public with respect to properties and safety of said device, and causing its purchase thereof because of such mistaken belief:

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.

As respects the offer and sale of tight fitting rubber garments as a means for reducing excess flesh through the perspiration and temporary reduction in weight thus brought about, expert testimony established that the only method recognized by medical science as effective for the reduction of weight in the usual or ordinary case is curtailment of the food intake, particularly as to fats and carbohydrates; and that the use of such devices is regarded as wholly ineffective for obtaining any permanent reduction in weight, since they have no substantial effect upon accumulated fatty tissues.

Before *Mr. Lewis C. Russell*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Ben Locker (Assignee), of Los Angeles, Calif., and *Mrs. Margaret G. Zeman*, of Hollywood, Calif., 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 Hollywood Magic Garment Co., a corporation, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Hollywood Magic Garment Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 1019 North Las Palmas Avenue, Hollywood District, in the city of Los Angeles, State of California.

PAR. 2. Respondent is now and for several years last past has been engaged in the business of selling and distributing a garment device made of rubberized cloth designated as "Hollywood Magic Garment," and designed to be a weight reducing device, in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said device when sold to be transported from its place of business in Los Angeles, Calif., 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 said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, the respondent has disseminated and has caused the dissemination of false advertisements concerning its said device by the United States mail and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and respondent has also disseminated, and has caused the dissemination of, false advertisements concerning its said device by various means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of its said device 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 dis-

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seminated and caused to be disseminated, as hereinabove set forth, are the following:

Lose a pound a day!
No diets, drugs, baths
Take inches off!
Melt pounds away! * * * as you work or play
* * * * *

Hollywood
MAGIC GARMENTS

Smart comfortable slacksuits for Men and Women. Actually worn by many stars to keep slim and fit. Results Seen After First Wearing! Sent anywhere in U. S. A.,

Prepaid, only \$15,
Or write for free booklet.

State size worn.

Hollywood Magic Garment Co
1019 North Las Palmas,
Hollywood, California.

No more dieting or exercising!

REDUCE BY MAGIC

—via Hollywood Magic Garment

Relax, read a book, whatever you like—and lose as much as a pound a day, safely, leisurely? Just wear the soft, comfortable Hollywood Magic Garment one to two hours a day—modern method of scientific reducing. Approved by several physicians.

\$15

Corset Salon—Third Floor
THE MAY COMPANY
Broadway, Eighth & Hill

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent has represented and does now represent, directly and by inference, that the wearing or use of said device designated as "Hollywood Magic Garment" will reduce weight, fat, and flesh without the necessity of dieting, exercising, taking of baths, or the taking of drugs; that the wearing of said device will reduce weight, fat, and flesh as rapidly as a pound a day; that the method of using said device for weight, fat, and flesh reduction is a modern and scientific method of reducing; and that said device may be worn for weight reduction purposes with safety.

PAR. 5. In truth and in fact, the statements and representations hereinabove set forth and others similar thereto not specifically set out herein are grossly exaggerated, false, and misleading.

The use or the wearing of the respondent's device will not reduce the body's fat or flesh, and the method of using said device for weight, fat and flesh reduction is not a scientific or proper method of reducing. Furthermore, said device may not be worn for weight reduction purposes with entire safety. The wearing of said device when exercising or in hot weather may cause the body's temperature to be raised to such a point as to produce a heat stroke or heat exhaustion.

Although the wearing of said device may, by producing an excessive sweat, cause a partial dehydration of the body, thereby producing a temporary loss in the body's weight, such loss of weight will normally be rapidly regained by the normal consumption of liquids.

Furthermore, said device is of no substantial value as a weight, fat, or flesh reducing device and is of no substantial value as an adjunct to a weight, fat, or flesh reducing regime.

PAR. 6. Respondent, by the use of the foregoing false and misleading representations, has had and now has the capacity to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said device when worn is an effective weight reducer, and to induce a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase respondent's device.

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 February 5, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Hollywood Magic Garment Co., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. No answer was filed by respondent, but testimony and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission before a trial examiner 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, testimony and other evidence, report of the trial examiner upon the evidence, and brief in support of the complaint (no brief having been filed by respondent and oral argument not hav-

ing 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, Hollywood Magic Garment Co., is a corporation, organized and existing under and by virtue of the laws of the State of California, its principal office and place of business having formerly been located at 1019 North Las Palmas Avenue, Los Angeles, Calif. It was formerly engaged in the sale and distribution of a garment device made of rubberized cloth, the device being designated by respondent as "Hollywood Magic Garment" and being intended for use in the removal of excess weight or flesh from the human body. While the corporation has not been formally dissolved, it discontinued active business operations in October 1941. The last known address of the corporation was 8254 Beverly Boulevard, Los Angeles, Calif.

PAR. 2. During the course of its business operations, which covered a period of some four years prior to October 1941, respondent caused its product, when sold, to be transported from its place of business in Los Angeles, Calif., to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintained a course of trade in its product 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 its business and for the purpose of inducing the purchase of its product, respondent has disseminated and has caused the dissemination of advertisements concerning its product 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 has caused the dissemination of advertisements concerning its product by various means for the purpose of inducing or which were likely to induce, directly or indirectly, the purchase of its product in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in respondent's advertisements were the following:

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Findings

LOSE A POUND A DAY! . . .

No Diet, Drugs, Baths.

TAKE INCHES OFF!

MELT POUNDS

AWAY! . . . as you

work or play!

Hollywood

State

MAGIC GARMENTS

Size

Wanted

Smart, comfortable slack suits, for *Men* or *Women*. Actually worn by many stars to keep slim and fit. *Results Seen After First Wearing!* Sent anywhere in U. S. A. prepaid, only \$15. Or Write for Free Booklet.

LOSE A POUND A DAY WHILE YOU WORK OR PLAY!

Hollywood MAGIC GARMENTS

NO DIETING—IT'S FUN TO REDUCE

Hollywood Magic Garments have proved to be *sensational* by helping to regain normal, slim, alluring lines. Used consistently, there is no need of a special diet. You simply slip into this smart, comfortable garment, work, play or exercise for an hour and a half or two hours, slip it off, follow with a cold shower and a brisk rubdown and you'll usually find you are at least a pound lighter than when first you donned it.

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MELT YOUR POUNDS AWAY

**** NOW * * * You can "melt your pounds away" without discomfort or any effort beyond your normal routine of living, in your own home or at play, with these new, unusual Hollywood Magic Garments!

* * * All types of men from all walks of life . . . busy executives to day laborers . . . can usually lose as much as a pound a day by the regular and consistent use of their Hollywood Magic Garments. * * * (Com. Ex. No. 2.)

No more dieting or exercising!

REDUCE BY MAGIC

—via Hollywood Magic Garment

Relax, read a book, whatever you like—and lose as much as a pound a day, safely, leisurely! Just wear the soft, comfortable Hollywood Magic Garment one to two hours a day—modern method of scientific reducing. Approved by several physicians. (Com. Ex. No. 9-a)

PAR. 4. Through the use of these statements and representations and others of a similar nature, respondent has represented, directly or by implication, that the use of its device constitutes an effective means and method for the removal of excess flesh or weight from the human body, and that the device may be used with entire safety.

PAR. 5. Respondent's device is a garment made of rubberized cloth which fits tightly about the neck and wrists, and also about the ankles (or the thigh, in the event a shorter type of garment is

desired). The purpose of the garment is to induce perspiration. The garment increases the temperature of the body, thus inducing perspiration, and the inability of the perspiration to evaporate and escape from the body has the effect of further increasing the body temperature and inducing additional perspiration. As a result of this process the body is caused to lose substantial quantities of water and sodium chloride or salt, and there is a consequent reduction in the weight of the body. The effect, however, is only temporary, as the loss of the water induces marked thirst and the user must proceed almost immediately to drink a substantial quantity of water or other liquids. The water previously lost from the body through perspiration is thus replaced, and the weight of the body remains about as it was before the process was begun.

The expert testimony in the record establishes that the only method recognized by medical science as effective for the reduction of body weight, in the usual or ordinary case, is the curtailment of the food intake, particularly as to fats and carbohydrates. The use of devices such as respondent's is regarded as wholly ineffective insofar as obtaining any permanent reduction in weight is concerned, as such devices have no substantial effect upon accumulated fatty tissues.

Moreover, the device cannot properly be regarded as safe for use in all cases. Its use may result in raising the temperature of the body to such a point that heat exhaustion will follow, this being particularly true in the case of elderly persons and those who are overweight. The device should never be used in the presence of any serious pathological condition, especially in the case of heart disease, where the debilitating effect of the loss of fluid and salt from the body would be distinctly detrimental.

PAR. 6. The Commission therefore finds that the representations made by respondent with respect to its device, as set forth in paragraphs 3 and 4 hereof, were misleading and deceptive and constituted false advertisements.

PAR. 7. The Commission finds further that the use by respondent of these false advertisements had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the properties and safety of respondent's device, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such device as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondent 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 (no answer having been filed by respondent), testimony and other evidence in support of the allegations of the complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, 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, Hollywood Magic Garment Co., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of respondent's device designated "Hollywood Magic Garment," or any other device of substantially similar nature or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or by implication, that respondent's device constitutes an effective means or method for the removal of excess flesh or weight from the human body, or that said device is in all cases safe for use.

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 respondent's device, which advertisement contains any representation prohibited in paragraph 1 hereof.

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
ARTHUR H. FERBER, TRADING AND DOING BUSINESS
AS THE FERBO CO.

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

Docket 4706. Complaint, Feb. 10, 1942—Decision, Jan. 19, 1943

Where an individual, engaged in the manufacture and interstate sale and distribution of various food products, including his "French Tang Vanilla Flavor" and "Sun-Cu-Nilla," which latter was essentially a concentrate of the former; by means of advertisements in newspapers and periodicals, and by radio continuities, circulars, leaflets, and other advertising literature—

Represented and implied that his said product was genuine vanilla extract or flavoring, markedly preferred by the public over synthetic or substitute products, through unqualified use of word "Vanilla" and terms "Vanilla Flavor" and "Vanilla Flavoring" as applied thereto;

The facts being chief flavoring ingredient thereof was vanillin, made from eugenol (derived from oil of cloves), and it contained practically no genuine vanilla;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that its said product was one in which the sole flavoring ingredient was genuine vanilla extract, and not "Imitation Vanilla", as usually designated by manufacturers of the genuine "Vanilla", "Vanilla Flavor" and "Vanilla Flavoring", and as a result of such mistaken belief to cause it to purchase substantial quantities of his said product:

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. W. W. Sheppard*, trial examiner.

Mr. D. E. Hoopingarner and *Mr. S. F. Rose* for the Commission.
Shaffer & Pierson, 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 Arthur H. Ferber, an individual, trading and doing business as The Ferbo 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows: