

Syllabus

IN THE MATTER OF

CHARLOTTE BRANDENBURG

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4614. Complaint, Oct. 10, 1941—Decision, Mar. 13, 1943*

Where an individual, engaged in interstate sale and distribution of her "Electro Magnetic Nerve Vitalizer" or "Electro Magnetic Vibrator"; by means of advertisements in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature—

- (a) Represented that her device utilized electric current and magnetic radiations to feed and revive the entire system, including all nerve centers; would relax and stimulate the nerves and revitalize, invigorate, and reactivate the entire nervous system; supplied an electrically generated, steady heat, which relaxed all congested conditions and relieved pain, soreness, and inflammation; and that use thereof would promote and increase circulation, equalize the distribution of blood, and improve its quality; soothe and regulate the stomach, aid digestion by breaking up nutritive matter, stimulate the flow of digestive juices, improve the assimilation and elimination of food, relieve and correct constipation; and assist nature in rebuilding new cells and tissue, reactivating the glands, and improving internal secretions;
- (b) Represented that her device had curative powers in the treatment of paralysis, arthritis, neuralgia, epilepsy, hysteria, insanity, locomotor ataxia, St. Vitus dance, all forms of rheumatism, sore spots, contracted muscles, insomnia, hardening of the arteries, and prostate gland trouble; and was effective in the treatment of lumbago, catarrh, head colds, influenza, writer's cramp, infantile paralysis, and deterioration of the tissues;
- (c) Represented that use thereof would defer hardening of the arteries, reduce blood pressure, deter apoplexy, aid in restoring normal productive power, assist the bowels and kidneys to function properly, stimulate the action of the liver, permanently relieve all bladder troubles, strengthen and stimulate heart action, and tear down diseased tissues; and
- (d) Represented that it was effective in eliminating the causes of disease, maintaining health in the normal, and restoring it to the sick;

The facts being that the heat produced by said device was not sufficient to have any effect where application might be indicated, its vibratory properties were not sufficient to have any beneficial effect whatsoever, and the mechanical effect from use thereof was so small as to be incalculable and of no value; it had no therapeutic value in the treatment of any disease or condition of the body, or value in eliminating the causes of disease; any beneficial effect that might be obtained from use thereof would be purely psychological; and the various claims and representations made therefor, as above set forth, were false;

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

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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. Arthur F. Thomas*, trial examiner.

Mr. Edw. W. Thomerson for the Commission.

Mr. O. M. Fitzhugh and *Mr. E. B. Simons*, of San Antonio, Tex., 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 Charlotte Brandenburg, an individual, 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, Charlotte Brandenburg, is an individual, with her office and principal place of business located at 804 Maverick Building, San Antonio, Tex. Respondent is now, and has been for more than 2 years last past, engaged in the business of selling and distributing a device, designated as an "Electro Magnetic Nerve Vitalizer" or an "Electro Magnetic Vibrator," which device is advertised for use in the treatment of various ailments and conditions of the body.

PAR. 2. In the course and conduct of her aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her said product by the United States mail and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product; and respondent has also disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her said product by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said product in commerce, as "commerce" is defined by the Federal Trade Commission Act. Among and typical of the false, misleading, and deceptive statements and representations contained in said advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

The Therapeutic effect of this instrument is to promote and equalize the circulation, relax and normalize the Nerves, improving assimilation and elimination.

It is a Body Builder, as it helps Nature to rebuild new cells and tissues. It reactivates the glands also working directly upon the internal secretions, stimulates the Liver, enabling the system to become rid of the toxic materials. It's gentle action on the Kidneys causes them to resume their normal action; it will assist the stomach and aid digestion by helping break up the nutritive matter and stimulating the flow of digestive juices. It's direct effect upon the intestines is to relieve and correct the dangerous condition of Constipation.

It gently stimulates the nerves, soothes and regulates the stomach, strengthens the heart and pulse and by equalizing the distribution of the blood (and improving its quality), lends to nature the kind of aid that nature needs to bring recovery.

It's action upon the bladder permanently relieves all troubles from that source. In fact, it's properties transmitted to the human system enables one to resist and ward off a great many diseases, which prey upon the body.

REACTIVATES THE GLANDS

The use of this instrument defers the hardening of the arteries, reduces blood pressure and deters apoplexy. It will then aid in restoring normal productive power. It assists the bowels and kidneys to function properly, relieves stiffness, adjusts and equalizes the blood flow, strengthens and stimulates heart action, tears down the diseased tissues and assists nature in re-building of new tissues, reactivates the glands and makes the whole body alert, elastic and vigorous.

AIDS nature to help overcome FLU and its after effects. For chronic Run-Down Nervous Conditions.

The effect of this instrument upon the Central Nervous System is little short of miraculous. Its gentle Vibrations, together with the Electro Magno Thermo waves makes it a natural curative agent in paralysis, neuralgia, sciatica, epilepsy, hysteria, insanity, locomotor ataxia and St. Vitus dance; for all forms of Rheumatism, contracted muscles, sore spots. In all of these cases the Vitalizer has proved especially efficient.

Marvelous results have been obtained by the use of this instrument in cases of Lumbago, Insomnia, Catarrh, cold in the head, stopped-up nose, Influenza, writers cramp, Infantile Paralysis, deterioration of tissues, etc. When in any way possible for Nature to be helped, one cannot hurt themselves by the use of this instrument.

An Instrument That May Be Used In The Home. Ordinary Electric Current—A Fine, Gentle Vibration Radiating Heat. A Magnetic Zone.

Removes Pain, Soreness and Inflammation For Sore Muscles and Sprains FOR BETTER HEALTH

A SCIENTIFIC INVENTION

Which is More Than a "Vibrator"—It is in Every Way a "Nerve Vitalizer" to be Used in Treating the Human Body—to Organize Its Disorders.

The combined properties of this Instrument will engender increased activity to cell structure alimentary tract, Liver, Kidneys, Circulatory System, Nerve Trunk, and Brain.

If Sick, get Well, If well, Stay Well by using The New Dr. Ch. Bergman's Electro Magnetic Nerve Vitalizer.

PAR. 3. Through the use of the statements and representations hereinabove set forth, and other statements and representations similar

thereto not specifically set out herein, all of which purport to be descriptive of respondent's device, respondent represents, directly and by implication, that her device, designated as "Electro Magnetic Nerve Vibrator" or "Electro Magnetic Vibrator," has the therapeutic effect of promoting and equalizing the circulation, relaxing and normalizing the nerves, and of improving assimilation and elimination; that it acts as a body builder, helps nature to rebuild new cells and tissues, reactivates the glands, improves internal secretions, stimulates the liver, aids in the elimination of toxic materials, causes the kidneys to resume their normal action, assists the stomach, aids digestion by breaking up the nutritive matter, stimulates the flow of digestive juices, and relieves and corrects the dangerous condition of constipation; that its use stimulates the nerves, soothes and regulates the stomach, strengthens the heart, and lends to nature the kind of aid which nature needs to bring recovery; that its action upon the bladder permanently relieves all trouble from that source and enables one to resist and ward off a great many diseases; that its use defers hardening of the arteries, reduces blood pressure and deters apoplexy; that its use will aid in restoring normal productive power; that its use makes the whole body alert, elastic and vigorous; that the use of said device aids nature in overcoming flu and its after effects, and chronic run-down nervous conditions; that the effect from the use of said device is little short of miraculous; that it is a natural corrective agent for the treatment of paralysis, neuralgia, sciatica, epilepsy, hysteria, insanity, locomotor ataxia, St. Vitus dance, all forms of rheumatism, contracted muscles and sore spots; that its use is an effective treatment for lumbago, insomnia, catarrh, cold in the head, stopped up nose, influenza, writer's cramp, infantile paralysis and deterioration of tissues; that the use of said device removes pain, soreness and inflammation, or sore muscles and sprains; that the use of said device will increase activity of the alimentary canal, liver, kidneys, circulatory system, nerve trunk, and brain; and that its use will maintain health in normal persons and restore health to sick persons.

PAR. 4. The aforesaid representations and advertisements used and disseminated by the respondent, as hereinabove described, are grossly exaggerated, false, and misleading.

In truth and in fact, respondent's said device does not have the therapeutic effect of promoting and equalizing the circulation, relaxing and normalizing the nerves and of improving assimilation and elimination. Said device cannot act as a body builder, nor can it help nature to rebuild new cells and tissues, reactivate the glands, improve internal secretions, stimulate the liver, aid in the elimination of toxic materials, cause the kidneys to resume their normal action, assist the stomach, aid

digestion, stimulate the flow of digestive juices, or relieve and correct constipation. The use of said device cannot stimulate the nerves, soothe and regulate the stomach, strengthen the heart, or supply any material aid to nature in its health restoring process. The action of said device upon the bladder cannot permanently relieve trouble from that source and the use of said device cannot enable one to resist and ward off diseases. The use of said device cannot defer the hardening of the arteries nor can it reduce blood pressure and defer apoplexy. The use of the said device cannot aid in restoring normal productive power. Its use cannot make the whole body alert, elastic and vigorous, nor can it aid nature in overcoming flu and its after effects or chronic run-down nervous conditions. It is not a natural corrective agent for the treatment of neuralgia, sciatica, epilepsy, hysteria, insanity, locomotor ataxia, St. Vitus dance, all forms of rheumatism, contracted muscles and sore spots. The use of said device is not an effective treatment for lumbago, insomnia, catarrh, cold in the head, stopped up nose, influenza, writer's cramp, infantile paralysis, and deterioration of tissues. The use of said device cannot remove pain, soreness, and inflammation or relieve sore muscles and sprains nor can its use increase the activity of the alimentary canal, liver, kidneys, circulatory system, nerve trunk, and brain. The use of said device cannot maintain health in normal persons or restore health to sick persons. In fact, respondent's said device is capable only of producing a slight vibration and a small amount of heat and is of no therapeutic value in the treatment of the above named diseases or conditions of the body or in the treatment of any disease or condition of the body.

PAR. 5. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to said device 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 and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's device.

PAR. 6. 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 October 10, 1941, issued and subsequently served its complaint in this proceeding upon the respondent,

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Charlotte Brandenburg, charging her with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before Arthur F. Thomas, a trial examiner of the Commission therefore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, and briefs in support of the complaint and in opposition thereto (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. Respondent, Charlotte Brandenburg, is an individual, with her office and principal place of business located at 804 Maverick Building, San Antonio, Tex. Respondent is now, and for several years last past has been, engaged in the business of selling and distributing a device designated as an "Electro Magnetic Nerve Vitalizer" or an "Electro Magnetic Vibrator," which device is advertised for use in the treatment of various ailments and conditions of the human body.

PAR. 2. In the course and conduct of her aforesaid business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning her said device, by 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 her said device by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of her 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 disseminated and caused to be disseminated as hereinabove set forth, by United States mails, by advertisements inserted in newspapers and periodicals, and by circulars, leaflets, pamphlets, and other advertising literature, are the following:

1. That respondent's device utilizes electric current and magnetic radiations to feed and revive the entire system, including all nerve

centers, and will relax and stimulate the nerves and revitalize, invigorate, and reactivate the entire nervous system.

2. That the use of respondent's device will promote and increase circulation, equalize the distribution of blood, and improve its quality, soothe and regulate the stomach, assist the stomach and aid digestion by breaking up nutritive matter, stimulate the flow of digestive juices, improve the assimilation and elimination of food, and relieve and correct constipation.

3. That respondent's device supplies an electrically generated, steady heat, which relaxes all congested conditions and relieves pain, soreness, and inflammation.

4. That the use of respondent's device assists nature in rebuilding new cells and tissue, reactivates the glands, and improves internal secretions.

5. That respondent's device has curative powers in the treatment of paralysis, arthritis, neuralgia, epilepsy, hysteria, insanity, locomotor ataxia, St. Vitus dance, all forms of rheumatism, sore spots, contracted muscles, insomnia, hardening of the arteries, and prostate gland trouble.

6. That the use of respondent's device is effective in the treatment of lumbago, catarrh, head colds, influenza, writer's cramp, infantile paralysis, and deterioration of the tissues.

7. That the use of respondent's device will defer hardening of the arteries, reduce blood pressure, deter apoplexy, and in restoring normal productive power, assist the bowels and kidneys to function properly, stimulate the action of the liver, permanently relieve all bladder troubles, strengthen and stimulate heart action, and tear down diseased tissues.

8. That respondent's device is effective in eliminating the causes of disease, maintaining health in normal persons, and restoring health to sick persons.

PAR. 3. Respondent's device is a very simply constructed mechanism which will produce a slight vibration, a small amount of heat, and create a very slight magnetic field. The heat produced by this device is not sufficient to have any effect where the application of heat might be indicated. The vibratory properties of this device are not sufficient to have any beneficial effect whatsoever, and the magnetic effect from the use of this device is so small that it would be incalculable and of no value. The use of this device has no therapeutic value in the treatment of any disease or condition of the human body, and any beneficial effect that might be obtained from the use of this device would be purely psychological.

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The use of respondent's device will not feed or revive the entire system, beneficially affect the nerve centers, stimulate the nerves, or have any beneficial effect upon any part of the nervous system. Its use has no effect upon any condition of the blood and will not promote or increase circulation, equalize the distribution of blood or improve its quality. Respondent's device is of no value in soothing or regulating the stomach, aiding digestion, or stimulating the flow of digestive juices, and will not improve the assimilation or elimination of food or relieve or correct constipation. The small amount of heat generated by this device is not sufficient to have any therapeutic value or beneficial effect upon congested conditions, and will not relieve pain, soreness, or inflammation. Respondent's device will not assist nature in rebuilding new cells or tissue, reactivate the glands, or improve internal secretions. This device has no therapeutic value or beneficial effect in the treatment of paralysis, arthritis, neuralgia, apoplexy, hysteria, insanity, locomotor ataxia, St. Vitus dance, rheumatism, sore spots, contracted muscles, insomnia, hardening of the arteries, prostate gland trouble, lumbago, catarrh, head colds, influenza, writer's cramp, infantile paralysis, or deterioration of the tissues. The use of respondent's device will not defer hardening of the arteries, reduce blood pressure, deter apoplexy, aid in restoring normal productive power, assist the bowels and kidneys to function properly, stimulate the action of the liver, strengthen or stimulate heart action, tear down diseased tissue, or have any value in the treatment of any diseases or conditions of the bladder. Respondent's device has no value in eliminating the causes of disease and will not maintain health in normal persons or restore health in sick persons.

PAR. 4. The use by the respondent of the foregoing false, deceptive and misleading statements and representations with respect to said device 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 and representations are true and to induce a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's device.

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 on the complaint of the Commission, answer of the respondent, testimony and other evidence in support of and in opposition to 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 briefs filed in support of the complaint and in opposition thereto; 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, Charlotte Brandenburg, and her representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of her device or apparatus designated as "Electro Magnetic Nerve Vitalizer" or "Electro Magnetic Vibrator" or any other device or apparatus of substantially similar composition or construction 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 through inference—

a. That respondent's device has any therapeutic value in the treatment of any disease or condition of the human body;

b. That the use of respondent's device will feed or revive the entire system or beneficially affect the nerve centers;

c. That the use of respondent's device will relax or stimulate the nerves or have any beneficial effect upon any part of the nervous system;

d. That the use of respondent's advice has any effect upon any condition of the blood or that it will promote or increase circulation, equalize the distribution of blood, or improve its quality;

e. That the use of respondent's device has any beneficial effect in soothing or regulating the stomach, aiding digestion, or stimulating the flow of digestive juices or that it will improve the assimilation or elimination of food or relieve or correct constipation;

f. That the use of respondent's device has any therapeutic value or beneficial effect upon congested conditions or that it will relieve pain, soreness, or inflammation;

g. That respondent's device will assist nature in rebuilding new cells or tissue, reactivate the glands, or improve internal secretions;

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h. That respondent's device has any therapeutic value in the treatment of paralysis, arthritis, neuralgia, apoplexy, hysteria, insanity, locomotor ataxia, St. Vitus dance, rheumatism, sore spots, contracted muscles, insomnia, hardening of the arteries, prostate gland trouble, lumbago, catarrh, head colds, influenza, writer's cramp, infantile paralysis, or deterioration of the tissues;

i. That the use of respondent's device will defer hardening of the arteries, reduce blood pressure, deter apoplexy, aid in restoring normal productive power, assist the bowels and kidneys to function properly, stimulate the action of the liver, strengthen or stimulate heart action, tear down diseased tissue, or have any value in the treatment of any disease or condition of the bladder;

j. That respondent's device has any value in eliminating the causes of disease or that its use will maintain health in normal persons or restore health in sick persons.

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 of the representations prohibited in paragraph 1 hereof and the respective subdivisions thereof.

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

Complaint

IN THE MATTER OF
SALLY'S FURS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4705. Complaint, Feb. 9, 1942—Decision, Mar. 15, 1943*

Where a corporation, engaged in competitive interstate sale and distribution of fur garments; by means of newspaper advertisements or other advertising media, directly or by implication—

- (a) Represented that it owned or possessed a stock of furs of the market value of \$500,000, through such statements as "\$500,000 Stock—1940 Fashion Furs To Be Sacrificed For About \$250,000," etc.; when in fact it at no time possessed a stock of furs of such market value;
- (b) Falsely represented that its fur coats were styled or designed in Hollywood, Calif., the heart of the motion picture industry in the United States and a fashion center, or that they were copies of models of coats which originated there, through such statements as "New Hollywood Styled Fur Coats"; and
- (c) Represented that its 1940 styled coats and fur pieces were manufactured in a factory owned or operated by it; the facts being they had been made by an affiliated corporation which had since discontinued business, and it obtained some of its coats in the open market;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into a mistaken belief relative to said fur garments, thereby inducing its purchase thereof, 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. Miles J. Furnas*, trial examiner.

Mr. Jesse D. Kash 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 Sally's Furs, 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, Sally's Furs, Inc., is a corporation, organized and 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 17 West Forty-fourth Street, New York, N. Y.

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PAR. 2. The respondent, Sally's Furs, Inc., is now, and for more than two years last past has been, engaged in the sale and distribution of fur garments, including ladies' coats. Respondent causes its said fur garments, including ladies' coats, when sold by it; to be transported from its aforesaid place of business in the State of New York to purchasers thereof located in the various other States of the United States and in the District of Columbia.

The respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said fur garments, including ladies' coats, 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 aforesaid business, and for the purpose of inducing the purchase of its fur garments, including ladies' coats, the respondent has circulated and is now circulating among prospective purchasers throughout the United States, in advertisements in newspapers and trade journals and by other advertising media, including radio continuities, all of general circulation, various false statements and representations concerning its said fur garments, including ladies' coats. Among and typical of such false statements and representations are the following:

Sallys Greatest January Sale

\$500,000 STOCK—1940 FASHION FURS

TO BE SACRIFICED FOR ABOUT \$250,000

NEW

HOLLYWOOD

STYLED

FUR COATS

AT COST

BELOW COST

ADVANCED 1940 STYLES OF FUR MASTERPIECES

CREATED IN OUR OWN FACTORY * * *

Through the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent has represented, directly or by implication, that it owned or possessed a stock of furs of the value of \$500,000; that its fur coats were styled or designed in Hollywood, Calif., the heart of the motion picture industry in the United States and one of the fashion centers of the United States, or that they were copies of models of coats styled, designed or originated in Hollywood, Calif.; that its 1940 styles of fur coats and fur pieces were manufactured in a factory owned or operated by the respondent.

PAR. 4. The foregoing representations are grossly exaggerated, false and misleading. In truth and in fact, the respondent, Sally's Furs, Inc., did not own or possess a stock of furs of the value of \$500,000

at the time said advertisements were disseminated. The fur coats sold and offered for sale by it were not designed or styled in Hollywood, Calif., nor were they copies of models of garments styled, designed or originated in Hollywood, Calif. The respondent was not and is not engaged in the manufacture of fur coats and such fur coats were not made in a factory owned, operated, or controlled by the respondent, but said respondent obtained its coats from outside sources in the open market.

PAR. 5. The use by the respondent of the foregoing false and misleading advertising, disseminated as aforesaid, had a tendency and capacity to, and did, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false representations are and were true, and did induce the purchasing public to buy substantial quantities of respondent's fur coats as a result of such erroneous belief so engendered.

PAR. 6. 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 9, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Sally's Furs, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. No answer was filed by the respondent.

At a hearing held on January 22, 1943, for the purpose of taking testimony, a stipulation as to the facts was entered into, subject to the approval of the Commission, by and between counsel for the Commission and counsel for the respondent, and was read into the record in lieu of testimony in support of the charges stated in the complaint and in opposition thereto. It was stipulated that the Commission, without further evidence or other intervening procedure, may proceed upon the statement of facts (including inferences which it may draw from said stipulated facts) to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. The respondent expressly waived the filing of the trial examiner's report upon the evidence.

Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint and stipulation, said

stipulation having been approved and accepted; 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

PARAGRAPHS 1. The respondent, Sally's Furs, Inc., is a New York corporation with its place of business in the city and State of New York. It is now and for several years last past has been engaged in the sale and distribution of fur garments in commerce between and among the various States of the United States, causing said products, when sold, to be shipped from its place of business in the State of New York to purchasers in other States. At all times herein referred to, said corporation has been in competition with other corporations and with individuals, firms and partnerships also engaged in the sale and distribution of similar products in interstate commerce.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, Sally's Furs, Inc., in connection with the sale or offering for sale of its said products in commerce as defined by the Federal Trade Commission Act, has disseminated advertisements, by means of newspapers having interstate circulation or by other advertising media, containing the following claims or representations:

Sally's Greatest January Sale

\$500,000 STOCK—1940 FASHION FURS

TO BE SACRIFICED FOR ABOUT \$250,000

NEW

HOLLYWOOD

STYLED

FUR COATS

AT COST

BELOW COST

* * * * *

ADVANCED 1940 STYLES OF FUR MASTERPIECES
CREATED IN OUR OWN FACTORY * * *

PAR. 3. Through the statements and representations hereinabove set forth, and others similar thereto not specifically set out herein, respondent has represented, directly or by implication, that it owned or possessed a stock of furs of the market value of \$500,000; that its fur coats were styled or designed in Hollywood, Calif., the heart of the motion picture industry in the United States and one of the fashion centers of the United States, or that they were copies of models of coats styled, designed or originated in Hollywood, Calif.; and that its 1940 style

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coats and fur pieces were manufactured in a factory owned or operated by the respondent.

PAR. 4. As a matter of fact, respondent corporation did not at the time said claims or representations were made have or possess a stock of furs of a market value of \$500,000; the fur coats advertised as "Hollywood Styled" were not originally styled or designed in Hollywood, Calif., and were not copies of models of coats styled, designed, or originated in Hollywood, Calif. The respondent corporation was not at the times mentioned in the complaint engaged in manufacturing coats, and these coats were not manufactured in any factory owned or operated by the respondent but were manufactured by an affiliated corporation which has since discontinued business. Respondent obtained some of its said coats from outside sources in the open market.

PAR. 5. The use by the respondent of the foregoing misleading advertising, disseminated as aforesaid, had a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into an erroneous and mistaken belief relative to the fur garments sold by the respondent, and the tendency and capacity to cause such portion of the public to buy substantial quantities of respondent's fur coats as a result of such erroneous belief so engendered.

CONCLUSION

The aforesaid acts and practices of 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 a stipulation as to the facts entered into by and between counsel for the Commission and counsel for the respondent, which provides among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon respondent herein, Sally's Furs, Inc., a corporation, findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Sally's Furs, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its fur garments in commerce, as "commerce"

Order

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

1. Representing, directly or by implication, that respondent's stock of furs has a market value of \$500,000, unless such stock does in fact have such value; or making any other exaggerated claims or statements concerning the value or magnitude of respondent's stock of merchandise.

2. Advertising, describing, offering for sale, or selling fur garments as "Hollywood Styled," unless such garments are in fact styled or designed in Hollywood, Calif., or are copies of models of coats styled or designed in Hollywood, Calif.

3. Representing, through the use of the phrase "Created in our own factory," or through the use of any other phrase of similar import, or in any other manner, that respondent is the manufacturer of its fur garments, unless and until respondent does in fact own, operate, or control the factory wherein such garments are made.

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.

Complaint

IN THE MATTER OF
CASTLE COMPANY, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT 20, 1914*Docket 4785. Complaint, July 17, 1942—Decision, Mar. 15, 1943*

Where a corporation, engaged in interstate sale and distribution of jewelry, including its "Our Lady of the Miraculous Medal" pendants—

(a) Represented that the settings therein were precious stones, through referring thereto in newspaper advertisements as "birthstones," and displayed them on cards bearing such words, for example, as "January" and, immediately beneath, the word "Garnet";

The facts being settings in question were not precious stones as long understood from the word "birthstone," but were made of glass colored to simulate such precious stones as garnets, rubies, emeralds, etc.; and

(b) Falsely represented, through use of word "Manufacturers" on its letter-heads, that it was the manufacturer of the jewelry sold by it;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the character of its business and composition of certain of its merchandise, thereby causing said public's 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.

Before *Mr. Clyde M. Hadley*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. John Lockwood, 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 Castle Co., Inc., 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:

PARAGRAPH 1. Respondent, Castle 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 principal office and place of business located at 1374 Broadway, New York, N. Y.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of silver chains with "Our Lady of the Miraculous Medal Pendants" and other articles of