

Syllabus

IN THE MATTER OF

PROGRESS TAILORING COMPANY, ALSO TRADING AS J. C. FIELD & SON; STONE FIELD CORPORATION, W. Z. GIBSON, INC., PIONEER TAILORING COMPANY, AND CERTIFIED TAILORING COMPANY

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

Docket 3747. Complaint, Mar. 28, 1939—Decision, July 20, 1943

Where a parent corporation and its four wholly owned subsidiaries with common officers and directors, engaged in competitive interstate sale and distribution of men's suits and coats which—manufactured by a fifth subsidiary from cloth furnished to it by the parent concern under an arrangement by which it charged the parent for cutting, trimming, and tailoring, and latter charged its four other subsidiaries for garments sold by them—were sold directly to the consuming public through canvassers equipped with order blanks, samples of materials, and advertising matter—

- (a) Represented in advertisements in newspapers and periodicals soliciting the services of salesmen that a "free" suit or suits would be given to them, through such statements as "Local agents wanted * * *." "If I send you this fine suit, will you wear it and show it to your friends," "I need a reliable man in your town," "I supply everything free of cost," and "Your own suits free of extra charge"; and thereby indicated that persons answering would receive a free suit which might be used by them in soliciting orders from customers for similar suits;

The facts being that when inquiry was received in response to such advertisement, circular was forwarded to the inquirer prominently displaying and stressing the word "free," but informing him for the first time that it would be necessary to obtain orders for a specified number of suits before receiving his own so-called "free" suit, and it was not until after sale of said number of suits that so-called "free" suit was delivered to him;

- (b) Falsely represented in advertising literature that "Supersheen Linings" and "Deluxe Trimmings", cost of which was included in the sales price paid by the purchaser for the garment bought, were "Furnished Free";
- (c) Falsely represented the size, extent and nature of their business through depiction of a large, four-story commercial or industrial building in their various advertising folders, and thereby caused members of the purchasing public to believe that they owned, operated, and exclusively occupied such building, of which in fact they occupied two floors only;
- (d) Falsely represented through statements in advertising material that all middlemen's expenses were eliminated, and that purchases were made from them at manufacturer's prices; when in fact a substantial part of the price paid by purchasers consisted of retailing costs and agents' commissions, and also charges of the manufacturing subsidiary and charge made by the parent concern against its various subsidiaries, as noted above;
- (e) Falsely represented that they were exclusively wholesale tailors, and that their garments were supplied to purchasers at wholesale prices; when in fact a substantial part, as aforesaid, of the purchase price was made up

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of retailing costs and commissions, and in fact they were engaged in selling at retail and at retail prices; and

- (f) In order to emphasize certain statements contained in their circulars, used a false and fictitious affidavit purportedly executed by one H. J. Graves as president of one of said corporations, notwithstanding no such person had ever been president of any of their concerns, and no such affidavit was ever made;

With tendency and capacity to mislead and deceive prospective purchasers into the erroneous belief that such statements were true, thereby inducing purchase of said products, in reliance upon such belief, whereby trade was diverted unfairly to them from competitors who did not use aforesaid methods;

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

Before *Mr. Randolph Preston* and *Mr. James A. Purcell*, trial examiners.

Mr. R. P. Bellinger for the Commission.

Mayer, Meyer, Austrian & Platt, of Chicago, Ill., for respondents.

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 Progress Tailoring Co., a corporation, trading under its own name, and also as J. C. Field & Son; Stone-Field Corporation, a corporation; W. Z. Gibson, Inc., a corporation; Pioneer Tailoring Co., a corporation; and Certified Tailoring Co., a corporation, hereinafter referred to as respondents, have 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, Progress Tailoring Co., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 500 Throop Street in the city of Chicago, in said State. Said respondent also has been and is doing business under the name and style of J. C. Field & Son.

Respondent, Stone-Field Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1300 West Harrison Street in the city of Chicago in said State.

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Respondent, W. Z. Gibson, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 500-532 South Throop Street in the city of Chicago in said State.

Respondent, Pioneer Tailoring Co., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at Congress and Throop Streets in the city of Chicago in said State.

Respondent, Certified Tailoring Co., is a corporation, organized existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1300 West Harrison Street in the city of Chicago in said State.

In doing the acts and things herein complained of, and during all times material to this complaint, respondents, Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co., have been, and now are, wholly owned subsidiaries of respondent, Progress Tailoring Co., and under the control and direction of its managing officers.

PAR. 2. For the past several years said respondents have been, and now are, and each of them has been, and now is, engaged in the business of offering for sale and selling garment products, including men's suits and coats, in commerce, among and between the various States of the United States, and in the District of Columbia, and in causing said products when sold or ordered, to be shipped and transported from the States of Indiana and Illinois to purchasers thereof located in States other than the States of Indiana and Illinois, and to purchasers thereof located in the District of Columbia.

In the course and conduct of the aforesaid business, and at all times herein referred to, the respondents have been, and now are, and each of them has been, and now is, in competition with other corporations, firms, partnerships, and individuals engaged in offering for sale and selling garment products in commerce among and between the various States of the United States and the District of Columbia, who do not use the methods and practices herein set forth and complained of.

PAR. 3. In the course and conduct of the business of respondents, as aforesaid, respondents employ agents and salespersons, who canvass, solicit, and sell prospective purchasers, purchasers, and members of the buying public, in and throughout the various States of the United States and in the District of Columbia. For each sale made said agents and sales persons are paid a commission, or percentage of the sales price paid by the purchaser. Said agents and salespersons are equipped by respondents with order blanks, samples, and materials from which purchasers make selections as to color, weave, and quality

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of material from which the garment ordered is to be made, and with certain circulars, folders, literature, and other advertising matter referring and relating to said respondents and to their said products, all of which are circulated, distributed, or exhibited to said prospective purchasers, purchasers, and members of the buying public.

PAR. 4. In the course and conduct of the business of respondents, as aforesaid, it has been and is the practice of each, as an integral part of the sales promotion program employed by each, to advertise for and solicit the services of agents and salespersons through and by means of magazines and other advertising media, and in the course thereof to state and represent that a "free" suit or suits will be given to such persons. Demonstrative of the statements and representations so made by respondents, among others, are the following:

Free Suit!

A big feature of our marvelous proposition is the suit we offer you
FREE OF EXTRA COST!

We give you this opportunity to get a suit **FREE**—without a penny of cost to you.

THIS FINE SUIT

Made to-your measure

FREE!

Why we make this remarkable offer. As our salesman we believe that you should be wearing one of the suits you are selling.

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wanted to wear and demonstrate free suits to friends. No canvassing. Up to \$12.00 in a day easy.

SALESMEN—Amazing new opportunity. Demonstrate for nationally known tailoring company. Start at \$35 weekly. No canvassing. Permanent position. Rapid advancement. Your own clothes free.

MEN WANTED TO WEAR**SUITS AND SHOW FRIENDS!**

New way to earn up to \$12 in a day! Big clothing manufacturer wants ambitious man in every city to wear all wool, Union made-to-measure suits as demonstrators, and earn money showing friends and taking orders. Sample suits **FREE** of extra cost!

The above referred to offer and representation of a free suit or suits is false, deceptive, and misleading, in that the suit referred to is not given free by respondents, but requires the payment of a valuable consideration on the part of agent and salesperson in the form of services and the sale of a certain number of suits by the agent or salesperson before the same is delivered to the agent or salesperson.

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The said condition and requirement to the procurement of the suit is not disclosed in the initial advertising in which said offer of a free suit or suits is made. By this means and method respondents thus contact and secure responses from prospective agents and salespersons and induce and secure their services in the sale of respondents' garment products to the public, and their purchases of such garment products for themselves in consideration of services rendered, all to the profit of respondents and to the injure and prejudice of their competitors.

PAR. 5. In the course and conduct of the business as aforesaid, each of the respondents, Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co., in and by means of letterheads, circulars, folders, and other advertising matter which it has caused and causes to be distributed and exhibited to members of the buying public in connection with the offer and sale of its garment products, refers to and represents itself as a "tailoring" company, or as "tailors," thereby signifying and representing, and inducing members of the buying public to believe, that it is engaged in the business of making and "tailoring" the garments which it offers for sale and sells, and that it operates its own plant, facilities and equipment, and employs its own personnel, for the cutting, sewing, and making of said garments.

In the foregoing connection, also, respondents, Stone-Field Corporation, W. Z. Gibson, Inc., and Pioneer Tailoring Co., further picture and refer to a large, multistory, commercial or industrial building or plant, each of the said respondents thereby employing the same to represent its size and strength and the nature and extent of its business operations, and thereby inducing members of the buying public to believe that it is a large manufacturer, owning, operating, and exclusively occupying the building pictured and referred to.

In certain of the aforesaid circulars, folders and advertising matter distributed and exhibited to members of the buying public by and through respondent, Stone-Field Corporation, the following statements and representations, among other things, have been and are made:

We have our own staff of designers, design and cut our own patterns and manufacture every coat.

We tailor every garment.

We own our own shops.

Many of them (tailors) have been in our employ since the business was founded.

We buy our woolens direct from the mills and cut every garment we sell right from the original piece of cloth.

We are not middlemen and do not "farm" out any part of the work.

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In certain of the aforesaid circulars, folders, and advertising matter distributed and exhibited to members of the buying public by and through respondent, W. Z. Gibson, Inc., the following statements and representations, among other things, have been and are made:

All Middlemen's expenses are eliminated by our manufacturer-to-wearer policy.

A Challenge To Retailers.

We are making the flat-footed statement that serges anywhere near the value of Nos. 980-981-982-983 cannot be purchased in a suit from any retail store at this low price.

No other tailoring line offers their equal at anywhere near the price we ask. The retail merchant absolutely requires the additional money he asks to pay his rent, his clerks, his electric light bill, his general overhead.

We have none of these. We send the suit to you direct from our shops. There are no costly showcases to buy or long periods of waiting for customers, to pile up expenses.

Visit this Model Tailoring Plant (accompanied by a picture of a large four-story building and references to its size and "hundreds of skilled workman").

Exclusive Styles, by our own fashion artists.

The aforesaid statements and representations are false and misleading, in that the respondents referred to in paragraph 5 hereof are not "tailors" or "tailoring companies," are not engaged in the business of making the garments which they offer and sell, and do not operate their own plant or facilities and equipment, or employ their own personnel, for the cutting, sewing, and making of said garments, and none of said respondents using the picture of the commercial or industrial building above referred to, owns, operates, or exclusively occupies the building pictured and referred to, or any other building of equal or comparable capacity or size. All of the garment products offered and sold by said respondents are made on contract by Fort Wayne Tailoring Corporation, which is a separate and distinct corporation apart from said respondents. Said respondents do no manufacturing and are selling corporations only.

The aforesaid statements and representations of respondents, Stone-Field Corporation, W. Z. Gibson, Inc., and Pioneer Tailoring Company, further imply and represent, and induce members of the buying public to believe, that said respondents' business operations are those of a large manufacturer, and that purchases from them may be made at "manufacturer's prices" and at a saving to the purchaser of retailer's or middleman's costs and profits; whereas, on the contrary, said respondents are not manufacturers and do not sell at manufacturer's prices, and at prices which save to the purchaser the retailer's or middleman's costs and profits. A substantial percentage or part of the purchase prices paid respondents by purchasers is included in the said

price to cover retailing costs and commissions to agents, and salespersons for effecting sales.

PAR. 6. In certain of the aforesaid circulars, folders and advertising matter distributed and exhibited to members of the buying public by and through respondent, Progress Tailoring Co., also trading as J. C. Field & Son, the following statements and representations, among other things, have been and are made:

We are exclusively wholesale tailors.

Order one of these fine Progress suits yourself, if you wish, at wholesale price.

In certain of the aforesaid circulars, folders and advertising matter distributed and exhibited to members of the buying public by and through respondent, Stone-Field Corporation, said respondent is referred to and represented as "wholesale tailors."

The aforesaid statements and representations imply and represent, and induce members of the buying public to believe that respondents, Progress Tailoring Co., also trading as J. C. Field & Son, and Stone-Field Corporation, are "wholesalers" engaged in the business of selling their garment products at wholesale; that they are not "retailers," and that they offer for sale and sell their garment products to the buying public at "wholesale prices" and at a saving to the purchaser of retailer's costs and profit. Said representations are false and misleading in that said respondents are engaged in the business of selling at retail and at retail prices to the buying public, and not to retailers or jobbers. A "retailer," or one who sells at "retail," is one who sells direct to the buying and consuming public. A "wholesaler," or one who sells at "wholesale," is one who sells usually in "quantity lots," to a "retailer" or a "jobber," a sort of middleman, and not direct to the ultimate consumer of an individual unit. Said respondents do not sell at "wholesale prices," or at a saving to the purchaser of a retailer's costs and profit. A substantial percentage or part of the purchase prices paid respondents by purchasers is included in said prices to cover retailing costs and commissions to agents and salespersons for effecting sales.

PAR. 7. In certain of the aforesaid circulars, folders and advertising matter distributed and exhibited to members of the buying public by and through respondents, Stone-Field Corporation and W. Z. Gibson, Inc., each of said respondents states and represents that it has been in business for 41 years, thereby employing said representation to represent the size, strength and life of said respondent's corporation and business.

The aforesaid representation is false and misleading in that neither of said respondents has been in business for the past 41 years, or any other comparable length of time.

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PAR. 8. Among the folders and advertising literature above referred to and distributed and exhibited to members of the buying public by and through respondent, Stone-Field Corporation, a certain folder describing its No. 230 blue serge suit carries the picture of a face represented to be that of "H. J. Graves, President of the Stone-Field Corporation," together with the following statement:

I Hate to Swear—But there are a few things about this No. 230 blue serge suit that I want to say, and ordinary words aren't strong enough, So I'll swear to 'em;

followed by what purports to be an affidavit with facsimile signatures and notarial seal,

I SWEAR that it weighs a full 15 oz. or more to the yard—almost a pound. The said picture, name H. J. Graves, and affidavit are false and fictitious, in that the picture is not that of H. J. Graves or of the president of the said respondent corporation; no such person is or ever has been president of the said respondent corporation, and no such affidavit was ever made and does not exist. The said statement and representation is further false in that the weight of said wool and material of the blue serge suit referred to is substantially less than 15 ounces to the yard.

Among the folders and advertising literature above referred to and distributed and exhibited to members of the buying public by and through Pioneer Tailoring Company, a certain folder describing its No. 230 blue serge suit, carries the statements and representations that the materials thereof are all wool and a "Full 15 ounces to the yard," "Almost a full pound," and "Almost 50% more than the average serge."

Among the folders and advertising literature above referred to and distributed and exhibited to members of the buying public by and through W. Z. Gibson, Inc., a certain folder describing its No. 980-983 serge suits, carries the statements and representations that the materials of said suits are all wool and "full heavy weight 16-ounce," meaning 16 ounces to the yard.

The aforesaid representations of respondents, Pioneer Tailoring Co. and W. Z. Gibson, Inc., are false and misleading in that the weight of the woolen material of the serge suits referred to is substantially less than 1 pound and substantially less than 15 ounces to the yard.

PAR. 9. In certain of the folders and advertising literature above referred to and distributed and exhibited to members of the buying public by and through respondents, Stone-Field Corporation, W. Z. Gibson, Inc. and Pioneer Tailoring Co., each of said respondents, referring to suits therein offered and represented, states and repre-

sents that the "super-sheen Linings" and "DeLuxe Trimmings" are "Furnished Free." The said representation is false and misleading in that the cost of said linings and trimmings is included in the sale price paid by the purchaser of the garment product referred to, and is not "Free."

PAR. 10. The aforesaid false and misleading statements and representations have had and have the tendency and capacity to mislead and deceive prospective purchasers and purchasers of garment products into the erroneous belief that the said statements and representations are true, and into the purchase of garment products from respondents in reliance upon such belief, thereby unfairly diverting trade in said commerce to respondents from their competitors who do not use the methods and practices herein complained of, all to the injury of said competitors in said commerce, and to the injury of the public.

PAR. 11. The aforesaid acts and practices of respondents, as hereinabove alleged, are all to the prejudice of the public 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on March 28, 1939, issued and subsequently served its complaint in this proceeding upon the respondents, Progress Tailoring Co., a corporation, trading under its own name and also as J. C. Field & Son; Stone-Field Corporation, a corporation; W. Z. Gibson, Inc., a corporation; Pioneer Tailoring Co., a corporation; and Certified Tailoring Co., a corporation, charging them with the use of unfair methods of competition in commerce and 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 respondents' answer thereto, testimony and other evidence in support of, and in opposition to, the allegations of said complaint were introduced before trial examiners of the Commission theretofore 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 examiners upon the evidence, briefs filed in support of the complaint and in opposition thereto,

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and oral argument of counsel; 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, Progress Tailoring Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 500 Throop Street in the city of Chicago, State of Illinois. Said respondent does business under its own name and also under the name, style, and description of J. C. Field & Son.

Respondent, Stone-Field Corporation, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1300 West Harrison Street in the city of Chicago, State of Illinois.

Respondent, W. Z. Gibson, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 500-532 South Throop Street in the city of Chicago, State of Illinois.

Respondent, Certified Tailoring Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at Congress and Throop Streets in the city of Chicago, State of Illinois.

Respondent, Certified Tailoring Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 1300 West Harrison Street in the city of Chicago, State of Illinois.

Fort Wayne Tailoring Co., not named as a respondent herein, is a corporation having its office and principal place of business in the city of Fort Wayne, State of Indiana.

PAR. 2. The Fort Wayne Tailoring Co., and the respondents, Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co., are wholly owned subsidiaries of the respondent, Progress Tailoring Co., a corporation. Alfred E. Stern, Irvin Stern, Albert Duncan, and Charles A. Olson, are president, vice-president and treasurer, secretary, and assistant secretary, respectively, of the Fort Wayne Tailoring Co., and of the respondents, Progress Tailoring Co., Stone-Field Corporation, W. Z. Gibson, Inc.,

Pioneer Tailoring Co., and Certified Tailoring Co. Alfred E. Stern and D. B. Stern are directors of the Fort Wayne Tailoring Co., and directors of all of the respondent corporations. Irvin Stern is a director of the Fort Wayne Tailoring Co. and of respondent, Progress Tailoring Co. Albert Duncan is a director of the Fort Wayne Tailoring Co. and of respondents, Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co.

The Commission finds that the respondent, Progress Tailoring Co., as the parent corporation, directs and controls the sales policies and practices of respondents, Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co., its wholly owned subsidiaries, and that all of the respondent corporations, acting by and through identical officers and substantially identical directors, acted in conjunction and cooperation with each other in performing the acts and practices hereinafter described.

PAR. 3. In the course and conduct of their said businesses, respondents, for several years last past have been, and are now, engaged in the sale and distribution of wearing apparel, including men's suits and coats, in commerce among and between the various States of the United States and in the District of Columbia and cause said products, when sold, to be transported from their places of business in the State of Illinois or from the places of business of the Fort Wayne Tailoring Co. in the State of Indiana to purchasers thereof located in various States of the United States other than the States of Illinois and Indiana. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the United States.

PAR. 4. In the course and conduct of their aforesaid businesses and at all times referred to herein the respondents have been and are now, and each of them has been and is now, in competition with other corporations and with firms, partnerships, and individuals engaged in the offering for sale and selling of wearing apparel, including men's suits and coats, in commerce among and between the various States of the United States and in the District of Columbia, who do not use the methods and practices hereinafter described.

PAR. 5. The garments sold and distributed by the respondents are all manufactured by the Fort Wayne Tailoring Co. from cloth furnished to it by respondent, Progress Tailoring Co. The Fort Wayne Tailoring Co. charges the respondent, Progress Tailoring Co., for its services in cutting, trimming, and tailoring the cloth furnished to it by said respondent, Progress Tailoring Co. Said respondent, Progress Tailoring Co., in turn makes a charge against the respondent,

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Stone-Field Corporation, W. Z. Gibson, Inc., Pioneer Tailoring Co., and Certified Tailoring Co., for garments sold by said respondents.

PAR. 6. In the course and conduct of their businesses the respondents sell said garments directly to the consuming public through the means of agents and salesmen who canvass, solicit, and sell such members of the buying public in and throughout the various States of the United States. For each sale made, said agents and salesmen are paid a commission or percentage of the sales price paid by the purchaser. Said agents and salesmen are equipped by respondents with order blanks and samples of materials from which purchasers make selections as to color, weave, and quality of material from which the garment ordered is to be made and with certain circulars, folders, literature, and other advertising matter referring and relating to said respondents and to their said products, all of which are circulated, distributed, or exhibited to said prospective purchasers and members of the buying public.

PAR. 7. In the course and conduct of their businesses, the respondents have engaged in the practice, as an integral part of the sales promotion plan employed by each of them, of advertising for, and soliciting the services of, agents and salesmen through and by means of advertisements placed in magazines, newspapers, and other periodicals, which advertisements represent that a "free" suit or suits will be given to such agents and salesmen. Typical of such advertisements are the following:

LOCAL AGENTS

Wanted to Wear and demonstrate Free Suits to friends. No canvassing. Up to \$12 in a day easy. Experience unnecessary. Valuable demonstrating equipment, actual samples Free. H. J. Graves, Pres. 1300 Harrison. Dept. A-819, Chicago.

IF I SEND YOU

THIS FINE SUIT—

WILL YOU WEAR IT AND SHOW IT TO FRIENDS?

I need a reliable man in your town to wear a fine, made-to-measure, all-wool DEMONSTRATING SUIT—advertise my famous Union clothing—and take orders. * * * I supply everything required FREE of extra cost.

YOUR OWN SUITS FREE OF EXTRA CHARGE

Sensational new liberal bonus plan! No quantity limit—no time limit on FREE SUITS for yourself! It's easy TO MAKE MONEY—easy to get orders—and easy to get your own SUITS FREE of extra charge, with the Certified line.

WRITE FOR FREE SAMPLE DETAILS:

YOUR OWN SUITS FREE OF EXTRA CHARGE

New unlimited bonus plan gives you your own suits Free of extra cost—no quantity limit, no time limit. Mail coupon for details.

Through the use by the respondents of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, prospective salesmen and agents are led to believe that upon answering respondents' advertisement they will receive a suit of clothes free and without charge, which may be used by them when soliciting orders from customers for similar suits. When an inquiry is received from a prospective agent or salesman in response to such advertisement, a circular is forwarded to him which prominently displays and stresses the word "free," and which informs such prospective salesman or agent that it will be necessary to obtain orders for a specified number of suits before receiving the suit designated by the respondents as being "free." Such suits, which are delivered to the salesman or agent only after he has sold a specified number of suits, are not free but in fact constitute part of the compensation for services performed in selling respondents' wearing apparel. The condition and requirement to the procurement of the so-called "free" suit is not disclosed in the initial advertisement in which said offer of a free suit or suits is made, and such prospective salesman or agent is only advised of the conditions necessary to obtain such so-called "free" suit or suits when reply is received to his inquiry with reference to said advertisement.

In addition to the above representations, the respondents have also, in folders and advertising literature, represented that "Supersheen Linings" and "Deluxe Trimmings" are "Furnished Free." Such representations are false and misleading in that such linings and trimmings are not furnished free but the cost of said material is included in the sales price paid by the purchaser for the garment referred to.

PAR. 8. In the course and conduct of their businesses the respondents have falsely represented and exaggerated the size and extent of the business of the respective respondents through the use of a picture of a large, four-story, commercial or industrial building or plant in their various circulars and advertising folders. By means of such pictorial representations the respondents are enabled to misrepresent the nature and extent of their business operations and cause members of the purchasing public to believe that they are the owners of, operate, and exclusively occupy the building pictured and referred to in such advertising. In truth and in fact, the respondents do not exclusively occupy the building pictured or any other building of equal or com-

parable capacity or size but instead occupy only a portion, consisting of two floors, of the building so pictured.

PAR. 9. The respondents have also represented by statements contained in circulars, folders, and other advertising material that all middlemen's expenses are eliminated and imply that purchases made from the respondents are at manufacturers' prices and at a saving to the purchaser of retailers' or middlemen's costs and profits; whereas, on the contrary, the respondents do not sell at manufacturers' prices or at prices which save the purchaser the retailers' or middlemen's costs or profits. A substantial percentage or part of the purchase prices paid respondents by purchasers is included in the said price to cover retailing costs and commissions to agents and sales persons for effecting sales, and also to cover service charges of the Fort Wayne Tailoring Co. for the manufacture of such garments and the charge made by the respondent Progress Tailoring Co. against its various subsidiary corporations when the garments are sold by them.

PAR. 10. In certain of their circulars, folders, and advertising material distributed by the respondents they have represented that they are exclusively wholesale tailors and that their garments are supplied to the purchasers thereof at wholesale prices. Such representations are false and misleading in that said respondents are engaged in the business of selling at retail, and at retail prices, to the buying public. A wholesaler, or one who sells at wholesale, is one who sells to a retailer or jobber, usually in quantity lots, and not direct to the ultimate consumer of an individual unit. The respondents do not sell at wholesale prices or at a saving to the purchaser of a retailer's cost and profit. A substantial percentage or part of the purchase prices paid respondents by purchasers is included in said prices to cover retailing costs and commissions to agents and salesmen for effecting such sales.

PAR. 11. The respondents, in order to emphasize certain statements contained in certain of their circulars, have used a false and fictitious affidavit, purportedly executed by one H. J. Graves as president of one of the respondent corporations, when, in fact, no such person is or ever has been president of any of said respondent corporations and no such affidavit was ever made.

PAR. 12. The aforesaid false and misleading statements and representations have had the tendency and capacity to mislead and deceive prospective purchasers and purchasers of wearing apparel into the erroneous belief that said statements and representations are true and into the purchase of garments from respondents in reliance upon such belief, thereby unfairly diverting trade to respondents from their competitors who are also engaged in the sale and distribution of similar items of wearing apparel in commerce among and be-

tween the various States of the United States and who do not use the methods and practices herein described.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury of the public and of respondents' 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, answer of the respondents, testimony and other evidence in support of and in opposition to the allegations of said complaint taken before trial examiners of the Commission theretofore duly designated by it, report of the trial examiners upon the evidence, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Progress Tailoring Co., a corporation, trading under its own name and also as J. C. Field & Son; Stone-Field Corporation, a corporation; W. Z. Gibson, Inc., a corporation; Pioneer Tailoring Co., a corporation; and Certified Tailoring Co., a corporation, and their respective officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of wearing apparel and other similar items of merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "free" or any other term of similar import or meaning to designate, describe, or refer to wearing apparel or other items of merchandise which are furnished as compensation for services rendered.

2. Using the term "free" or any other term of similar import or meaning to describe or refer to linings, trimmings, or other portions of garments which constitute a part of any garment, and the price of which is included in the price of the entire garment.

3. Using a pictorial representation of a building, in advertising or in any other manner, which inaccurately portrays or misrepresents the size or extent of respondents' business or the comparative volume of business transacted by the respondents.

Order

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4. Representing directly or by implication that respondents are selling their garments at manufacturers' prices or at prices which save the purchaser the cost or profit of the retailer or middleman.

5. Representing that respondents are wholesale tailors or that their garments are supplied to purchasers at wholesale prices or that respondents are engaged in any business other than the sale of garments at retail.

6. The use of reproductions of any fictitious affidavit in advertising material or in any other manner.

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

Complaint

IN THE MATTER OF
BERTHA M. URBAN

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

Docket 4761. Complaint, May 15, 1942—Decision, July 21, 1943

Where an individual, engaged in interstate sale and distribution of her "Lakota" fruit-juice product; by means of advertisements in newspapers, circulars, etc., including excerpts from testimonial letters, directly and by implication—

Represented that her said product constituted a cure and effective treatment for migraine or sick headache, high blood pressure, abdominal pains, constipation, and ulcers; and that it would remove the cause of migraine headaches and relieve the pain and discomfort thereof;

The facts being that, while said product had some nutritive value and might be considered a very mild laxative if taken in sufficient quantities, it would have no effect upon constipation in the dosage prescribed, and it had no therapeutic significance in the other diseases and conditions listed;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that said representations were true, thereby causing it to purchase substantial quantities of said product:

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. J. Earl Cox*, trial examiner.

Mr. Randolph W. Branch 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 Bertha M. Urban, an individual, 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, an individual, maintains her office and principal place of business at Ewing, Nebr.

PAR. 2. Respondent is now, and has been for more than 2 years last past, engaged in the business of offering for sale, selling and distributing in commerce, between and among the various States of the United States, a medicinal preparation designated as "Lakota." Respondent causes said preparation when sold to be transported from her aforesaid place of business in the State of Nebraska, to purchasers thereof located in various other States of the United States. Respond-