

Syllabus

IN THE MATTER OF
ARTHUR R. LEWIS AND BEN A. HENSLER, TRADING AS
VAWNE FOUNDATIONS, ET AL.

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

Docket 5106. Complaint, Sept. 17, 1946¹—Decision, Apr. 13, 1951

Among the articles of wearing apparel made by the process known variously as "full-fashioned," "fashioned," and "fully fashioned" are underwear, sweaters, and hosiery.

The terms "full-fashioned" and "fashioned" as applied to articles of apparel are regarded as synonymous by members of the trade, and as descriptive of apparel knit on a flat bed or bar machine in the course of which flat fabric is shaped in the knitting to conform to the shape of the limb or body; and there is a preference for full-fashioned articles of feminine apparel on the part of a substantial segment of the purchasing public, to which full-fashioned hosiery is particularly well and favorably known for holding its shape and as being more expensive than hosiery produced by other methods.

There is also a preference among the purchasing public for apparel represented as made of silk; and products made from rayon, resembling silk, are accepted by the purchasing public as silk, even though they may not be designated by terms representing that they are made of silk.

Where a corporation and its three officers who controlled its advertising policies and business activities, engaged in the manufacture and interstate sale and distribution of their "Wispese" girdles;

Through statements adopted and used by one of said individuals, its president, in advertisements in newspapers and periodicals, and on labels and other advertising material distributed among the purchasing public and to dealers in ladies' apparel for distribution thereto; and through similar statements made by them and others at their instance and suggestion—

- (a) Represented that said girdles were "full fashioned," namely, made of pieces of elastic fabric knit flat, of uniform texture, and permanently shaped in the knitting by the process known to the knitting trade as "narrowing" so as to conform to the shape of the body; and,

Where said individual, its president—

- (b) Represented directly and by implication, through the statements in the advertising and labeling thereof above referred to, that the fabric of which said girdles were made was manufactured and shaped by the same process through which full-fashioned stockings were made;

The facts being that their girdles were made on a tubular knitting machine over a cylinder of uniform diameter, and not under the process known as "full-fashioned," nor were they shaped by the same process as full-fashioned stockings; and the shaped appearance imparted to their said product would not be retained under similar conditions of use for periods as long as would the shape of similar garments produced by the full-fashioned process;

¹ Amended and supplemental.

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With capacity and tendency to deceive and mislead the public in aforesaid respects, and with the effect of thereby giving said products in the mind of the purchasing public a prestige and fictitious value which they would not otherwise have; and,

Where said corporation and individuals, in connection with the advertisement and sale of certain of their girdles which contained rayon resembling silk and with the feel thereof—

- (c) Failed to disclose in the advertising thereof and on such garments that they were composed in whole or in part of rayon, and thereby represented that they were composed in whole or in part of rayon, and thereby represented that they were composed of silk;

With the result of placing in the hands of dealers in their said product a means of misleading and deceiving purchasers into the aforesaid mistaken beliefs, and with tendency and capacity to mislead and deceive a substantial portion of the purchasing public in the aforesaid respects and thereby induce the purchase of substantial quantities of their said girdles by dealers and members thereof:

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

As respects the charge in the amended and supplemental complaint that respondents falsely represented that their girdles would retain their shape when worn, when in fact they stretched easily at the waist and thus failed to function effectively as girdles: while it was true that they would not maintain their shape for periods as long as would girdles of identical gage made from similar yarns and knitted under the full-fashioned process, and while the qualitative superiority of garments made under said process as compared to others not so made is recognized by the public as substantial, the evidence supplied an insufficient basis for a conclusion that respondent's girdles failed to function adequately as such; and the charges relating to said issue in the proceeding were accordingly dismissed.

Before *Mr. W. W. Sheppard*, trial examiner,

Mr. John M. Russell for the Commission.

Weil, Gotshal & Manges, of New York City, for respondents.

AMENDED AND SUPPLEMENTAL 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 R. Lewis and Ben A. Hensler, individually and as copartners trading as Vawne Foundations, Arthur R. Lewis and Jean Lewis, individually and as copartners trading as Vawne Foundations Co., Wispepe, Inc., a corporation and Arthur R. Lewis, Jean L. Gross and Harold B. Gross, individually and as officers of Wispepe, Inc., 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:

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PARAGRAPH 1. Respondents Arthur R. Lewis and Ben A. Hensler are individuals who were trading from on or about August 1, 1942, to on or about January 11, 1943, as copartners under the name Vawne Foundations.

Respondent Ben A. Hensler is an individual who has been since January 11, 1943, independently engaged in business similar to that of Vawne Foundations.

Respondents Arthur R. Lewis and Jean Lewis are individuals who were trading as copartners from on or about January 11, 1943, to on or about February 1, 1946, under the name Vawne Foundations Co.

Respondent Wispese, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, and respondents Arthur R. Lewis, Jean L. Gross, who was formerly respondent, Jean Lewis and Harold B. Gross are its president, treasurer, and secretary, respectively. The last three mentioned individual respondents have dominant control of the advertising policies and business activities of said corporate respondent and they have cooperated with each other and have acted in concert in doing the acts and things hereinafter alleged.

Respondents' office and principal place of business is located at 302 Fifth Avenue, New York, N. Y., except that respondent Ben A. Hensler's office and principal place of business is now located at 267 Fifth Avenue, New York, N. Y.

PAR. 2. Respondents are now, and have been for more than six months last past as aforesaid engaged in the business of manufacturing and selling and distributing women's garments designated "Wispese" girdles. Respondents sell their said product to retail dealers and other purchasers. Respondents cause their said product, when sold, to be transported from their aforesaid places of business in the State of New York, to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained a course of trade in their said product as above indicated 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 their aforesaid business, and for the purpose of inducing the purchase of their said "Wispese" girdles, respondents have made and are now making and have caused and are now causing, false and misleading statements and representations as to the texture of the fabric of which their said girdles are made, and as to their value to be printed in newspapers and magazines distributed throughout the United States and on labels, in catalogs, circulars, and other advertising material circulated and dis-

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tributed by respondents among the purchasing public and to dealers in ladies' apparel for distribution by such dealers to the purchasing public throughout the several States of the United States and in the District of Columbia.

Among and typical of the said false, deceptive, and misleading statements and representations are the following:

Wispese Girdle that's seamless . . . Full-Fashioned (like your stocking) * * *.
Seamless, full-fashioned, shaped in the knitting like your stockings * * *.
Knit to fit the form as full-fashioned hosiery is knit.

Actually full-fashioned.

Wispese Girdles * * * Full-fashioned as expertly as a stocking of elastic and Bemberg Rayon * * *.

Your Girdles should be Full-fashioned (and seamless too) * * *. Wispese * * * fashioned to fit just like your stocking * * *.

Seamless Full-Fashioned

Knit-to-Fit

WISPESE

Girdle

The same full-fashioning that makes our stockings cling to our legs so perfectly is now being applied to girdles.

(On Labels)

Seamless—Full Fashioned.

Wispese

GIRDLES AND PANTIE GIRDLES Count on Wispese, to attract the youthful following which means so much to a successful Corset Department. VAWNE FOUNDATIONS CO. 302 Fifth Avenue, New York, Boston, Los Angeles, Chicago.

* * * Wispese identifies the most desirable garments on the market. * * *

Wispese

GIRDLES AND PANTIE GIRDLES count on Wispese, to attract the youthful following which means so much to a successful Corset Department. WISPESE INC. 302 Fifth Avenue, New York 1, N. Y.

PAR. 4. Through the use of the said statements and representations and other statements and representations similar thereto not set out herein made by respondents and others at respondents' instance and suggestion, all of which purport to be descriptive of the texture of the fabric of which respondents' said "Wispese" girdles are made and of their construction, respondents represent, directly and indirectly, that their said girdles are "Full-Fashioned"; that the fabric of which they are made is manufactured and shaped by the same process through which full-fashioned stockings are made; that they are made of two pieces of elastic fabric knit flat, of uniform texture, permanently shaped in the knitting by the process known to the knitting trade as widening and narrowing so as to conform to the shape of the body, and joined together at their selvages by two stitched seams, one down each side of the girdle; that their shape is effected by dropping stitches from where the contour begins to narrow, thereby forming true gussets

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or fashioned "marks" parallel with the selvages; that "Wispeese" girdles retain their said shape when worn.

PAR. 5. The foregoing statements and representations used and disseminated by respondents in the manner above described are false, deceptive, and misleading. In truth and in fact, respondents' said "Wispeese" girdles are not full-fashioned; they are not manufactured or shaped by the process by which full-fashioned stockings are made; they are not made of fabric knitted flat; they are not made of fabric of uniform texture; they are not made by the process known to the knitting trade or the purchasing public as widening and narrowing so as to conform to the shape of the body; they are not made of any fabric joined together; their shape is not accomplished by dropping stitches from where the contour begins to narrow; they have no seams or gussets; they do not retain their shape when worn.

The true facts are that the "Wispeese" girdles offered for sale and sold by respondents as full-fashioned girdles are what is known to the trade and purchasing public as "seamless" girdles. They are made of fabric knitted over a Brinton tubular-type machine or cylinder and made to conform to the shape of the body by means other than the process used in the manufacture of full-fashioned garments. They are seamless, one-piece tubular girdles made of elastic fabric having an area of drop stitching and web weaving at the waist or top, which makes the fabric in said area looser and flimsier. They stretch easily at the waist and thus fail to function effectively as girdles. The size of each of said "Wispeese" girdles is the same the entire length of the girdle as the size of the tubular machine or cylinder over which it is knit, but when removed therefrom, the elastic therein contracts and makes said girdles appear to be shaped at the waist. The process used in the manufacture of respondents' said girdles is not the same as or similar to the process used in the manufacture of "full fashioned" stockings.

PAR. 6. Respondents by failing to disclose the rayon content of their said garments which resembles silk represent that said garments are composed entirely of silk, the product of the cocoon of the silk worm whereas in truth and in fact said garments are composed entirely or in part of rayon.

PAR. 7. The word "silk" has been long and favorably known to the purchasing public as descriptive of goods made from the fiber derived from the product of the cocoon of the silk worm.

Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate silk. When manufactured to simulate silk it has the appearance and feel of silk. By reason of these qualities, rayon, when manufactured to simulate silk and not designated as

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rayon, is by the purchasing public practically indistinguishable from silk. Products manufactured from rayon, resembling silk, are accepted by the public as silk, even though such products may not be designated by terms representing that they are silk.

There is a preference among the purchasing public for garments represented as made of "silk" as said product is generally known to the purchasing public for its superior quality and value.

PAR. 8. The use by the respondents of the words "Full-Fashioned," as aforesaid, deceives and misleads the public into the belief that respondents' said "Wispese" girdles are the type that is made of a fabric of uniform texture permanently shaped in the knitting by the process known to the knitting trade as widening and narrowing so as to conform to the shape of the body, which gives to them a prestige and fictitious value in the minds of the purchasing public, dealers, and salesmen which they do not merit and would not otherwise have. The terms "Full-Fashioned" and "Fashioned" as applied to girdles are regarded as synonymous by a majority of the trade and purchasing public and descriptive of that type of girdles manufactured by the process last above described. There is a preference among the purchasing public for full-fashioned girdles as they are well and favorably known for holding their shape and as being far more valuable and expensive than tubular shaped girdles.

PAR. 9. The respondents by the use of the said words "Full-Fashioned," and the other representations aforesaid and through their failure to affix such garments labels disclosing the rayon content thereof, have placed in the hands of others who deal in their said "Wispese" girdles a means and instrumentality whereby sellers may mislead and deceive purchasers into the aforementioned mistaken and erroneous beliefs.

PAR. 10. The use by the respondents of the aforesaid acts, practices, and methods has the tendency and capacity to and does mislead and deceive a substantial portion of the public into the erroneous and mistaken belief that respondents' said statements or representations are true and as to the material from which said products are made and the manner in which they are constructed.

As a result thereof dealers and members of the purchasing public have purchased substantial quantities of respondents' said product in said commerce.

PAR. 11. The aforesaid acts, practices, and methods of the respondents 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 September 17, 1946, issued and subsequently served its amended and supplemental complaint upon the respondents, named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing by respondents, Arthur R. Lewis, Jean L. Gross, Harold B. Gross, and Wispese, Inc., a corporation, of their joint answer to the amended and supplemental complaint, testimony and other evidence in support of and in opposition to the allegations of the amended and supplemental complaint were introduced before a trial examiner of the Commission theretofore 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 hearing before the Commission on the amended and supplemental complaint, answer, testimony and other evidence, recommended decision of the trial examiner, and briefs in support of and in opposition to the amended and supplemental complaint, 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. Respondents Arthur R. Lewis and Ben A. Hensler are individuals who from on or about August 1, 1942, to January 11, 1943, were trading as copartners under the name Vawne Foundations. Mr. Hensler, subsequent to January 11, 1943, continued independently to engage in business similar to that of Vawne Foundations but died in March 1949 during the period when this proceeding was pending. Respondents Arthur R. Lewis and Jean Lewis are individuals who were trading as copartners from on or about January 11, 1943, to on or about February 1, 1946, under the name Vawne Foundations Co.

Respondent Wispese, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, and respondents Arthur R. Lewis, Jean L. Gross, who was formerly respondent Jean Lewis, and Harold B. Gross are its president, treasurer, and secretary, respectively. The last three mentioned individual respondents have dominant control of the advertising policies and business activities of said corporate respondent and they have cooperated with each other and have acted in concert in doing certain of the acts and things hereinafter alleged. Respondents' of-

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office and principal place of business is located at 302 Fifth Avenue, New York, N. Y. The word "respondents," as used hereinafter, designates and refers to all of the respondents above named except Mr. Hensler.

PAR. 2. Respondents have engaged, as aforesaid, in the business of manufacturing and selling and distributing women's garments designated "Wispepe" girdles. Respondents have sold their said product to retail dealers and other purchasers and respondents have caused said product, when sold, to be transported from their aforesaid place of business in the State of New York to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondents maintain, and at the times mentioned hereinbefore have maintained, a course of trade therein 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 the sale and distribution of Wispepe girdles and for the purpose of inducing the purchase thereof, respondents have made and caused to be made statements and representations concerning their products in newspapers and magazines distributed throughout the United States, and on labels and other advertising material circulated and distributed by respondents among the purchasing public and to dealers in ladies' apparel for distribution to the purchasing public throughout the several States of the United States and in the District of Columbia. In the advertising used by said respondents, such girdles have been designated as full-fashioned and as seamless. Among and typical of the statements and representations adopted by respondent Arthur R. Lewis and used by him in the advertising and sale of Wispepe girdles, are the following:

WISPESE girdle that's seamless . . . full-fashioned (like your stocking)
* * *

. . . girdles, without seams or bones . . . with the very shape of beauty woven into them . . . knit to fit the form as full-fashioned hosiery is knit * * *

Actually *full-fashioned* * * *

Wispepe Girdles * * * Full-fashioned as expertly as a stocking, of elastic and Bemberg rayon * * *

Your GIRDLES Should Be FULL-FASHIONED (and Seamless too, * * *

WISPESE * * * Fashioned to fit, just like your stocking * * *

THE SAME FULL FASHIONING that makes our stockings cling to our legs so perfectly is now being applied to girdles * * *

On labels:

Seamless—Full Fashioned

PAR. 4. Through use of said statements and representations and other statements and representations similar thereto not set out herein

made by respondents and others at respondents' instance and suggestion, all of which purport to be descriptive of the fabric of which respondents' Wispese girdles are made and of their construction, respondents have represented directly or by implication that said girdles are "full-fashioned," that is, made of pieces of elastic fabric knit flat, of uniform texture, permanently shaped in the knitting by the process known to the knitting trade as narrowing so as to conform to the shape of the body. Through use of the statements and representations hereinbefore mentioned, respondent Arthur R. Lewis has represented directly and by implication that the fabric of which Wispese girdles are made is manufactured and shaped by the same process through which full-fashioned stockings are made.

PAR. 5. Among the articles of wearing apparel made by the process known variously as full-fashioned, fashioned, and fully fashioned are underwear, sweaters, and hosiery. Full-fashioned garments are knit on a flat bed or bar machine in the course of which flat fabric is shaped in the knitting to conform to the shape of the limb or body. The reduction in size looking to such shaping is effected by a process of "narrowing" under which the loops of various needles are "transferred" inward to an adjacent needle, which loops are then knit by the transferee needle. The flat fabric at the conclusion of the knitting operation, in the case of hosiery for instance, is joined at the edges or selvages to make a stocking which conforms to the shape of the leg.

As articles of feminine attire, girdles have a body-conforming function. The girdles offered for sale by respondents as full-fashioned girdles are made on a tubular knitting machine over a cylinder of fixed or uniform diameter. Several hundred needles arranged around the circumference thereof knit elastic yarn. At certain areas of the waist or upper portion there is a process of drop-stitching under which a specific number of needles are withheld from the knitting process and do not form loops. When these needles do not form loops, there results a series of drop-stitch stripes or web weaving terminating in holes. This variation in uniformity of texture is due to the fact that the loops are not actually transferred as in the knitting process known as full-fashioned. Below the waist the entire complement of needles is used so that the resulting garment is a one-piece tubular girdle without any vertical seam, which prior to removal from the knitting machine is uniform in diameter for the entire length of the knitting cylinder. When removed therefrom, the action of the elastic closes the areas where the stitches have been dropped and a shaped condition at the waist is afforded. The differences in widths as between upper parts of the girdle and as between them and lower areas

depend primarily on the elastic character of the yarn contained in the upper areas where the fabric is of lighter weight rather than on the actual dropping out of the needles from their loop-forming functions.

Respondents' girdles are not made under the process known as full-fashioned, nor are the girdles made on the circular knitting machines used by respondents manufactured and shaped by the same process through which full-fashioned stockings are made. The statements and representations contained in the advertising for Wispese girdles to which paragraph 4 hereof relates are false and misleading. Respondents' girdle is known in the trade as a shaped body garment and represents a modification or adaptation of what long has been known in the trade as tucked goods. The area of drop-stitching at the waist presenting a webbed appearance is essentially a lighter fabric than that forming the remainder of the garment. Although it appears that no elastic girdles made on flat bed machines by the process known as full-fashioned are being produced and offered for sale in the channels of trade, it is clear that the shaped appearance imparted to respondents' girdles will not be retained under similar conditions of use for periods as long as would the shape of other garments containing the same yarns and of identical gauge produced by the full-fashioned process.

PAR. 6. The use by the respondents of the word "full-fashioned" has the capacity and tendency to deceive and mislead the public into the belief that respondents' Wispese girdles are made of fabric of uniform texture, permanently shaped in the knitting by the process known to the knitting trade as narrowing so as to conform to the shape of the body, which gives to them, in the minds of the purchasing public, a prestige and fictitious value respondents' garments would not otherwise have. The terms "full-fashioned" and "fashioned" as applied to articles of apparel are regarded as synonymous by members of the trade and as descriptive of apparel which has been manufactured by the process last above described. There is a preference for full-fashioned articles of feminine apparel on the part of a substantial segment of the purchasing public to which full-fashioned hosiery is particularly well and favorably known for holding its shape and as being more expensive than hosiery produced by other methods.

PAR. 7. Some of the girdles advertised and sold by respondents have contained rayon which simulates and resembles silk in appearance and has the feel of silk. In the advertising therefor and on such girdles, respondents, in instances, have failed to disclose that these garments are composed in whole or in part of rayon. There is a preference among the purchasing public for apparel represented as made of silk.

Products manufactured from rayon, resembling silk, are accepted by the purchasing public as silk even though such articles may not be designated by terms representing that they are made of silk. By failing to disclose the rayon content of the aforesaid garments, respondents represent that their girdles are composed of silk.

PAR. 8. By use of the term "full-fashioned" and the other representations referred to hereinbefore and through their failure to affix to garments containing rayon labels disclosing the rayon content thereof, respondents have placed in the hands of others who deal in their Wispese girdles a means and instrumentality whereby sellers may mislead and deceive purchasers into the mistaken and erroneous beliefs aforementioned.

PAR. 9. The use by respondents of the aforesaid acts, practices, and methods has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' statements or representations are true as they relate to the material from which said products are made and as to the manner in which they are constructed, and as a result dealers and members of the purchasing public have purchased substantial quantities of respondents' girdles in commerce.

CONCLUSION

The acts, practices, and methods of the respondents, as herein found, are 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.

The amended and supplemental complaint charges in addition that respondents have represented that their girdles will retain their shape when worn, which representation, it is alleged, is false for the reason that respondents' girdles stretch easily at the waist and thus fail to function effectively as girdles. Respondents' products will not retain their shape for periods as long as would girdles of identical gage made from similar yarns and knitted under the full-fashioned process. This is due in great measure to the presence of lighter fabric in some areas of the girdle where shaping is afforded. Although the qualitative superiority of garments made under the knitting process known as full-fashioned as compared to others not so manufactured is recognized by the public as substantial, the evidence introduced in this proceeding is an insufficient basis for a conclusion that respondents' girdles fail to function adequately as girdles. The charges relating to this issue in the proceeding are accordingly being dismissed by the Commission.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended and supplemental complaint of the Commission, the answer filed by certain of the respondents, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner, and briefs filed in support of and in opposition to the amended and supplemental complaint; and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

I. *It is offered*, That respondent Wispepe, Inc., a corporation, and its officers, agents, representatives, and employees, and respondent Arthur R. Lewis, individually and as an officer of Wispepe, Inc., and trading as a copartner under the name Vawne Foundations, or under any other name, and his agents, representatives, and employees, and respondents Jean L. Gross (formerly known as Jean Lewis) and Harold B. Gross, individually and as officers of Wispepe, Inc., and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Using the term "full-fashioned" or any other expression of similar import containing the word "fashioned" to designate, describe or refer to girdles which have not been shaped in the knitting by a narrowing process involving the transfer of loops or stitches from one needle to another during the dropping of needles in such knitting operation;

(b) Advertising, offering for sale, or selling garments composed in whole or in part of rayon made to resemble silk, or having the appearance and feel of silk, without clearly disclosing such rayon content or representing in any other manner that garments containing no silk are composed in whole or in part of silk.

II. *It is ordered*, That respondent Arthur R. Lewis, individually and trading as a copartner under the name of Vawne Foundations or under any other name, and his agents, representatives, and employees, in connection with the offering for sale, sale, or distribution of girdles in commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from representing, directly or by implication:

That girdles not shaped in the knitting by a narrowing process involving the transfer of loops or stitches from one needle to another

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during the dropping of needles in such knitting operation are manufactured or shaped by the same process by which full-fashioned stockings are made.

III. *It is further ordered*, That this proceeding be, and the same hereby is, dismissed as to respondent Ben A. Hensler, deceased.

IV. *It is further ordered*, That the charges of this proceeding as they relate to the issue as to whether respondents' products function effectively as girdles be, and the same hereby are, dismissed.

V. *It is further ordered*, That the respondents shall, within sixty (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.

IN THE MATTER OF
**ELEANOR SCHULTZ BADEN ET AL. TRADING AS E. G.
SALES & MANUFACTURING CO.**

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

Docket 5563. Complaint, May 28, 1948—Decision, Apr. 18, 1951

Where two individuals engaged as partners in the manufacture and interstate sale of certain mechanical devices for use on internal-combustion motors with battery ignition, which they sold prior to 1946 under the trade designations of "E. G. Supercharger" and "Ignition Supercharger" and thereafter as "E. G. Super-Ignitioniter" and "Super-Ignitioner," in advertising in newspapers and periodicals of general circulation and in circulars, letters, and other printed matter, including that on the shipping cartons—

- (a) Falsely represented that their said products would cause motors, regardless of age or condition, to operate better or at less expense, insure quick starting, and afford motors, irrespective of condition, more mileage, power, acceleration, and pickup;

The facts being that only in those rare circumstances where one or more plugs were fouled within certain limits by carbon, would their said devices have a temporary favorable influence in starting or operation, until the normal progression of the fouling process, due to the operational defect which caused such fouling in the first instance, within a short time rendered the ignition system ineffective;

- (b) Falsely represented that said products would prolong the life of spark plugs and points, and extend motor life three or four times longer than if said devices were not attached;
- (c) Falsely represented that said products would cause the spark to jump across spark plug points and cause sparks to occur irrespective of the degree to which the points might be fouled with oil and grease;

The facts being their said devices would not cause a spark to occur when plugs were badly fouled, and were not an effective substitute for cleaning the plugs or correcting the causes of fouling;

- (d) Falsely represented that said products would reduce or prevent carbon;
- (e) Falsely and misleadingly represented that said device afforded "atomic starting," and caused motors performing improperly to run quietly and smoothly;
- (f) Falsely represented through the statement on the carton containers thereof "Tested and approved by Automotive Test Laboratories of America," that their products had been tested and approved by a laboratory or other organization possessing trained personnel and scientific facilities for the performance of automotive tests and experiments concerning commercial products;

The facts being that it had been the practice of the said "Automotive Test Laboratories," which had no laboratory or scientific equipment nor trained personnel, to accept without investigation of the truth or falsity thereof, suggestions and claims made by various manufacturers for their products, as the basis for so-called certificates or seals of approval or merit;