

## Complaint.

## FEDERAL TRADE COMMISSION

v.

## BELLAS-HESS &amp; COMPANY.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION  
5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 879—July 11, 1922.

## SYLLABUS.

Where a mail order house in its catalogues falsely advertised that certain coats manufactured from a cotton plush with a cotton nap, and therein offered for sale, were made of "Iceland Seal Plush," notwithstanding the fact that the term "seal plush" through long and constant usage had come to be understood by the general public as designating a plush fabric with a long nap or pile, manufactured of "Tussa silk" and closely resembling genuine seal skin, and that the fabric used was in no way its equal; with a capacity and tendency thereby to mislead and deceive the purchasing public:

*Held*, That such false and misleading advertising, under the circumstances set forth, constituted an unfair method of competition.

## COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Bellas-Hess & Company, hereinafter referred to as respondent, has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing to the Commission that a proceeding by it in respect thereof would be of interest to the public, issues this complaint stating its charges in that respect on information and belief, as follows:

PARAGRAPH 1. Respondent is a corporation organized and existing under and by virtue of the laws of the State of Maine with its principal office and place of business at Washington, Morton & Barrow Streets, New York City; in the State of New York. It has been for more than one year last past and now is engaged in purchasing and selling clothing, shoes, underclothes, shirts, hats, gloves, etc., direct to consumers throughout the United States in interstate commerce. Its method of doing business is thru mail orders exclusively and it advertises its products principally thru catalogs which are mailed to the customers and prospective customers, said catalogs containing

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descriptions of the articles sold by the respondent. The customers upon receipt of the catalogs mail their orders for the goods they desire to the main office of the respondent in New York City. Upon receiving these orders, based upon the advertisements of goods in the catalogs as above described, respondent causes the goods so ordered to be transported from its said place of business in the city of New York to the said customers at various points in the various states of the United States. In the course of the conduct of its business respondent is in competition with other persons, partnerships and corporations who sell the same line of goods thru the mails direct to the consumer.

PAR. 2. Among the products named in the foregoing paragraph which the respondent advertises in its catalogs are women's coats made from plush to imitate the fur of the genuine seal. For a number of years it has been generally known in the trade that plush fabric made with a pile of a certain kind of silk known as Tussa silk is the best imitation fur fabric made to resemble the genuine seal and that this particular fabric has been designated and known as "Seal Plush." The respondent in this case purchased and advertised in its said catalogs, a large quantity of coats manufactured from such a fabric woven by the Salts Textile Manufacturing Company, New York City, under the trade name "Salts Peco Seal Plush." The respondent also purchased and advertised on the same pages in said catalogs at lower prices a quantity of coats manufactured from a plush having a cotton pile which is much inferior in value to the fur fabric with silk pile generally known as "Seal Plush."

PAR. 3. Respondent makes false and misleading statements in its said catalogs concerning the origin, nature, qualities and value of the said cotton plush coats advertised by it when it describes them under the caption of "Iceland Seal Plush" as follows:

It is one of the biggest values in our catalog. The material is deep pile Iceland Seal Plush. It has the appearance of genuine seal and will wear equally as well,

when as a matter of fact the respondent knows that these coats are not manufactured from a fabric generally known in the trade and by the public as "Seal Plush" and do not have the appearance of genuine seal due to the fact that the fabric has a cotton pile and not a silk pile manufactured from Tussa silk. The foregoing false and misleading statements of respondent set out in this paragraph have the capacity and tendency to mislead and deceive the public into the belief that the coats so described possess the qualities alleged and are manufactured from a fabric having a silk pile generally known as "Seal Plush." By reason of said beliefs so created the acts and things done

by the respondent as set out in this paragraph tend to induce the public to purchase coats with cotton pile in preference to coats actually manufactured from a fabric having a silk pile and sold by competitors as "Seal Plush" because of the lower price quoted by respondent and also tend to induce the public to purchase said coats in preference to coats manufactured from fabric with cotton pile and sold by competitors as cotton plush coats using no misleading names and statements.

PAR. 4. The above alleged acts and things done by the respondent are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

#### REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served its complaint upon the respondent, Bellas-Hess & Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered its appearance and filed its answer herein, a statement of the facts was agreed upon by counsel for the Commission and counsel for respondent, to be taken in lieu of evidence.

And thereupon this proceeding came on for final hearing, and the Commission having duly considered the record and being now fully advised in the premises makes this its findings as to the facts and conclusion:

#### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Maine, having its principal office and place of business in the City of New York, State of New York, and for more than two years last past has been and now is engaged in purchasing and selling clothing, shoes, underclothes, shirts, hats, gloves, etc., by mail direct to the consumer. Respondent in the course of its business, sells and ships its merchandise through and into the various States of the United States and the District of Columbia in interstate commerce, and is in competition with various other persons, firms, partnerships, and corporations similarly engaged.

PAR. 2. In the conduct of its business, respondent distributes catalogues and various other printed matter through the various States

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of the United States and the District of Columbia, in which it advertises and describes the various merchandise sold and offered for sale by it.

PAR. 3. Among the commodities advertised, sold, and offered for sale by the respondent in the manner next set out above, are certain coats made of a plush fabric with a long nap or pile. This fabric is manufactured of a particular kind of silk known as "Tussa Silk." This said fabric is of a silky texture with a long silk nap or pile and very closely resembles genuine seal skin. It has been known throughout a long period of time as "Seal Plush"; long and constant usage of the term "Seal Plush" with reference to the particular fabric manufactured of the Tussa Silk has given the term a secondary meaning and it is understood by the general public to designate solely the fabric described above.

PAR. 4. Respondent advertised in the said catalogue and in various other printed matter, certain coats manufactured from a cotton plush and having a cotton pile or nap, which coats were described in the said catalogue as follows:

It is one of the biggest values in our catalogue. The material is deep pile Iceland Seal Plush. It has the appearance of genuine seal and will wear equally as well.

The said coats so described and advertised were not manufactured of the fabric known as Seal Plush but were manufactured of a cotton fabric with a cotton pile or nap and were in no way equal to the fabric known as Seal Plush. The term "Iceland Seal Plush," as used in said catalogue to advertise and describe the said coats, was false and misleading and had the tendency and capacity to mislead and deceive the purchasing public into the belief that by purchasing the said coats, designated as "Iceland Seal Plush," it was obtaining a coat manufactured of a silk plush fabric commonly known as "Seal Plush," when in truth and in fact it was obtaining a coat manufactured of a cotton fabric in no way equal to the fabric known as "Seal Plush."

#### CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in interstate commerce and constitute a violation of the Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

#### ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the re-

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spondent, the statement of facts agreed on by counsel for the Commission and counsel for respondent, and the Commission having made its findings as to the facts with its conclusion that respondent has violated the provisions of the Act of Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

*It is now ordered*, That the respondent, Bellas-Hess & Company, its officers, agents, representatives, servants and employees do cease and desist from

Using the term "Seal Plush," standing alone or in combination with any word or words in its catalogues, advertising matter, or in its trade-marks, trade names, labels or devices, in connection with the sale of coats manufactured from a cotton plush fabric with a cotton nap or pile.

*It is further ordered*, That the respondent, within thirty (30) days from notice hereof, file with the Commission a report in writing stating in detail the manner in which this order has been complied with and conformed to.

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FEDERAL TRADE COMMISSION DECISIONS.

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*v.*

LOUIS PHILIPPE, INC., AND PARK & TILFORD.