

Complaint.

IN THE MATTER OF
SUPERIOR WOOLEN MILLS.

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

Docket 918—December 8, 1924.

SYLLABUS.

Where a corporation engaged in the manufacture of men's made-to-order clothing and other garments from materials which it purchased from manufacturers and jobbers at the usual prices and in the sale of said clothing at retail through branch stores and to a small extent by mail, in competition with concerns which either as manufacturers of the cloth from which the garments were made, used the words "woolen mills" in their firm names, or as purchasers merely of such cloth, did not so do; and neither manufacturing, owning, nor operating any woolen mill;

(a) Used its corporate name, "Superior Woolen Mills," in the conduct of its business and featured the same in its circulars, posters, and newspaper advertisements; with the effect of misleading and deceiving the public into believing that by purchasing from it they were buying direct from the manufacturer of the cloth; and

(b) Falsely stated in its advertisements that the clothing manufactured and sold by it came "Direct from the weaver to the wearer with one small profit," or "Direct from weaver to wearer, saving you the middleman's profit";

With the capacity and tendency to mislead and deceive the public into believing that in purchasing from it they were buying direct from the manufacturer of the cloth and thus saving the profits of middlemen and and jobbers:

Held, That such misleading use of corporate name, and such false and misleading advertising, under the circumstances set forth, constituted unfair methods of competition.

Mr. G. Ed. Rowland for the Commission.

Mason, Spalding & McAtee of Washington, D. C. and *Edwards, Ogden & Peak* of Louisville, Ky., for respondent.

COMPLAINT.

Acting in the public interest pursuant to the provisions 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," the Federal Trade Commission charges that the Superior Woolen Mills, hereinafter referred to as respond-

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ent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of West Virginia, with its principal office and place of business in the city of Louisville, State of Kentucky, where it is engaged in the manufacture of men's clothing and other garments. It operates retail agencies, or stores, located at a number of cities and towns in several States of the United States, and through said agencies conducts a retail tailoring business. Respondent's method of doing business is as follows: It causes to be displayed in said retail stores samples of suitings, materials and cloth from which the customer may select a suit to be made to his order. When such orders are taken said retail agencies in each instance send the order so taken to respondent's principal place of business at Louisville, Ky., and respondent thereupon makes the suit of clothing thus ordered, and causes the same to be transported from its said place of business in Louisville into and through various States of the United States to the retail store at which, in each instance, the order originated as hereinbefore set out, and the suit of clothing is, in each instance, delivered by the retail establishment to the purchaser. In the course and conduct of its said business respondent is in competition with other persons, partnerships and corporations similarly engaged and with the tailoring and clothing trade generally. Respondent neither owns or operates any woolen mill whatsoever and manufactures none of the materials from which it manufactures the clothing sold by it, but on the contrary purchases said materials at wholesale through the usual and ordinary channels of the trade.

PAR. 2. Respondent for more than one year last past has conducted and still conducts its said business under its said corporate name of Superior Woolen Mills, and has distributed circulars, posters and other advertising matter and has caused advertisements to be inserted in newspapers and other publications of general circulation, in the cities and States where it conducts its said retail business, in which circulars, posters and advertisements respondent in the past has caused and still causes statements to be inserted to the effect that the clothing sold by it comes directly from the weaver to the wearer with but one small profit, and that by this direct method of selling all middlemen's profits are eliminated. All said advertising bears in addition the aforesaid corporate name of respondent prominently displayed. Both the statements appearing in said advertising matter, and the use of respondent's corporate name, has the

capacity and tendency to mislead and deceive, and does mislead and deceive, the public into the belief that respondent operates woolen mills and manufactures in said mills the materials used by it in the manufacture of the suits and garments sold by it, whereby all middlemen's profits are eliminated.

PAR. 3. The above alleged acts and things done by respondent constitute an unfair method of competition in interstate 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 a complaint upon the respondent, Superior Woolen Mills, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondent having entered its appearance and filed its answer herein, hearings were had and evidence and testimony was thereupon introduced in support of the allegations of said complaint before an examiner of the Federal Trade Commission, theretofore duly appointed.

And thereupon this proceeding came on for final hearing and counsel for the Federal Trade Commission and counsel for the Superior Woolen Mills having submitted briefs and having argued the case before the Commission, 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 and by virtue of the laws of the State of West Virginia. It was incorporated January 15, 1915. Its principal office and place of business has been and is now in the city of Louisville, Ky. It owns and operates a number of branch stores in various cities in the States of West Virginia, Ohio, Indiana, Tennessee, and Kentucky.

Respondent is engaged in the business of manufacturing men's made-to-order clothing and other garments, and sells its clothing at retail through its numerous branch stores located in the States heretofore mentioned, and causes the clothing so sold to be trans-

ported from the place of its manufacture in the city of Louisville, Ky., into and through various other States of the United States. Respondent, in the course of its business, is in competition with other persons, partnerships and corporations engaged in the tailoring of men's made-to-order clothing and the selling and shipping of same in interstate commerce.

PAR. 2. Respondent maintains and operates a cut, trim, and make department of its business in the city of Louisville, Ky., in which department all of respondent's clothing is made. The sale of the clothing is accomplished through the branch stores mentioned in paragraph 1. Respondent engages the managers of its numerous branch stores, pays for their services, the rent of the building occupied, and all expenses incident to the conduct of the business of the said branch stores. Also stocks said branch stores with samples of suitings, blanks for ordering, fashion plates showing styles and other necessities and essentials for the purpose of carrying on of the business of the branch stores.

Respondent's method of doing business is as follows: It causes to be displayed in said branch stores samples of suitings, materials and cloth from which the customer may select his suit to be made to his measure. Respondent's representatives take the measure of the customer, fill in the order blank, and receive a deposit thereon, which is considered as a part of the purchase price of the suit of clothing, and the order is mailed to respondent's cut, trim and make department in the city of Louisville, Ky., where the suit is tailored from the instructions on the aforesaid order blank. After the suit is tailored it is returned to the dealer, at the branch store from which it originated, who delivers it to the customer ordering and receives the balance of the amount due thereon. Respondent tailors suits which range in price from twenty dollars to sixty dollars or over.

The large volume of respondent's business is accomplished through its branch stores located in the various cities mentioned in the above paragraph, but respondent in addition to the business of its branch stores also does business by mail order direct with the customer. For the seven months immediately prior to April 1, 1923, respondent's orders for clothing numbered 11,614 of which 2 per cent were mail orders direct from customers. Respondent did a half million dollar gross volume of business in 1922.

PAR. 3. Respondent does not now or never has owned or operated any woolen mills and manufactures none of the suitings and materials used in the tailoring of its made-to-order clothing. It purchases its suitings and materials so used by it in the manufacture of

men's clothing from woolen mills, which mills do manufacture woolen cloth from the raw material, and from jobbers of woolen cloth. Respondent buys large quantities of cloth from said woolen mills and jobbers, and receives the same discounts as do other purchasers of similar quantities.

"Woolen mills," as the term is generally understood in the trade and by a substantial portion of the purchasing public, is a manufacturing plant where raw wool is converted by various steps and processes of manufacture into the finished materials such as cloth known as woollens and worsteds.

PAR. 4. Respondent, since its incorporation, has conducted and still conducts its tailoring business under its corporate name, Superior Woolen Mills, and has caused advertisements to be inserted in newspapers of general circulation, and has distributed circulars, posters and other advertising matter, in which it advertises the clothing manufactured and sold by it comes "Direct from the weaver to the wearer with one small profit" or "Direct from weaver to wearer saving you the middleman's profit." Respondent's corporate name is always prominently displayed in connection with such advertising. Respondent purchases its cloth from woolen mills and jobbers and thereafter makes and sells its suits as hereinbefore set forth in paragraph 2, and said suits are not made by the weaver of the cloth and do not come "Direct from weaver to wearer." Respondent buys from woolen mills and pays the same price for its cloth as do other clothing manufacturers and jobbers who buy in large quantities, and when respondent buys from jobbers it has to pay the same price as do other purchasers from said jobbers, such price including a profit to the jobbers. Purchasers of suits from respondent pay more than one small profit, because the woolen manufacturer has a profit, the jobber has a profit and respondent has a profit and purchasers from respondent do not eliminate the middleman.

PAR. 5. Among the competitors of respondent referred to in paragraph 1 herein, are many who convert cloth into made-to-order suits which they sell and/or ship in interstate commerce, and who do not use the words "woolen mills" in their firm name. There are also among respondent's competitors, others who use the words "woolen mills" as a part of their firm name, who do in truth and fact manufacture woolen cloth from the raw material, which said cloth they sell and/or ship in interstate commerce, and some of them also manufacture from said cloth made-to-order suits which they sell and/or ship in interstate commerce.

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PAR. 6. The use by respondent of its corporate name, Superior Woolen Mills, has the capacity and tendency to mislead and deceive, and does mislead and deceive the public into the belief that respondent owns and operates, or has an interest in woolen mills which manufacture the material and cloth used by respondent in its tailoring business, and that by purchasing from respondent they are purchasing direct from the manufacturer of the cloth; the use by respondent in its advertising of the phrases, "Direct from the weaver to the wearer with one small profit" or "Direct from the weaver to wearer saving you the middleman's profit" has the capacity and tendency to mislead and deceive the public into the belief that by purchasing suits and overcoats from the respondent that they are buying direct from the manufacturer of the cloth and thereby saving the profits of the middlemen and jobbers.

CONCLUSION.

That the acts, practices and activities of respondent as hereinabove set forth and under the conditions and in the circumstances set forth in the foregoing findings as to the facts are unfair methods of competition in commerce and constitute a violation of Section 5 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, answer of the respondent, and the testimony and evidence received by an examiner theretofore duly appointed by the Commission, and briefs and arguments having been submitted to the Commission by counsel for the respondent and counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that the 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,"

Now, therefore, it is ordered, That the respondent, Superior Woolen Mills, Inc., its successors, officers, directors, agents, servants and employees, cease and desist from:

1. Doing business under the corporate name and style of Superior Woolen Mills, or any other corporate name which includes the

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words "Woolen Mills," or "Mills" unless and until such respondent actually owns or operates a mill or mills in which raw wool is converted into cloth.

2. Using in its advertising, or otherwise, the phrases "Direct from the weaver to the wearer with one small profit," or "Direct from weaver to wearer saving you the middleman's profit," or any other phrase or phrases which create, or have the tendency and capacity to create, the belief that respondent manufactures the cloth from which it makes its suits and overcoats.

It is further ordered, That respondent shall within sixty days after the date of the service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with and conformed to.

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IN THE MATTER OF
**CARMINA MUSTARI AND CAV. FRANCESCO BRAGNO,
PARTNERS DOING BUSINESS UNDER THE TRADE
NAME AND STYLE OF BRAMU PACKING COMPANY.**

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

Docket 1235—December 23, 1924.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of a cooking and salad oil packed in containers which prominently displayed the name "Mazola" and were distinctive in shape, dress, design and appearance; widely advertised and sold said oil and the same became associated in the mind of the purchasing and consuming public with the containers in which packed; and the corporation built up and acquired a large and extensive market therefor; and thereafter a dealer engaged in the sale of a competitive product to retailers whose customers were of foreign extraction and often unable to read the inscriptions upon the containers, .

- (a) Sold his product in containers which prominently displayed the name "Granola" and closely resembled in shape, size, general appearance, color, design and dress, those of said corporation; and
- (b) Suggested to prospective customers that such competitive product, so labeled and packed, might be sold as and for the oil of such corporation, and advised and urged retail dealers so to do;

With the result that a substantial part of the consuming public was misled and deceived into believing such product to be the oil of such corporation and induced to purchase the same in that belief:

Held, That such practices, under the circumstances set forth, constitutes unfair methods of competition.

Mr. T. John Butler for the Commission.

COMPLAINT.

Acting in the public interest pursuant to the provisions 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," the Federal Trade Commission charges that Carmina Mustari and Cav. Francesco Bragno, partners doing business under the trade name and style Bramu Packing Company, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondents are partners doing business under the trade name and style Bramu Packing Company, with their place