

Complaint

IN THE MATTER OF

GOLDEN FUR DYEING COMPANY, INCORPORATED, AND
SAMUEL JACOBS AND ISIDOR SACHS, PARTNERS,
DOING BUSINESS UNDER THE TRADE NAME AND
STYLE JACOBS & SACHS

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

Docket 1381. Complaint, May 11, 1926—Decision, Jan. 29, 1931

Where a corporation engaged in dressing and dyeing skins of fur bearing animals, stamped "Golden Seal", and, inconspicuously and later, "Seal dyed coney" on large quantities of rabbit skins dyed black for garment manufacturers, and employed the words "The seal of safety", and said "Golden Seal" trade-mark in trade periodical advertising, and, conspicuously, the statement, "The stamp of approval on sealines that guarantees brilliance of lustre", etc., and the admonition to "Look for the Golden Seal", with result of aiding, abetting, and promoting sale by said manufacturers of garments made from rabbit skins as "sealines"; and

Where said garment manufacturers caused rabbit skins to be so dyed, and made into coats without removal of said "Golden Seal" mark or designation and advertised such coats as "sealines"; with effect of enabling dealers to open linings thereof in various places and display said "Golden Seal" mark or the subsequently employed "Bonded northern seal", without exposing aforesaid later qualification, and thereby mislead purchasers and prospective purchasers;

With effect of placing in hands of retail dealer vendees means enabling them to mislead or deceive the consuming or purchasing public, and with capacity and tendency to divert trade to said corporation and manufacturers from competitors offering and selling garments made from genuine sealskins and those made from furs of other animals, truthfully described or designated:

Held, That such practices, under the circumstances set forth, were all to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. James M. Brinson for the Commission.

Burnstine & Geist, of New York City, for respondent Golden Fur Dyeing Co., Inc., and *Mr. Morse S. Hirsch*, of New York City, for respondents Samuel Jacobs and Isidor Sachs.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent Golden Fur Dyeing Co., Inc., a New York corporation with principal place of business in New York City, engaged in

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dressing and dyeing Australian and New Zealand rabbit skins on contract for owners of such skins, through use of a process causing the fur to resemble the appearance of that of genuine sealskins sufficiently to mislead and deceive the public as to garments made of such rabbit skins, and respondent partnership Jacobs & Sachs, engaged in New York City in the manufacture and sale of garments made of rabbit skins, with misrepresenting product and misbranding or mislabeling, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent corporation, as charged, engaged as above set forth, causes to be stamped on the back of the rabbit skins dyed by it as aforesaid, on contract for respondent manufacturers, its trade-mark containing the words "Golden Seal", and respondent manufacturers utilize such rabbit skins thus dyed and marked and resembling genuine seal, though greatly inferior thereto in pliability and wearing qualities of the leather, and luster and wearing qualities of the fur, for manufacture of garments which it sells and distributes to retail dealers throughout the various States and the District of Columbia.

The designation, as alleged, "by the dyer respondent of rabbit skins dyed by it as 'Golden Seal', and by marking such skins with a trade-mark which contains the words 'Golden Seal', results in placing in the hands of the retail dealers to whom the manufacturing respondents and other manufacturers sell garments made from such skins, the means by which such retail dealers can perpetrate a fraud upon the purchasing public by representing that such garments are made from 'Golden Seal' fur, the designation which the dyer respondent has given the skins from which such garments are made, and by displaying to the customers and prospective customers the trade-mark containing the words 'Golden Seal' stamped by such dyer respondent upon the skins, from which such garments are made to support their false statements that such garments are made from genuine seal fur, and such means have been employed and are being employed by numerous retail dealers in such garments, and numerous persons have been thereby induced to purchase such garments in the belief that such garments are in fact made from genuine seal fur."

Said practices of respondents, engaged in, as above set forth, for about three years last past, cause trade to be diverted to manufacturing respondents, from competitors, many of whom make garments from rabbit skins and market the same under designations, labels, and trade-marks disclosing to the purchasing public such fact, and others of whom manufacture and/or sell at wholesale garments made

of genuine seal fur; all to the prejudice of the public and respondents' competitors, and in violation of the aforesaid section.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 issued and served a complaint upon The Golden Fur Dyeing Co., Inc., and Samuel Jacobs and Isidor Sachs, partners, doing business under the trade name and style "Jacobs & Sachs", hereinafter called respondents, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondents having entered appearances and filed answers, testimony and evidence were duly received and recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for decision before the Commission on such complaint, answer, testimony and evidence received, briefs and arguments of counsel, and the Commission having duly considered the same now makes this its report in writing and states its findings as to facts and conclusion as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Golden Fur Dyeing Co., Inc., is now, and for several years last past has been, a corporation organized and existing under and by virtue of the laws of the State of New York, with principal place of business in the city of Brooklyn and State of New York. It was engaged for several years prior to April 1, 1928, at 271 Siegel Street in said city of Brooklyn, N. Y., in the business of dressing and dyeing the skins of fur-bearing animals in pursuance of contracts with the owners thereof.

PAR. 2. Respondents Samuel Jacobs and Isidor Sachs are now and for several years last past have been partners trading under the firm name and style of Jacobs & Sachs, with their principal place of business in the City of New York and State of New York. Said respondents have been, during all such period of time, and now are, engaged in the manufacture of fur garments and their sale in and among the various States of the United States, and in the transportation of such garments when sold to purchasers in the various other States of the United States than the State of New York, in competition with individuals, partnerships, and corporations engaged in the sale and distribution of fur garments in interstate commerce. They have more particularly engaged in the advertisement

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and sale of such commerce of a line of garments made from rabbit skins described or designated by them as "Sealines."

PAR. 3. Respondents Jacobs & Sachs during the years 1925 and 1926, and until some time in 1927, caused several hundred thousand skins of rabbits to be dyed black for them by respondent Golden Fur Dyeing Co., Inc., which thereupon caused to be impressed or stamped on the backs of such skins its trade-mark consisting of the words "Golden Seal" inclosed in a circle $2\frac{1}{2}$ inches in diameter. Such rabbit skins so dyed and marked by respondent Golden Fur Dyeing Co., Inc., were delivered from time to time by it to respondents Jacobs & Sachs, and thereafter were made into coats for women by respondents Jacobs & Sachs without removal therefrom of the mark or designation "Golden Seal." About 40 of such skins were ordinarily used by respondents Jacobs & Sachs for each coat so made, which when made had the words "Golden Seal" in 40 different places on the inside of the coat except where affected by cutting the skins in construction of the coat.

PAR. 4. Respondent, Golden Fur Dyeing Co., Inc., advertised in a magazine known to the fur trade generally in the United States as The American Fur Designer during the period when it was dyeing rabbit skins for respondents Jacobs & Sachs, as follows: "The seal of safety," with its trade-mark containing the words "Golden Seal" appearing immediately below such words "The seal of safety," followed by the words in large and conspicuous letters "The stamp of approval on sealines that guarantees brilliance of luster, fastness of color, and maximum of wear and service." Its advertisement also contains the following: "Look for the Golden Seal."

PAR. 5. Respondents Jacobs & Sachs in manufacturing coats for women from dyed rabbit skins marked, described or designated as stated in paragraph 3 hereof and in selling them advertised as "sealines" placed in the hands of dealers in the various States of the United States the means by which they have been and were enabled by opening the lining of such coats in various places on the inside of the garments to show the mark or designation "Golden Seal" to purchasers and prospective purchasers and thereby to mislead them into buying such garments in the erroneous belief that they had been or were made from genuine sealskins.

The acts and practices of respondent Golden Fur Dyeing Co., Inc., in dyeing rabbit skins black for respondents Jacobs & Sachs and in marking them with the words "Golden Seal", together with its advertisement of such "Golden Seal" as the "Stamp of approval on sealines", which it represented in such advertisement should be sought as a guarantee for various desirable qualities, have aided, assisted, abetted, promoted, and subserved the sale in interstate com-

merce by respondents Jacobs & Sachs of their garments made from rabbit skins, as "sealines", by furnishing said respondents Jacobs & Sachs with the means to put, and which they have put, into the hands of retail dealers, for sale of such garments as and for garments made from genuine sealskins.

The aforesaid acts and practices of respondents Golden Fur Dyeing Co., Inc., and Samuel Jacobs and Isidor Sachs have also had the capacity and tendency to divert trade to said respondents from competitors offering for sale and selling in interstate commerce, garments made from genuine sealskins, and garments made from the furs of other animals than sealskins truthfully described or designated.

PAR. 6. Sometime after complaint issued herein, that is to say, after May 11, 1926, respondent Golden Fur Dyeing Co., Inc., altered its said trade-mark by adding the words "Seal dyed coney" in small and inconspicuous letters at a distance of an inch or an inch and a quarter beneath the lower edge of the circle inclosing the words "Golden Seal". The words "Seal dyed coney" are so located with reference to said trade-mark that dealers in fur garments can open the lining thereof and display the words "Golden Seal" without exposure of the words "Seal dyed coney". Respondent Golden Fur Dyeing Co., Inc., used this method for marking skins dyed by it until 1928, when it transferred its business, exclusive of its real property whereon its plant was and is situated, to the Great Northern Fur Dyeing & Dressing Co., Inc., and it now owns or controls 20 per cent of the capital stock of said Great Northern Fur Dyeing & Dressing Co., Inc.

PAR. 7. Respondents Jacobs & Sachs discontinued in 1927 the manufacture of coats or other garments from rabbit skins dyed for them by respondent Golden Fur Dyeing Co., Inc., and thereupon caused, and ever since have caused, their rabbit skins used for the manufacture of garments to be dyed for it by the Great Northern Fur Dyeing & Dressing Co., Inc. This company has caused, and causes such skins dyed by it for respondents Jacobs & Sachs to be marked on the backs thereof with the words "Bonded northern seal" in large and conspicuous letters, accompanied by the words "Seal dyed coney" in small and inconspicuous letters. The discontinuance in 1927 of the practice of manufacturing coats from rabbit skins dyed for it by respondent Golden Fur Dyeing Co., Inc., has been followed by the practice of manufacturing garments from rabbit skins branded by the said Great Northern Fur Dyeing & Dressing Co., Inc., which continues to put into the hands of retail dealers to whom respondents Jacobs & Sachs sell their products the means by which they may mislead or deceive the consuming or purchasing public.

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CONCLUSION

The above acts and practices of respondents are all to the prejudice of the public and of respondents' 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.

ORDER TO CEASE AND DESIST

This proceeding having been heard on complaint issued and served upon respondents Samuel Jacobs and Isidor Sachs, partners trading under the firm name and style of Jacobs & Sachs, and the Golden Fur Dyeing Co., Inc., answers thereto, testimony and evidence, briefs and arguments of counsel, and the Federal Trade Commission having made its report in writing stating its findings as to the facts, with its conclusion that respondents have been and are violating 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",

It is therefore ordered, That respondents Samuel Jacobs and Isidor Sachs, partners, trading as Jacobs & Sachs, and the Golden Fur Dyeing Co., Inc., respectively, cease and desist, the former Samuel Jacobs and Isidor Sachs, from offering for sale or selling in interstate commerce garments made from dyed rabbit skins bearing the trade brand, trade name, trade-mark, designation or description "Golden Seal" or "Seal," except and unless it is made prominently to appear in immediate conjunction with the word "seal" in conspicuous type or letters apt and adequate words clearly showing that such garments have been or are made from rabbit skins; and the latter, Golden Fur Dyeing Co., Inc., from stamping, branding, marking, or labeling as "Golden Seal," or "sealines" or "seal" rabbit skins dyed by it for respondents Samuel Jacobs and Isidor Sachs or for others engaged in the manufacture and sale of fur garments in interstate commerce, except and unless it is made prominently to appear in immediate conjunction with the word "seal" or the word "sealines" in conspicuous type or letters apt and adequate words clearly showing that such garments have been or are made from rabbit skins.

It is further ordered, That respondents shall within 60 days from and after the service of this order file a report in writing setting forth in detail the manner and form of their compliance therewith.

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IN THE MATTER OF
ARTLOOM CORPORATION TRADING AS ARTLOOM
RUG MILLS

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

Docket 1675. Complaint, June 29, 1929—Decision, Feb. 9, 1931

Where a corporation engaged in the manufacture and sale of rugs and carpets, labeled, advertised, and sold as "Wiltons" certain less costly, lower priced rugs, notwithstanding the fact that said rugs were not so made that the warp pile yarns were continued in, or carried into the subsurface of the fabric when not required at the surface for the design or pattern, if any, and were not Wiltons as ever generally considered by the trade; with effect of deceiving retailers and ultimate purchasers throughout the various States into the erroneous belief that in purchasing the rug fabric in question they were purchasing one of that kind, quality, and construction properly known and designated as a genuine Wilton rug fabric and of diverting trade from competitors to it and with capacity and tendency so to do:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. PGad B. Morehouse for the Commission.
Fraley & Paul, of Philadelphia, Pa., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Pennsylvania corporation engaged in the manufacture and sale of tapestries, pile fabrics and rugs, and with principal place of business in Philadelphia, with misrepresenting product, advertising falsely or misleadingly and misbranding or mislabeling in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, designates, represents, describes, advertises, labels, and brands as Wilton rugs certain of its rugs, not manufactured "in accordance with that definite and specific process" for making rugs known and properly described as Wilton rugs and not having the definite and specific characteristics of rugs so manufactured, with the effect of misleading and deceiving many persons into purchasing the rugs in question as and for those made in accordance with such process, and with the characteristics, and qualities of the rugs long known and described as Wilton rugs, and with the capacity and tendency so to mislead and deceive; all to