

Complaint

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IN THE MATTER OF

ALEXANDER-MARTIN COMPANY, A. H. MARTIN,
AND W. R. ALEXANDERCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1926. Complaint, Mar. 11, 1931—Order, Nov. 14, 1931*

Consent order requiring respondent corporation and respondent individuals to cease and desist from representing, in connection with sale of ready-made clothing dealt in by them, that same is tailor made or specially made to order; and from falsely representing that two suits are offered and sold at or for the price of one, that purchasers will have inspection privilege before paying balance due, when in fact shipments made C. O. D. without such privilege; and that full refund will be made in accordance with guarantee of fit and satisfaction; all as in said order set forth and qualified.

Mr. PGad P. Morehouse for the Commission.

Dilley & Dilley, of Grand Rapids, Mich., for respondents.

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 Alexander-Martin Co., and A. H. Martin and W. R. Alexander, individuals, 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. Respondent, Alexander-Martin Co. is a corporation organized and existing under and by virtue of the laws of the State of Michigan, with its principal office and place of business in the city of Grand Rapids in said State. It is engaged in the business of selling ready-made clothing direct to the public through agents or salesmen who canvass the public as hereinafter set forth. It causes its merchandise when thus sold to be transported from its principal place of business in the State of Michigan into and through other States of the United States to the purchasers thereof located in said other States of the United States. In the course and conduct of its said business respondent corporation is in competition with other individuals, partnerships, and corporations engaged in the sale and distribution of men's clothing, both ready-made and custom-made, in

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interstate commerce between and among the various States of the United States.

PAR. 2. Respondent A. H. Martin is president and treasurer, and respondent W. R. Alexander is vice president and general manager, respectively, of said respondent corporation, and are now and have been during the existence of said corporation, and particularly during the past three years in active charge and management of the affairs thereof. Said individual respondents, Martin and Alexander, are the principal stockholders of the Martin Chain Stores Corporation and other chain-store organizations which operate a number of retail men's furnishings and clothing stores in the State of Michigan, and other neighboring States, with principal store and place of business located in the city of Grand Rapids in the State of Michigan. Said individual respondents, Martin and Alexander, are not engaged in the business of manufacturing or tailoring men's clothing, and the said retail stores which they own and control, purchase most of the men's clothing distributed by them from Max Udell & Sons, a clothing manufacturer located in the city of New York, State of New York.

PAR. 3. Respondent corporation, under the direction of individual respondents, in the sale and distribution of men's ready-made clothing direct to the public through agents or salesmen has adopted and used, and now uses, numerous and various trade names, some of which feature the word "woolen" or the word "wool"; the policy of said respondents being to abandon a trade name after the country has been canvassed under such trade name, and to adopt a new one without disclosing such fact to the public, and without disclosing the true ownership and control of the business conducted through said trade names.

PAR. 4. Respondent corporation under the direction and control of said individual respondents, in the course and conduct of its said business, employs numerous agents or salesmen throughout the several States to canvass the public, providing said agents or salesmen with a kit containing samples of fabric, price lists, style illustrations, order blanks containing instructions for taking measurements, and other advertising matter featuring respondent's business conducted under the respective trade names. Said agents or salesmen, with the acquiescence and permission of said respondents to enter into arrangements, agreements, or understandings with retail dealers, local tailors or other individuals suitably situated in the respective communities, where said agents or employees are canvassing, whereby said retail dealers, tailors or other individuals, hold special sales, featuring the clothing being distributed by respondents' said agents or salesmen,

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and cooperate with said retail dealers, tailors, or other individuals in said special sales by being present and taking part in the negotiations, and particularly by taking the measurements of customers or prospective customers and receiving cash deposits on all clothing sold, to which said agents or salesmen are entitled as their commissions in the transactions.

PAR. 5. Said respondent corporation under the direction of said individual respondents, in the course and conduct of its said business, hereinbefore described, has made and now makes numerous false and misleading statements and representations, in its printed advertising matter, or verbally through its said agents or salesmen, among which are the following:

(a) That the garments advertised or offered for sale through said respondents, agents, and salesmen are to be manufactured to the order of the purchasers or customers, from fabrics selected by said purchasers or customers and according to measurements taken by said agents or salesmen when in truth and in fact said garments were not and are not now made to order but were and are now supplied from the stock of retail stores owned or controlled by said individual respondents in the city of Grand Rapids, State of Michigan, and elsewhere.

(b) That the garments advertised or offered for sale through said respondents' agents and salesmen were to be made from all-wool fabrics, when in truth and in fact the garments so advertised and sold by said respondents' agents or salesmen were not made from all-wool fabrics but from fabrics containing a substantial amount of material other than wool, principally cotton.

(c) That a limited number of customers, or purchasers during a limited time, would receive two suits of clothing, or two garments, for the price of one, when in truth and in fact the prices actually paid by said purchasers or customers for said suits or garments were not limited to any group or number of customers, or for any period of time, and were as much as, or more than the retail prices received for said garments when sold by the retail stores owned or controlled by said individual respondents as aforesaid.

(d) That said purchasers or customers would be given an opportunity to inspect suits or garments purchased from agents or salesmen of respondents before being required to pay the balance due after the initial payment has been made to said agents or salesmen, when as a matter of fact said suits or garments are sent by respondent corporation to the purchasers thereof C. O. D., thus giving the said purchasers or customers no opportunity to inspect said suits or garments before paying for same in full.

(e) That said respondents promise or guarantee fit and satisfaction or the purchase price will be refunded to the purchasers or customers, when in truth and fact, said respondents do not and will not refund the purchase price in full, to dissatisfied purchasers or customers, and partial refunds are made only when said respondents are forced to do so by threats of suit or prosecution by the purchasers or customers.

PAR. 6. The use by the respondent corporation, under the direction and control of individual respondents, Martin and Alexander, of the numerous false and misleading statements and representations here-

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inbefore described has the capacity and tendency to cause, and has caused many of the purchasing public, residing in the various States of the United States, to purchase clothing from the respondent corporation in the belief that the suits or garments thus purchased were all wool, made to order on the measurements of the purchasers or customers from materials selected by them, at special sales prices, whereby they would receive two garments for the price of one, and that said purchasers or customers would be allowed to inspect said suits or garments before being required to pay the balance due after the initial payment is made. The use of said false and misleading statements and representations by the respondents as aforesaid has the further capacity and tendency to cause members of the public to purchase men's suits and other garments from the respondents in preference to the men's suits and other garments sold and distributed by competitors of said respondent as set forth in paragraph 1 hereof.

PAR. 7. The above alleged 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 come on to be heard by the Federal Trade Commission upon the written waiver of respondents, of taking of testimony, findings as to facts, filing of briefs, oral argument and all other intervening procedure as well as the consent of said respondents that an order shall issue herein for them to cease and desist from the methods of competition charged in the complaint, and the Commission being fully advised in the premises having thereupon concluded that respondents have violated 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,"

It is now ordered, That the respondents, the Alexander-Martin Co., a corporation, A. H. Martin, and W. R. Alexander, as individuals, their agents, servants, salesmen, and employees in connection with all men's clothing by them and each of them in interstate commerce hereafter sold or offered for sale, do cease and desist from:

(1) Representing that any of said clothing is tailor-made or made specially to order except in cases where such clothing is actually cut to the pattern of the customer's measurements before being made into the finished garment.

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(2) Representing that two suits are being offered and sold to customers or prospective customers at or for the price of one suit when such is not the case.

(3) Representing that the purchaser of such garments will have a reasonable opportunity to inspect same before paying the balance due thereon where such shipments are to be made C. O. D. without such privilege.

(4) Representing that they make full refund in accordance with their guarantee of fit and satisfaction unless and until they do make such refund after a reasonable attempt at adjustments with a dissatisfied customer has been made and found unavailing.

It is further ordered, That the said respondents within 60 days from and after the date of the service upon him of this order shall file with the Commission a report or reports in writing setting forth in detail the manner and form in which they and each of them are complying and have complied with the order to cease and desist hereinabove set forth.

Syllabus

IN THE MATTER OF
EBROCLO SHIRT COMPANY, INC.

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

Docket 1883. Complaint, Dec. 11, 1930—Decision, Nov. 16, 1931

Where a corporation engaged principally in the sale of its so-called "Ebroclo" shirts, and, to a lesser extent, of underwear, hosiery, merchandise and other articles of wearing apparel, and, excepting less than 5 per cent of its shirts, doing no manufacturing,

- (a) Captioned a folder distributed by it among the numerous house to house canvassers through whom it sold aforesaid articles, "HOME OF EBROCLO SHIRTS," and displayed thereon a representation of a large 6-story building, and made such statements therein in connection with cuts showing various manufacturing operations as "Ebroclo cutting department," "portion of Ebroclo sewing department," and such representations as "Backed by the Ebroclo company delivering shirts of the very best quality * * * direct from factory to wearer—the shortest way—You can save your customers money," "There are many irresponsible concerns imitating our methods. They are jobbers and not manufacturers," "We are one of the largest manufacturers of shirts in this country, selling *direct from factory to wearer*," fact being building in question and various pictures displayed within the folder showing cutting, sewing and other operations were those of a manufacturer from whom it principally bought the shirts dealt in by it;
- (b) Provided its aforesaid canvassers with order blanks and sample books respectively containing the words "from factory to you" and "factory to wearer," and in form letters sent to its representatives and on credit and debit slips employed by it made use of the words respectively "direct from the manufacturer" and "direct to wearer," and acquiesced in use of letterheads by a district agent featuring the words "factory to wearer,"
- (c) Listed itself in the classified section of the telephone directory in the bold face, paid advertising, as "SHIRTS Ebroclo Shirt Mfg. Co., Inc., Mfrs. Shirts, Underwear and Pajamas," etc.;
- (d) Featured the alleged English broadcloth composition of its shirts, emphasizing the quality and properties of said fabric and setting forth that it was "in greater demand than any other shirting material known," that it sold nothing but "GENUINE ENGLISH BROADCLOTH SHIRTS," and that the name "Ebroclo" employed by it was a derivative of and stood for English broadcloth, facts being material employed was not English broadcloth, nor cloth made in England;
- (e) Employed the words "nu-silk," "new silk," and "silk" in referring to and describing the ties and hosiery dealt in by it, and acquiesced in such statements as "new silk ties," "men's silk hose," and "FACTORY TO WEARER" by its district representative or manager and set forth in its trade organ a depiction of the "EBROCLO NU-SILK Plant Exclusively—every foot of the floor space devoted to taking care of *your business*. Every item * * * sold '*direct to the wearer*' only," fact being words "Nu Silk"