

IN THE MATTER OF
GEORGE E. SITTENFELD, TRADING AS GOODYEAR
MANUFACTURING COMPANY

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

Docket 1678. Complaint, June 1, 1929—Decision, May 24, 1932

Where an individual engaged in sale to consumer by mail order of raincoats purchased by him from various manufacturers, and neither operating nor controlling any factory making articles so dealt in,

- (a) Included word "Manufacturing" in his trade name and prominently displayed said name, and slogan "For less money direct to wearer," upon the circulars, letterheads, invoices, and other literature distributed by him, with capacity and tendency to mislead and deceive purchasers and consumers throughout the various States into the erroneous belief that said individual was a manufacturer of raincoats who could and did sell same direct to consumer at only one profit;
- (b) Made use of merchandising discount checks of a purported value of \$5 in connection with offer and sale of said raincoats and represented in circulars, invoices, and other advertising literature distributed to prospective customers that he would accept said check at its full value of \$5 in part payment of his "introductory wholesale price," and in acceptance blanks and otherwise set forth regular price as \$12.95, reduced to recipient through employment of said check to only \$7.95, notwithstanding fact said check had no actual value, but constituted said individual's usual procedure to attract attention to his offer and to identify style and material of particular article offered with check inclosed; with capacity and tendency to mislead and deceive prospective purchasers and ultimate consumers into erroneous belief that a special price was being made to consumer far below the ordinary and regular selling price of the coats concerned;
- (c) Made such statements in circulars, invoices, etc. sent as above set forth as 'You're Lucky! You have been awarded a GOODYEAR ADVERTISING CHECK,' with "a value of exactly \$5," of which "only a limited number" have "been issued," and advised prospect that "a definite sum for advertising purposes" had been set aside and that it had "been decided" that the wearing of the garment concerned by the prospect addressed would serve such "advertising purpose to the best advantage" and that "the inclosed \$5 check if endorsed on the back and mailed to us within ten days will be accepted by us as part payment * * * so that the actual cost to you will be only the small balance of \$7.95 * * *," notwithstanding fact that award of said valueless check was not result of chance, coats were not limited, but were offered to every prospective customer on precisely same terms, prices were not specially reduced, and there was no special investigation or selection of prospective customers, but circulars, etc., were mailed by said individual to thousands of names at a time, from lists of doctors, lawyers, teachers, etc., obtained by him; with capacity and tendency to mislead and deceive prospective purchasers

and ultimate consumers into erroneous belief that supposed special offer had been made by reason of some special investigation or selection of prospect, and that in order not to lose advantage of the supposed special bargain and lucky award, offer must be accepted very promptly, due to limited time or number available; and

- (d) Included word "Goodyear" in his trade name and prominently displayed such name in circulars, invoices, etc. distributed to prospective customers, and referred to his said garments as "Goodyear" and "Goodyear All-Weather"; with effect of misleading and deceiving purchasers and ultimate consumers into believing said individual or business to be identical with or a branch of the well-known Goodyear Tire and Rubber Co., long owner and user of registered slogan "All-Weather" and "Goodyear All-Weather," and of inducing many to buy said raincoats in reliance upon such erroneous belief, and with capacity and tendency so to mislead and deceive and to divert trade to said individual from competitors, who do not so advertise or solicit:

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.

Mr. Arthur Miller, of Kansas City, Mo., 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 individual, engaged in Kansas City, Mo., in the sale of dress coats and rain coats to purchasers in the various States, with using misleading trade name, misrepresenting business status and prices, offering falsely goods as free, simulating slogans of long established concern, and advertising falsely or misleadingly, 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, and neither manufacturing the articles dealt in by him nor owning, controlling, operating nor interested in or connected with any factory or plant making such products (which are not made under or in accordance with the so-called Goodyear patents), in the course of his said business, "uses the name Goodyear Manufacturing Company and prominently displays such name and the slogan 'For Less Money Direct to Wearer' upon the circulars, letterheads, invoices, and other literature distributed by him among purchasers and prospective purchasers in the various States of the United States, thereby representing that he manufactures and makes the articles offered for sale and

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sold by him and that a purchaser is buying direct from the manufacturer and thus saving the profits of the middlemen."

Respondent further, as charged, falsely represents through circulars, letters, invoices and other literature sent to purchasers and prospective purchasers that he is located in the "Goodyear Building" at 2615-2617-2619 Walnut Street, in city in question, uses a wholly fictitious name with which to sign his letters and literature, under title Director of Sales, and in course of his business uses such slogans as "Best in the Long Rain," "All-Weather Coat," "Goodyear All-Weather Garment," facts being there is no such building in said city, respondent occupies only a small portion of the "Service Building" at 2615 Walnut Street, and slogans "Best in the Long Run" and "All-Weather Tread" had long been adopted and used by the large, well-known Goodyear Tire & Rubber Co.; many of the large tire and rubber companies make and sell raincoats, and "respondent's use of such slogans together with the other practices and acts above set out, tend to and do mislead and deceive purchasers and prospective purchasers into the belief that the products are made and are being offered for sale and sold by" said well-known and long-established Goodyear Tire & Rubber Co.

Respondent further, as charged, in his circulars, letters and other literature represents his usual selling prices as being far in excess of those at which he actually sells his products and, to prospective purchasers, that "they are lucky in that they have been awarded a cooperative advertising check or merchandise discount check, represented by a voucher inclosed, for a certain amount which will be accepted by respondent at its face value for a certain limited time in part payment for said products, and that thus said purchasers will obtain the products at substantially reduced prices"; that he will give free with the purchase of a coat, a sport sweater, and that manufacturers have told him that the coats offered by him are the greatest improvement in coats since the weaving of cloth was invented, facts being no such statements were made to him, prices paid through the use of the aforesaid voucher constituted his usual prices, and price of the sweater, purportedly offered as free, is included in that of the raincoat.

According to the complaint, "the foregoing statements, representations and practices of respondent have the capacity and tendency to and do mislead and deceive purchasers and prospective purchasers into the belief that said respondent is the manufacturer of the products advertised and sold by him, and that when buying from

respondent the products are obtained at a reduction in price and a saving of the middleman's profit, and that the products are made and being sold by a well-known and large rubber company"; to the prejudice of the public and respondent's competitors.

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, the Federal Trade Commission issued and served a complaint upon the respondent, George M. Sittenfeld, trading as Goodyear Manufacturing Co., charging him with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondent having entered his appearance and filed his answer to the complaint herein, hearings were had and evidence was introduced upon behalf of the Commission and respondent before a trial examiner of the Commission duly appointed thereto, and said trial examiner having filed his findings of fact herein and counsel for respondent having filed exceptions thereto.

Thereupon, this proceeding came on for final hearing on the record herein, briefs and oral arguments of both counsel for the Commission and respondent, and the Commission, having duly considered the matter and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, George M. Sittenfeld, is an individual who has been engaged in selling raincoats from 1905 to 1925 through both agents and mail orders, and since 1925 only through mail orders direct to the consumer. From 1905 to 1927 respondent traded under the name and style Goodyear Manufacturing Co. About February, 1927, at the instance of this Commission he discontinued the word "Manufacturing" as part of his trade name and thereafter conducted his business as The Goodyear Co., or simply Goodyear. At the oral argument on February 24, 1932, respondent advised the Commission that he had discontinued his mail order business in October, 1931, as unprofitable to him and at that time had no intention of resuming, but "would not be willing to state that he would not at some time in the future resume the mail order raincoat business." Although these suggestions as to the discontinuance of respondent's business were made after the close of the taking of

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testimony on behalf of both Commission and respondent, the Commission has given to the same its full consideration.

Respondent's principal office and place of business is 2615-2617 Walnut Street, Kansas City, Mo. When said raincoats are sold, respondent causes the same to be transported from that place of business into and through other States of the United States to the purchasers. In the course and conduct of his business, respondent is in competition with other individuals, partnerships, and corporations engaged in commerce in raincoats between and among the various States of the United States.

PAR. 2. In the course and conduct of his aforesaid business until February, 1927, respondent used the name Goodyear Manufacturing Co. and prominently displayed such name and the slogan: "For less money direct to wearer," upon the circulars, letterheads, invoices, and other literature distributed by him among purchasers and prospective purchasers in the various States of the United States, thereby representing that he manufactured and made the raincoats offered for sale and sold by him and that the purchaser was buying direct from the manufacturer, thus saving the profits of the middleman. By means of circulars such as Commission's Exhibit No. 8, millions of which were distributed subsequently to February, 1927, and while respondent was trading as Goodyear and Goodyear Co., respondent continued to advertise his sales as "Direct to wearer." In truth and in fact respondent has never manufactured the raincoats by him sold, but has purchased his goods from the Badger Raincoat Co. of Port Washington, Wis., The Chicago Rubber Coat Co. of Racine, Wis., and others. Neither individually, nor as Goodyear Manufacturing Co., nor as Goodyear Co. has respondent at any time owned, operated, or controlled any manufactory wherein the said raincoats have been fabricated.

PAR. 3. The respondent while conducting his business under the name Goodyear Manufacturing Co., in connection with the offering for sale and sale in interstate commerce of said raincoats, distributed to prospective customers, circulars, invoices, and other advertising literature upon which the following representations were made:

Goodyear Manufacturing Co.

Rain-proof overcoats for less money direct to wearer.

BEST-IN-THE-LONG-RAIN.

\$5.00 Man's Beautiful Sport Sweater Free!

Your're Lucky! You have been awarded a GOODYEAR ADVERTISING CHECK. It is inclosed and it has a value of exactly \$5—no more—no less.

Only a limited number of these cooperative advertising checks have been issued.

We have set aside a definite sum for advertising purposes; and it has been decided that a GOODYEAR All-Weather garment worn by you will serve this advertising purpose to the best advantage.

We are willing to lose every cent of profit in furnishing you with a GOODYEAR so that you can enjoy for yourself its wonderful and practical all-year value and stylish comfort at a REAL SAVING IN DOLLARS.

We have just brought out a brand new coat which manufacturers tell us is the greatest improvement in dress coats and raincoats since the weaving of cloth was invented.

Our introductory wholesale price on the new GOODYEAR will be only \$12.95, yet if you will help introduce it, it need not cost you even that.

Just promise you will show your coat to a few friends and recommend it and we will accept the inclosed advertising check at its full face value of \$5.00 in part payment of the wholesale price. This makes your sample coat cost you only \$7.95—ONLY ONE COAT AT THIS PRICE. P. S. If you will mail the coupon right away I will include a man's \$5.00 sport sweater coat (see style picture inclosed) absolutely free. This offer is void after 10 days. (Com. Ex. 1.)¹

Attached to and made part of this circular letter was a remittance blank for the use of the prospective customer, which, in addition to spaces wherein the customer could set the measurements for the coat and the size of the sweater, contained the following statement:

GENTLEMEN: I accept your special offer. Inclosed find your special check for \$5.00. Send me the new \$12.95 all-weather coat and the man's sport sweater coat by parcel post. Upon arrival I will pay the postmaster only \$7.95 balance. (Com. Ex. 1.)

Accompanying this circular letter was a credit or merchandise discount check upon which the heading Goodyear Manufacturing Co. was prominently displayed and the slogan "Best in the Long Rain". The body of the check reads:

PAY TO THE ORDER OF _____ Cash or Bearer _____ \$5.00
FIVE DOLLARS and no/100 _____

GOODYEAR MANUFACTURING Co.

By S. M. George, Director of Sales.

There was also inclosed with this letter a cut showing a picture of the sweater and a picture of the raincoat to which was attached a swatch of the material of which the coat was made. (Com. Ex. 1-A.) The above letter and the accompanying credit or merchandise discount check and the picture of the sweater and raincoat was used by the respondent from approximately 1905 to 1925, and filled the double purpose of being an offer to the individual prospective customer whereby he might be induced to order a coat for himself, and, if after receiving the coat, he was pleased with same, he then was

¹ Exhibits not published.

offered an opportunity of acting as agent or representative for the respondent, and by showing and recommending the coat to others, secure their orders for coats, and in the event of his securing orders for five coats, the respondent offered to and did refund the \$7.95 which he had paid for the first coat.

If the recipient of this letter showed interest in the proposition, it was followed up by other letters in which the prospect was offered an opportunity to become "An exclusive sales agent to represent the Big Goodyear Manufacturing Co. in your locality", and was also told—

Now, this is your big opportunity. It is a chance to establish yourself with the Big Goodyear Manufacturing Co., in a big, paying, profitable, prominent position. (Com. Ex. No. 5.)

On circulars sent out the following language appears "Goodyear Manufacturing Co."—"Best in the Long Rain Coats"—"Every Goodyear Customer is a Goodyear Booster"—"Our Price \$12.95—See letter for special reduced price, good for 10 days." (Com. Ex. 10.)

Respondent while operating as Goodyear Co. and as Goodyear, in connection with the offering for sale and sale in interstate commerce of said raincoats distributed to prospective customers circulars, invoices, and other advertising literature upon which the following representations were made:

I'll pay you \$10 just to read and respond to this letter. Here's my check for \$5 right now and the other \$5 I believe you'll say is generously covered by the handsome sport model 5 button coat sweater I am sending you absolutely free! Goodyear All-Weather water proofed WONDER coats.

Please be on the outlook for the sweater coming to you by separate mail as our positive outright good-will gift to you with no strings or conditions attached other than that you read and reply to this letter.

We're not going to ask you our very low price \$12.95 for this coat even though you might expect to pay double that amount if you purchased the coat in the usual way.

The inclosed \$5 check if indorsed on the back and mailed to us within 10 days will be accepted by us as part payment on your Goodyear so that the actual cost to you will be only the small balance of \$7.95 which you pay your postman when he delivers to you the neatly wrapped package containing the Goodyear coat and the gift sweater and

We're not allowing you to take one particle of risk! If the coat does not more than surpass your expectations—if it does not fit you like it had been built to your measure—if it doesn't make you feel like a million dollars when you put it on—if it doesn't look like the biggest \$12.95 value you ever saw or heard about, just put it back in the box, return it to us and we'll immediately refund your \$7.95, and listen, friend, the sweater is YOURS—you KEEP the sweater along with our good wishes and our appreciation for your courtesy in

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reading this letter an permitting us to send the Goodyear coat for your examination whether or not you keep it.

The last paragraph on the back of the check does not apply in your case about returning both the coat and sweater. You return the coat if you want a full refund of your \$7.95, but you DO NOT return the sweater. THAT'S YOURS FOR KEEPS without cost or condition or obligation of any kind.

As we have set aside only a limited number of the gift sweaters, I must limit the acceptance time to 10 days, so kindly let me hear from you by return mail if convenient. (Com. Ex. No. 2.)

Accompanying this data was a credit or merchandise discount check reading as follows:

GOODYEAR COMPANY

2615-17-18 Walnut St.,

KANSAS CITY, MO.

CREDIT CHECK

No. 4623

"Best-In-the-long-rain"

MERCHANDISE DISCOUNT CHECK

Pay to the * * * Cash or Bearer * * \$5.00

Order of

* * * Five Dollars and no/100

GOODYEAR COMPANY,

By GEO. M. SITTENFELD, *Sales Manager.*

This credit check will be accepted as a \$5.00 part payment on order if sent to the Goodyear Company, Kansas City, Mo., as per letter accompanying it, but is not good in any other way, and can be used only on the special offer accompanying it, within 10 days after its receipt.

NOT GOOD AFTER 10 DAYS

BACK OF CHECK

GOODYEAR COMPANY,

2615 Walnut Street, Kansas City, Mo.

Instead of the full scheduled price of \$12.95 you are to enter my order for one of your new Goodyear All-Weather "Wonder" coats at a discount of \$5, represented by this check which you accept as part payment. The net balance of \$7.95 I will pay to the postman when he delivers the coat.

The sport model sweater you are awarding me as a gift is to come in the same package with the coat both by prepaid parcel post.

Name----- My chest measure-----inches
 St. or R. F. D.----- Height-----
 City----- Weight-----lbs.
 State----- Sweater size-----

If I'm not wholly pleased with the coat and sweater, I may return them within 5 days, and your're to refund my money immediately.

(If remittance accompanies this order send only \$7.95)

In all circulars sent out the respondent used the names Goodyear, Goodyear Company, Goodyear All-Weather, all purpose Jersey Coat. This sport model sweater absolutely free. An outright gift if you inspect our All-Weather Jersey Coat.

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We are not going to ask you our very low schedule price of \$12.95 for this coat even though you might expect to pay double our price if you purchased the coat in the usual way. If it doesn't look like the biggest \$12.95 you ever saw or heard about just put it back in the box, return to us and we'll immediately refund your \$7.95. (Com. Ex. 7.)

You know the "Jersey" coat must make good or we'd never have made a million Goodyear friends in the direct-to-wearer sale of this splendid garment (Com. Ex. No. 8).

The truth is that respondent has made no special investigation or selection of the prospective customer as is represented, but obtains by purchase or otherwise lists of names of doctors, lawyers, teachers, nurses, dentists, automobile registrants, and others, from which lists respondent selects from two to fifty thousand names at a time, and that during the year 1926 in such manner the respondent caused to be mailed 12,834,865 pieces of mail containing such circular letters, discount checks, and sample swatches of cloth; during the year 1927, 11,829,887 pieces of such mail; during 1928, 10,440,826 pieces of such mail. The evidence further disclosed that the merchandise discount check hereinabove referred to had no actual value; its award was not the result of any drawing or chance element involved; but was respondent's usual procedure to attract attention to his offer, as well as a means of identifying the style and material of the particular raincoat offered for sale with the check inclosed. Such use of the discount check together with the other representations contained in the circular about respondent's regular and ordinary selling price were calculated and had the tendency to mislead and deceive the purchaser and prospective purchaser as to the ordinary and regular selling price of respondent's coats and to operate as a false and misleading inducement to the prospect to buy. These raincoats were offered for sale to every prospective customer on precisely the same terms and the prices at which such coats were offered were respondent's regular selling price and not a specially reduced price as represented; the time within which the said offer must be accepted was not, in fact, limited by respondent to ten days or any other particular period of time. The representation of respondent as to the number of coats for sale being limited to such an extent that prompt action was necessary was misleading in view of the fact that from 1926 to 1929, inclusive, respondent in this manner sold approximately 443,134 raincoats.

PAR. 4. Paragraph 6 of the complaint reads as follows:

Respondent had adopted and uses in connection with and in the course of his aforesaid business such slogans as, "Best in the Long Rain," "All-Weather Coat," "Goodyear All-Weather Garment". The Goodyear Tire & Rubber Co., a large and well-known manufacturer of tires and rubber goods, has long

adopted and used as a slogan for its goods, "Best in the Long Run," and "All-Weather tread". A great many of the large tire and rubber companies make and sell raincoats. Respondent's use of such slogans together with the other practices and acts above set out tend to and do mislead and deceive purchasers and prospective purchasers into the belief that the products are made and are being offered for sale and sold by the well-known and long established rubber concern; that is the Goodyear Tire & Rubber Co.

The proof showed that the Goodyear Tire & Rubber Co. used the slogan "All-Weather" and the slogan "All-Weather Tread" and that the B. F. Goodrich Co. has used the slogan "Best in the Long Run" and during the course of the hearing, it was agreed and stipulated by and between counsel that the said paragraph 6 of the complaint may be amended so as to meet the proof in this case which said proof shows that the B. F. Goodrich Co. of Akron, Ohio, used as a slogan on certain of its products "Best in the Long Run" and that the Goodyear Tire & Rubber Co. likewise of Akron, Ohio, used on some of its goods the words, "All-Weather" and "All-Weather Tread."

The B. F. Goodrich Co. is not now and has not been a competitor of the respondent since about the year 1919.

The Goodyear Tire & Rubber Co., is a corporation with headquarters at Akron, Ohio, which for many years has been engaged in the manufacture, sale and distribution in and among all the States of the United States of automobile tires and some two thousand different products made from rubber. It was incorporated about the year 1898, doing an annual business of approximately \$260,000,000, has offices and agents in all parts of the world except Russia, advertising expenses approximately \$4,000,000 per annum.

From 1904 to 1908 the Goodyear Tire & Rubber Co. manufactured and sold raincoats, but the manufacture of such coats was discontinued and they do not manufacture, sell, or distribute raincoats.

In the course and conduct of its business, the Goodyear Tire & Rubber Co. made use of the slogan "All-weather" and on September 28, 1920, these words were admitted to registration as a trade-mark for rubber, and rubber and fabric vehicle tires and treads therefor. (Com. Ex. 3.) They also used the slogan "Goodyear All-Weather Tread on the Highways of the World." These words were admitted to registration October 10, 1922, as a trade-mark for vehicle tires composed of rubber and rubber and fabric. (Com. Ex. 24.) These slogans have been used by the Goodyear Tire & Rubber Co. in connection with certain types of tires which they manufacture, sell, and distribute throughout the United States.

The Goodyear Tire & Rubber Co. received periodically communications from people calling attention to the advertisements of the respondent.

Dealers in the products of the Goodyear Tire & Rubber Co. and others made inquiry as to whether there was any connection between the Goodyear Manufacturing Co. of Kansas City and the Goodyear Tire & Rubber Co.

About the year 1918 or 1919, dealers located in Oklahoma who were handling the tires and accessories distributed by the Goodyear Tire & Rubber Co. reported to the home office at Akron, Ohio, that the Ku-Klux Klan in Oklahoma were boycotting the goods of the Goodyear Tire & Rubber Co. and that such action was a result of confusion of identity which existed in the minds of the members of this organization between the Goodyear Tire & Rubber Co. and the Goodyear Manufacturing Co., the respondent, and it became necessary for the sales manager of the Goodyear Tire & Rubber Co. to make a special trip to Oklahoma to remove from the minds of these people this confusion of identity.

The fact of competition was admitted in the answer. Respondent testified that certain people from time to time had been confused as to his identity on account of his name, thinking he was a branch of the Goodyear Tire & Rubber Co., and that this fact had been invited to his attention by competitors.

The Commission finds that respondent's use of the slogan "All-Weather" and the name "Goodyear" and "Goodyear Co." has tended to mislead and actually has misled and deceived purchasers and prospective purchasers into the belief that the raincoats offered for sale by respondent are being offered for sale and sold by the said Goodyear Tire & Rubber Co. of Akron, Ohio. The Commission finds that such confusion of identity is calculated and tends to operate to the benefit of respondent and tends to divert trade to respondent from competitors engaged in the similar sale of raincoats by mail order in interstate commerce, who do not advertise or solicit sales in such manner as to confuse their identity with that of the Goodyear Tire & Rubber Co. aforesaid, or of any other prior established concern dealing in rubber goods to which the Goodyear process or invention is applied.

PAR. 5. It was charged in paragraph 2 of the complaint that the respondent's raincoats were not made under or in accordance with the so-called Goodyear patents which in a general way relate to the application of heat and sulphur to so-called crude rubber, causing a setting-up, hardening, or thickening of the rubber to a point where

it is fit for commercial use. The evidence, however, failed to sustain this particular charge. The process known as Goodyear's invention or process is not subject to exclusive appropriation (*Goodyear India Rubber Glove Manufacturing Co. v. Goodyear Rubber Co.*, 128 U. S. 598,) and is and has been used on the raincoats sold by the respondent.

PAR. 6. The complaint in paragraph 3 hereof charged that respondent misrepresented the extent of his business headquarters, namely, that he occupied the Goodyear Building at Nos. 2615, 2617, and 2619 Walnut Street, Kansas City, Mo., whereas in truth and in fact the building was not known as the Goodyear Building, and respondent only occupied a small portion of the building at 2615 Walnut Street; further, that respondent used a fictitious name with the title "Director of Sales" in signing letters and circulars to prospective customers. Respondent had the permission of his landlord to call the building the Goodyear Building or any other name that he chose. He occupied three floors of the seven-story building called by its owner the Quaker Building, but no name appears on the building and there is but one street number. Respondent used the name S. M. George as "Director of Sales." This was his effort to avert local prejudice against his Jewish nationality in territories subject to the activities of the Klu Klux Klan, and comprises his initials in reverse order. Such practice was discontinued as soon as necessity for it ceased and it was not resumed. The Commission finds that such representations as to the extent of his occupancy at the address named was harmless puffing and that the use of the name S. M. George was not made for fraudulent purposes; also that the evidence as a whole does not justify the Commission in considering that the acts and practices complained of in paragraph 3 of the complaint constitute unfair competition within the meaning of section 5 of the Federal Trade Commission Act, *supra*.

PAR. 7. It is charged as a part of paragraph 4 of the complaint that "respondent also represents to such prospective purchasers that he will give free with the purchase of a coat a sport sweater, whereas in truth and in fact the price of said sweater is included in the price of the product offered for sale by respondent. The fact is respondent does give free with the purchase of such coat a sport sweater as represented. In many cases the raincoat is returned by dissatisfied purchasers who keep the sport sweater and still receive refund so that in such cases at least the sport sweater is absolutely free as represented and its price not included in the price of the raincoat.

PAR. 8. The complaint further alleges in paragraph 5 thereof that respondent misrepresented with regard to the quality of the coats offered by him for sale, namely, that he had been told by manufac-

turers that his coats represented the greatest improvement in coats since the weaving of cloth was invented, whereas no such representations had been made to respondent. The Commission finds that the evidence does not sustain such charges.

PAR. 9. The use by the respondent of the foregoing statements, representations, and phrases in his circulars, pamphlets, and other advertising referred to in paragraphs 1, 2, 3, and 4, *supra*, has the capacity and tendency to mislead and deceive prospective purchasers and ultimate consumers throughout the various States of the United States into the erroneous belief that respondent is a manufacturer of his raincoats and can and does sell such coats direct to the said consumer at only one profit; that a special price is being made to the consumer far below the ordinary and regular selling price of respondent's coats; that this offer of sale has been made by reason of some special investigation or selection of the prospective customer and that by reason thereof, as well as by reason of the valueless trade check the prospective customer is "lucky"; that the offer must be accepted very promptly or the prospective customer will lose the advantage of such special bargain and lucky award by reason of the time limitation or because the number of coats available for sale is a small one; and that respondent is identical with, or a branch of the Goodyear Tire & Rubber Co. Many of the said prospective customers in the various States of the United States believing and relying upon the truth of this erroneous belief have been induced to buy raincoats of respondent to the injury of respondent's competitors, in that such practices are calculated to and have a tendency to divert trade from respondent's competitors to the respondent.

CONCLUSION

The practices of said respondent under the conditions and circumstances described in the foregoing paragraphs 1 to 4, inclusive, are to the prejudice of the public and of respondent's competitors and are unfair methods of competition in interstate commerce and constitute a violation of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its power 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 respondent thereto, the testimony taken and briefs filed herein, and oral arguments of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated

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 now ordered, That the respondent, George M. Sittenfeld, an individual trading as "Goodyear Manufacturing Co.," his agents, representatives, servants, and employees in connection with the sale or offering for sale in interstate commerce, of raincoats, cease and desist as follows:

(1) From representing that he is a manufacturer of raincoats unless and until such time as he shall actually own, operate, or control an establishment, plant, or factory wherein such raincoats are made.

(2) From misrepresenting directly or indirectly by means of merchandise discount checks or in any other manner the ordinary, regular, and usual price at which such raincoats are sold.

(3) From representing to prospective customers, expressly or impliedly by means of trade checks, or in any other manner such prospective customer is "lucky," or that there has been some special investigation or selection of him to receive respondent's offer of sale.

(4) From misrepresenting to or misleading prospective customers either as to the extent of time within which his offer must be accepted or as to the quantity of raincoats available for sale.

(5) From using the slogan "All-Weather" or the name "Goodyear" unless used in connection with equally conspicuous words "not connected with the Goodyear Tire & Rubber Co." or some other similar words sufficient to distinguish respondent's concern from that company and to prevent any recognition by the public of respondent as being connected with that company.

It is further ordered, That the complaint be and it is hereby dismissed as to that part of paragraph 2 which charges that the coats which respondent sells are not made under or in accordance with the so-called Goodyear patents; as to all of paragraph 3; as to that part of paragraph 4 which charges that respondent also represents to such prospective purchasers that it will give free with the purchase of a coat a sport sweater, whereas in truth and in fact the price of said sweater is included in the price of the product offered for sale by respondent; and as to all of paragraph 5.

It is further ordered, That the respondent, George M. Sittenfeld, shall within 60 days after service upon him of a copy of this order file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

IN THE MATTER OF
WESTERN LEATHER CLOTHING COMPANY

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

Docket 1820. Complaint, May 3, 1930—Decision, May 24, 1932

Where a corporation engaged in manufacture and sale of horsehide and cowhide leather coats, labeled garments of latter leather "genuine horsehide, front quarter" and sold same thus labeled to wholesale and retail dealers, by whom said coats were displayed and sold to consuming public as and for horsehide; with result that purchasers were misled and with tendency and capacity to mislead and deceive public and purchasers and prospective purchasers into believing such garments to be made of the preferred and similar appearing, but more expensive horsehide, and induce purchase thereof in reliance upon such belief, and truth and accuracy of aforesaid labels, and thereby divert trade to it from competitors dealing in horsehide and cowhide coats without such misrepresentation:

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. Robert H. Winn for the Commission.

Greensfelder & Grand, of St. Louis, Mo., 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 Missouri corporation engaged in the manufacture and sale of leather clothing and with principal office and place of business in St. Louis, with 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; in that respondent, engaged as aforesaid, sold certain of its products, not made from the hide of the horse, with labels attached by it reading "Genuine Horsehide"; with capacity and tendency to mislead and deceive the purchasing public as to the composition of said products; to the prejudice of the public and competitors.

Upon the forgoing 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 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the respondent herein, Western Leather