

Complaint

IN THE MATTER OF

JACOB SHEPARD AND P. WIEGLER, COPARTNERS,
DOING BUSINESS UNDER THE TRADE NAME AND
STYLE OF PROSPERITY HAT COMPANY

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

Docket 2044. Complaint, June 6, 1932—Order, Nov. 7, 1933

Consent order requiring respondents, their agents, etc., in connection with the sale or offer of hats in commerce among the several States of the United States and in the District of Columbia, to cease and desist from selling or offering for sale men's old, worn, used, and discarded fur felt hats which have been cleaned and fitted with new ribbons, sweatbands and linings, unless and until there is stamped upon, affixed or attached to said hats, in a conspicuous place so as to be easily and readily seen, word or words clearly indicating that said hats are not new hats but are used and worn hats which have been cleaned and made-over (e.g., "second-hand", "used", or "made-over").

Mr. G. Ed. Rowland for the Commission.

Mr. Henry Duke, of Astoria, Long Island, N.Y., 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 Jacob Shepard and P. Wiegler, copartners doing business under the trade name and style of Prosperity Hat Co., hereinafter referred to as respondents, have been and now 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, Jacob Shepard and P. Wiegler, are copartners doing business under the trade name and style of Prosperity Hat Co., having their office and principal place of business at 25 East Fourth Street, in the City of New York, State of New York, where they have been for more than 1 year last past engaged in the business of selling and distributing men's felt hats of the character and in the manner hereinafter mentioned, to jobbers and wholesale dealers located at points in the various States of the United States and the District of Columbia. Respondents cause said hats

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when so sold, to be transported from the City of New York, State of New York, through and into other States of the United States and the District of Columbia, to the said jobbers and wholesale dealers thereof at their respective points of location. In the course and conduct of their said business as aforesaid, respondents are in direct and active competition with various other persons, partnerships, firms and corporations engaged in the manufacture, sale and distribution of men's felt hats in interstate commerce among the various States of the United States and the District of Columbia.

PAR. 2. In the course and conduct of their aforesaid business respondents buy second-hand, old, used, and discarded men's felt hats, which hats are in some instances sold by respondents to jobbers and wholesale dealers in the same condition they were in when bought, and in other cases are renovated and sold by respondents to said jobbers and wholesale dealers. All hats which are renovated by respondents are first sent to a dry-cleaning establishment, where they are thoroughly dry-cleaned and returned to respondents. Said hats are then steamed, ironed and shaped by respondents at their place of business. The poorer grade of hats are sold by respondents to their customers without being further treated. The higher quality hats are relined and fitted with new ribbon bands, sweatbands and size labels, and then sold by respondents to jobbers and wholesale dealers, who resell them to retail dealers. Said new relinings and sweatbands are purchased by respondents from the manufacturers thereof, and bear various trade names, designs, devices, and descriptive wording.

PAR. 3. The aforesaid old, used, discarded, and second-hand hats, after being made over by respondents, and fitted with new trimmings, as described in paragraph 2 herein, have the appearance of new hats which have never been worn, and said hats are sold by respondents to jobbers and wholesale dealers without anything on or about said hats to indicate that such hats are in fact second-hand hats which have been renovated and made over by said respondents. Said hats are resold by said jobbers and wholesale dealers to retail dealers, who resell them to the public without disclosing the fact that that said hats have been previously worn, and then renovated and made over, and under such circumstances as to indicate that they are new hats.

The cost to respondents of obtaining, renovating and making over said hats as aforesaid is much less than the cost to hat manufacturers of manufacturing new hats of similar quality, and respondents are thereby able to sell said hats to jobbers and wholesalers at sub-

stantially lower prices than manufacturers of hats can sell hats of the same or similar quality to jobbers and wholesale dealers.

PAR. 4. It is the common belief and understanding among wholesale and retail dealers, and the purchasing public, that hats having the appearance of new and unused hats, as do hats distributed by respondents, and sold by respondents and those dealing in men's hats without anything on or about said hats to indicate that such is not so, are in fact hats which are new and unused, and have never been worn or used by anyone previously; and said wholesale and retail dealers, and the purchasing public, when buying hats having the appearance of new and unused hats, and without anything on or about said hats to the contrary, are entitled to receive new and unused hats, and not second-hand, old, used, and discarded hats which have been renovated and made over. The acts and practices of respondents as hereinabove set forth, are calculated to, and do, have the capacity and tendency of inducing many wholesale and retail dealers, and many of the purchasing public, to purchase the said second-hand, old, used, and discarded hats which have been renovated and made over by respondents, in the mistaken belief that they are purchasing new and unused hats, and tend to and do unfairly divert trade to respondents from concerns engaged in the manufacture and sale of hats in interstate commerce throughout the various States of the United States and the District of Columbia.

PAR. 5. The above alleged acts and practices of respondents are each and all of them to the prejudice of the public and respondents' competitors, and constitute unfair methods of competition in interstate commerce within the intent and meaning of Section 5 of an act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes".

ORDER TO CEASE AND DESIST

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 on the 6th day of June, 1932, issued its complaint against Jacob Shepard and P. Weigler, copartners, doing business under the trade name and style of Prosperity Hat Co., respondents herein, in which complaint it is alleged that respondents have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said act.

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On July 13, 1932, respondents filed their answer to said complaint. On September 14, 1933, said respondents filed a second answer herein wherein they stated that they do not desire to contest the proceeding, and consent that the Commission may make, enter, and serve upon them an order to cease and desist from the violations of law alleged in the complaint, in accordance with the provisions of Section 2, Rule III, of the Rules of Practice of the Commission, and the Commission having accepted the second answer in lieu of the former one theretofore filed, and being fully advised in the premises,

It is now ordered, That the respondents Jacob Shepard and P. Weigler, copartners, doing business under the trade name and style of Prosperity Hat Co., their agents, representatives, servants, and employees, in connection with the sale or offering for sale of men's hats in commerce among the several States of the United States, and in the District of Columbia, cease and desist from:

Selling or offering for sale men's old worn, used, and discarded fur felt hats which have been cleaned and fitted with new ribbons, sweatbands, and linings, unless and until there is stamped upon, affixed or attached to said hats in a conspicuous place so as to be easily and readily seen, word or words clearly indicating that said hats are not new hats but are used and worn hats which have been cleaned and made-over (e.g., "second-hand", "used", or "made-over").

It is further ordered, That respondents shall within 60 days from the date of the service upon them of the order herein, 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.

Memoranda

The Commission as of the same date issued similar consent orders in the following 6 cases, in the first 4 of which complaints issued as of June 6, 1932, and in the last 2 of which complaints issued as of July 12, 1932, and November 29, 1932, respectively:¹

Joseph A. Villone, doing business under the trade name and style of Excelsior Hat Works. (Docket 2046); Jacob Schachnow, doing business under the trade name and style of Modern Hat Works. (Docket 2047); Morben Hat Works, Inc. (Docket 2048); Harlin Hat Co. (Docket 2049); Max Rothman. (Docket 2061); Frank Krinetsky, doing business under the trade name and style of Frank's Hat Co. (Docket 2075).

¹ Allegations of the complaints appear to be similar with the exception of the fact that respondent Max Rothman apparently renovated all hats purchased, instead of selling some "as is" to jobbers and wholesale dealers.

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IN THE MATTER OF
H. PERILSTEIN, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2112. Complaint, Aug. 17, 1933—Order, Nov. 14, 1933*

Consent order requiring respondent, its agents, etc., in connection with the sale or offer for sale in interstate commerce or in the District of Columbia of window glass, to cease and desist from shipping to any purchaser thereof, panes of window glass of grade or quality "B" as and for window glass of the grade and quality "A" or from representing in any manner to said purchasers that common window glass of the grade and quality "B" is of the grade and quality "A."

Mr. PGad B. Morehouse for the Commission.
Englander, Cohen & Korn, of Philadelphia, Pa., 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 H. Perilstein, Inc., a corporation, hereinafter referred to as respondent, has been 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, H. Perilstein, Inc., is a corporation organized and existing under the laws of the State of Pennsylvania with its principal place of business in the city of Philadelphia, State of Pennsylvania. For more than two years last past it has been engaged in trading as a jobber of window glass, trading in its corporate name and also through its branches or subsidiaries under the name and style of "Scranton Plate Glass Company" in the city of Scranton, State of Pennsylvania, and under the name and style of "United Plate Glass Company" in the city of Pittsburgh, State of Pennsylvania. When sold respondent causes window glass to be shipped in crates from its warehouses in the State of Pennsylvania in, through and to various other States of the United States for delivery to the purchasers thereof. In the course and conduct of its business as aforesaid respondent is and has been in direct and active competition with other individuals, partnerships, and corporations engaged in the sale and distribution in interstate commerce of window glass.