

Syllabus

IN THE MATTER OF

JOSEPH HOLLANDER, INC.

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

Docket 2124. Complaint, Nov. 9, 1933—Order, June 25, 1935¹

Complaint charged respondent, engaged in dressing, dyeing, and trade-marking or otherwise marking and designating, among others, muskrat skins at the instance and request of and in accordance with special agreements with the owner-furriers or dealers who sell the same, thus dressed, dyed, marked, and designated, to garment manufacturers and other dealers, with misbranding or mislabeling, in stamping on the backs of said muskrat skins, so dressed and dyed by it as to resemble the appearance of genuine dyed seal-skin, its registered trade-mark containing in large and conspicuous letters the words "Hollander" and "Seal", together with the words "Dyed Muskrat" in small letters, with intent and effect of furthering sale in interstate commerce of said muskrat skins, thus dressed, dyed and marked by it, by the owners thereof, and sale by said owners' manufacturer vendees of garments made therefrom, which resemble in appearance only the substantially more costly products made of the more pliable, durable, and better-wearing seal fur;

With capacity and tendency to mislead and deceive the public into the purchase of said skins and garments made thereof from such owner dealers and manufacturers, respectively, as and for sealskins or garments made thereof, and with effect of furnishing manufacturers and dealers, wholesale and retail, with the means enabling them to perpetrate a fraud upon the purchasing public by representing to their respective customers that said garments are made of genuine seal, and by exhibiting to them in support of such false representations the word "Seal" stamped thereon, and of aiding, assisting and abetting sale in interstate commerce of muskrat skins thus dressed, etc., by it, and of garments therefrom, as and for seal, by the owners and manufacturers, respectively, and with capacity and tendency to divert trade to such owner dealers and manufacturers and their respective customers from dealers or furriers selling the skins of muskrat, seal and other fur-bearing animals in interstate commerce, truthfully described, branded and marked, and from manufacturers similarly selling garments made thereof, and from their wholesale and retail dealer-customers; to the prejudice of the public and of the competitors of said owners and their manufacturer vendees, and of its principals and those thus aided, assisted and abetted by it in the sale of muskrat skins thus dressed, dyed and marked by it, and garments made thereof, as and for seal.

Ordered, respondent consenting, that respondent, its officers, etc., in connection with the dyeing or dressing, sale, offer or advertisement of dyed muskrat fur or dyed cony (rabbit) fur, in interstate commerce, cease and desist from describing furs other than by the use of the correct name of the fur

¹ The order is published as modified as of that date. Original order, not printed, was made as of May 16, 1935.

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as the last word in the designation thereof, and from the use of the word "Seal" as designation thereof, subject to permitted use thereof in an adjective sense, together with such words as "Dyed" or "Blended", as in said order in detail set forth.

Mr. James M. Brinson 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 power and duties, and for other purposes", the Federal Trade Commission charges that Joseph Hollander, Inc., hereinafter designated respondent, 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, Joseph Hollander, Inc., is now, and for more than a year last past has been a corporation organized, existing, and doing business under the laws of the State of New Jersey with its principal office and place of business in the city of Newark, in said State, and engaged in the business of dressing, dyeing, and trade-marking or otherwise marking and designating muskrat skins and the skins of other fur-bearing animals for the owners thereof.

Respondent uses and has used a process for dressing and dyeing muskrat skins which causes the fur of such skin to resemble in appearance the fur of genuine dyed sealskins, and thereupon respondent stamps or causes to be stamped on the back of each of the skins so treated by it a trade mark which it has caused to be registered in the United States Patent Office, containing in large and conspicuous letters the words "Joseph Hollander," with "J. H. Inc." below the word "Hollander" enclosed within borders, and below them the word "Seal." The words "Hollander" and "Seal" are in large conspicuous display letters. Below this trade mark in small letters are the words "dyed muskrat."

Garments made from muskrat skins so dressed and dyed by respondent resemble garments made from dyed sealskins but in appearance only, and are inferior to the skins of seals in pliability and durability of the leather and wearing quality of the fur, and garments made from sealskins command prices substantially greater than the prices of garments made from muskrat skins.

Respondent has rendered and renders such service for owners of muskrat skins, at their instance and request and in pursuance of and in accordance with special agreements therefor. Such owners have been and are furriers or dealers engaged in the business of

selling the skins of fur-bearing animals in commerce among and between the various States of the United States. It has been and is the practice of said owners of skins dressed, dyed and trade-marked for them by respondent, to sell them in such commerce to other furriers or dealers and to manufacturers of fur garments, having their places of business in the various States of the United States, and such manufacturers have offered for sale and sold garments made from muskrat skins so dressed, dyed, and trade-marked for them by respondent, in commerce among and between the various States of the United States, causing them when sold to be transported from their several places of business to purchasers located in various other States of the United States than the State or States wherein are situated such places of business.

It has been and is the practice of respondent to render such services in dressing, dyeing and trade-marking muskrat skins for their owners with the full knowledge, expectation, purpose and intent that such skins or garments made therefrom will be offered for sale and sold in interstate commerce bearing the aforesaid brand or trade mark, and the aforesaid acts and practices of respondent have been and are directly related to and in furtherance of such business by the owners of such skins and the manufacturers of garments therefrom.

In the course and conduct of its business respondent has been and is engaged in competition with other individuals, partnerships, and corporations, dressing and dyeing the skins of fur-bearing animals for their owners for sale in interstate commerce or to manufacturers of fur garments made therefrom to be sold in such commerce. The owners of muskrat skins, dressed, dyed, and trade-marked by respondent, and the manufacturers of garments therefrom have been and are in competition with individuals, partnerships, and corporations engaged in the sale of similar or competitive products in like commerce.

PAR. 2. There are now and have been for many years last past competitors of respondent dressing and dyeing muskrat skins or skins of other fur-bearing animals for their owners, truthfully marked or described, for sale in interstate commerce, or for manufacture into garments for sale in such commerce in competition with muskrat skins or garments made therefrom, dyed and trade-marked by respondent as described in paragraph 1.

There are now and for many years last past have been competitors of the owners of muskrat skins dyed and trade-marked by respondent, and of manufacturers selling garments made therefrom, offering for sale and selling in interstate commerce dyed muskrat skins

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clearly described and advertised as such and garments made therefrom without any trade mark, brand, stamp, or other description containing the word "Seal" or thereby or otherwise suggesting or implying that such garments have been or are made from or out of sealskins, and there have been or are other competitors of the owners of muskrat skins dyed and trade-marked by respondent and of manufacturers selling in interstate commerce garments made therefrom, offering for sale and selling in interstate commerce garments made from genuine dyed sealskin truthfully trade-marked, branded, and described.

PAR. 3. The acts and practices of the owners of the muskrat skins so dressed, dyed, and branded for them by respondent at their instance and request, in offering for sale and selling such skins in interstate commerce, and the acts and practices of manufacturers of fur garments in offering for sale and selling in interstate commerce garments made from muskrat skins dyed to resemble sealskins and bearing the aforesaid brand or designation, have had and have the capacity and tendency to mislead and deceive the public into the purchase of such skins as and for sealskins, and into the purchase of garments made from such skins as and for garments made from sealskins. Such acts and practices have furnished manufacturers and dealers, wholesale and retail, with the means by which they have been and are enabled to perpetrate a fraud upon the purchasing public by representing to their respective customers that garments made from such skins are made of genuine seal fur, and by exhibiting to customers and prospective customers the trade mark stamped on such skins containing the word "seal", as described in paragraph 1 hereof, to support their false representations that such garments are made from genuine seal fur.

Such acts and practices by the owners of muskrat skins dressed, dyed, and stamped by respondent and by their vendees, the manufacturers of fur garments have had and have the capacity and tendency to divert trade to them and their respective customers from dealers or furriers selling the skins of muskrats and of other fur-bearing animals in interstate commerce, truthfully described and marked, and from manufacturers selling in interstate commerce garments made from muskrat skins, sealskins and the skins of other fur-bearing animals truthfully branded and described, and from their customers, wholesale and retail dealers.

The acts and practices of respondent described in paragraph 1 hereof have aided, assisted, and abetted the owners of muskrat skins dressed, dyed, and stamped for them by respondent, in selling such skins in and among the various States of the United States as and

for sealskins, and have aided, assisted, and abetted the manufacturers of garments from such skins in selling them in such commerce as and for garments made from sealskins.

PAR. 4. The above and foregoing practices of the owners of muskrat skins, dressed, dyed, and stamped by respondent and of their vendees, including the manufacturers of garments from such skins, have been and are to the prejudice of the public and of their competitors, and the above and foregoing practices of respondent have been and are to the prejudice of the public and of respondent's competitors, and the competitors of respondent's principals, and those it has aided, assisted, and abetted in such practices in interstate commerce, which practices have been and are unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST ²

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 9th day of November 1933 issued its complaint against Joseph Hollander, Inc., a corporation, respondent herein, and caused the same to be served upon said respondent as required by law, in which complaint it is alleged that respondent has been and is using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act.

On May 17, 1934, respondent filed an answer to said complaint in which it consented that the Commission may make, enter, and serve upon it an order to cease and desist from the violations of law alleged in the complaint, in accordance with the provisions of Section (b) of Rule V of the Rules of Practice of the Commission; and the Commission having accepted said answer, issued an order to cease and desist on May 16, 1935, and thereafter, on to wit the 17th day of June 1935 the Commission, being now fully advised in the premises, modifies the said order to cease and desist, and

It is now ordered, That respondent, Joseph Hollander, Inc., its officers, agents, representatives, and employees, in connection with the dyeing or dressing, sale, offering for sale, or advertising of dyed muskrat fur or dyed cony (rabbit) fur, cease and desist from:

1. Describing furs in any other way than by the use of the correct name of the fur as the last word of the description, and when any

² Published as modified.

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dye or blend is used simulating another fur the true name of the fur appearing as the last word of the description must be immediately preceded by the word "dyed", or "blended", compounded with the name of the simulated fur.

2. Using the word "seal" alone or in connection, combination or conjunction with any other word or words to describe or designate dyed cony, unless and until the word "seal" is compounded with the word "dyed" and such compounded word is immediately followed by the word "cony", as "seal-dyed cony".

3. Using the word "seal" or the words "Hudson Seal" standing alone or in connection, combination or conjunction with any other word or words to describe or designate dyed muskrat unless and until the word "seal" or the words "Hudson Seal" are compounded with the word "dyed" and such word or words so compounded are immediately followed by the word or words signifying or designating the true name of the fur, as "seal-dyed muskrat" or "Hudson Seal-dyed muskrat".

4. Using the word "seal" or the words "Hudson Seal" standing alone or in connection, combination, or conjunction with any other word or words (regardless of corporate name, trade name or trademark), except that the word "seal" may be used as an adjective to denote or describe the color or character of the dye of muskrat or cony fur, as "seal-dyed muskrat" or "seal-dyed cony", and except that words "Hudson Seal" may be used as an adjective to denote or describe the color or character of the dye of muskrat fur, as "Hudson Seal-dyed muskrat".

5. Using the word "Hudson" standing alone or in connection, combination or conjunction with any other word or words to describe or designate dyed cony (rabbit) fur.

It is further ordered, That the respondent shall, within 90 days from the date of the service upon it of the order herein, file with the Commission a report in writing, setting forth in detail the manner and form of its compliance with this order.

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IN THE MATTER OF
HUDSON FUR DYEING, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2125. Complaint, Nov. 9, 1933—Order, June 25, 1935¹*

Complaint charged respondent corporation, engaged in dressing, dyeing, trade-marking, or otherwise marking and designating, among others, rabbit skins, at the instance and request of and in accordance with special agreements with the owner furriers or dealers who sell the same, thus dressed, dyed, marked, and designated, by it, to garment manufacturers, with misbranding or mislabeling, in stamping upon the backs of rabbit skins, so dressed and dyed by it as to cause the fur thereof to resemble the appearance of the much superior seal, the words "Hudson Seal", with full knowledge and in aid of sale in interstate commerce, by said owners and manufacturers, respectively, of such skins and garments made thereof as and for seal on account of their resemblance to the dyed fur of genuine seal, due to its agency or service in thus marking, describing, and designating the same;

With capacity and tendency to mislead and deceive the public into the purchase of said skins and of garments made therefrom, from said owner and manufacturer vendors thereof, as and for seal and the substantially more costly sealskin garments, respectively, and with the effect of furnishing manufacturers and wholesale and retail dealers with the means enabling them to perpetrate a fraud upon the purchasing public by representing to their respective customers in the various localities of the several States in which their business is conducted that such garments are sealskin, and offering and selling the same to the public as and for genuine seal, and exhibiting the aforesaid trade mark in support of such misrepresentation, and of aiding, assisting, and abetting sale in interstate commerce of rabbit skins thus dressed, etc., by it, and of garments thereof, as and for seal, by the owners and manufacturers, respectively, and with capacity and tendency to divert trade to the owners offering and selling in interstate commerce rabbit skins, thus dressed, dyed and marked or stamped by it for them, and to manufacturers of garments made thereof similarly offering the same, from dealers or furriers selling skins of rabbit, seal, or other furbearing animals in such commerce, truthfully described and marked, and from manufacturers thus selling garments made of such skins, truthfully branded and described; to the prejudice of the public and of competitors of the aforesaid owners and of said owners' vendees, the manufacturers of garments thereof, and to the prejudice of the competitors of itself and of its principals and those thus aided, assisted and abetted by it in such practices.

Ordered, respondent consenting, that respondent, its officers, etc., in connection with the dyeing or dressing, sale, offer, or advertisement of dyed muskrat fur or dyed cony (rabbit) fur, in interstate commerce, cease and desist from describing fur other than by the use of the correct name of the fur as the last word in the designation thereof, and from the use of the words

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