

Syllabus

IN THE MATTER OF

PHILIP A. SINGER & BRO., INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 2128. Complaint, Nov. 9, 1933—Order, June 25, 1935.¹

Complaint charged respondent corporation, engaged in dressing, dyeing, and 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, and trade-marked by it for them, to garment manufacturers, with misbranding or mislabeling, in stamping upon the backs of rabbit skins, so dressed and dyed as to cause the fur thereof to resemble the appearance of the much superior seal with its greater pliability, durability, and wearing quality and luster, its registered trade mark containing in large and conspicuous letters, the words "Baltic Seal", together with the words, below, in small and inconspicuous letters, "Dyed Cony", and with furnishing said owners with garment labels containing said words printed as hereinabove set forth, with full knowledge and in aid of sale in interstate commerce by such owners and manufacturers, respectively, of such skins, thus dressed, dyed, and trade-marked by it, and garments made therefrom, under the name of or described as "Sealines", on account of their resemblance to the dyed fur of genuine seal, resulting from its aforesaid service and trade mark conspicuously displaying said words "Baltic Seal", as hereinabove set forth;

With effect of furnishing retail dealers in garments made from skins dyed by it to resemble and imitate seal and trade-marked as above set forth, the means of perpetrating a fraud upon the purchasing public by representing said garments as made of "Baltic Seal", and exhibiting to customers and prospective customers said mark stamped on the skins composing the same in support of such false representations, and of aiding, assisting, and abetting sale in interstate commerce of rabbit skins as and for seal, and of garments made thereof as and for the substantially more costly seal-skin product, and with capacity and tendency to divert trade to the aforesaid owners of such skins, thus dressed, dyed, and trade-marked by it for them, offering and selling the same in interstate commerce, and to manufacturers of garments thereof or wholesale dealers therein, similarly offering and selling the same, and to their retail dealer customers, from dealer-furriers selling skins of rabbit, seal and other fur-bearing animals in interstate commerce, truthfully described and marked, and from manufacturers or wholesale dealers selling in such commerce, garments made from seal or other skins as hereinabove set forth, truthfully branded and described, and from their retail dealer customers; to the prejudice of the public and of its competitors and those of its principals, 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

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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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 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 powers and duties, and for other purposes", the Federal Trade Commission charges that Philip A. Singer & Bro., 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, Philip A. Singer & Bro., 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 rabbit skins and the skins of other fur-bearing animals for the owners thereof. Respondent obtains skins to be dyed by it at the places of business of the owners of such skins in the city of New York, State of New York, and transports such skins in its own trucks from the State of New York to its own place of business at Newark in the State of New Jersey, where it dresses, dyes, trade-marks and then transports them in its own trucks from its said place of business to the respective places of business of the respective owners of such skins in the city of New York and State of New York. It also has transported to it by railroad quantities of such skins from customers in Pennsylvania, Massachusetts, and other States which respondent dresses, dyes, trade-marks and then causes to be transported by railroad or otherwise from the State of New Jersey into and through other States of the United States to the respective owners.

Respondent has rendered and renders such service for owners of rabbit 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 rabbit skins or the skins of other 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 rabbit skins dressed, dyed, and trade-marked for them by respondent, to sell them to manufacturers of fur garments, having their places of business in the city of New York or elsewhere in said State, and in the various other States of the United States, and such manufacturers have offered for sale and sold and offer for sale and sell garments made from rabbit skins dressed, dyed, and trade-marked or stamped by respondent as described in paragraph 2 hereof, 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 rabbit skins for their owners with the full knowledge, expectation, purpose, and intent that such skins will be offered for sale and sold in interstate commerce by such owners or garments made therefrom by their vendees, and the acts and practices of respondent hereinafter described in paragraph 2 hereof 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 said business respondent has been and is engaged in competition with other individuals, partnerships, and corporations, dressing and dyeing rabbit skins or the skins of other fur-bearing animals for the owners thereof for sale in interstate commerce or for sale to manufacturers to be made into fur garments to be sold in such commerce. The owners of rabbit 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. The respondent uses and has used a process for dressing and dyeing rabbit skins which causes the fur of such skins to resemble in appearance the fur of genuine 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 "Baltic Seal." Below the words "Baltic Seal" respondent causes to be stamped the words "Dyed Coney" in small and inconspicuous letters.

It has been and is the practice of respondent to furnish owners of rabbit skins dyed and so stamped or marked by it, labels to be at-

tached to garments made therefrom containing the words "Baltic Seal" in large and conspicuous letters and below them the words "Dyed Coney" in small and inconspicuous letters.

Garments made from rabbit skins so dyed and trade-marked by respondent resemble garments made from dyed sealskins but in appearance only. Dyed rabbit skins are greatly inferior to the skins of seals in pliability and durability of the leather and in wearing quality and luster of the fur, and garments made from sealskins command prices far in excess of or substantially greater than the prices commanded by garments made from rabbit skins.

PAR. 3. It requires approximately fifty rabbit skins for the construction of each coat for women, while it requires only seven sealskins for such purposes, and large quantities of rabbit skins are dressed, dyed, and trade-marked by respondent, as described in paragraph 2 hereof, for manufacture into coats or other fur garments for women. Such garments bearing the aforesaid trade-mark of respondent on the back of the skins from which they have been and are made, have been and are sold by manufacturers thereof in the course of their business among and between the various States of the United States, under the name of or described as "Sealines" on account or by means of their resemblance to the dyed furs of genuine seals, resulting from the agency or service of respondent and its trade mark conspicuously displaying the words "Baltic Seal" as described in paragraph 2 hereof.

PAR. 4. There are now and have been for many years last past competitors of respondent dressing and dyeing rabbit skins or skins of other fur-bearing animals including the skins of muskrats and seals for their owners, to be sold in interstate commerce, to furriers or dealers or to manufacturers to be made into fur garments for sale in interstate commerce, whose practice has been and is either to stamp or mark such skins so as clearly to indicate their kind or character, or to omit any mark or designation of their kind or character. Skins so dressed and dyed by such competitors of respondent with or without stamp or other designation thereof, respecting the kind or character of the skins, and garments made from them have been and are offered for sale and sold in interstate commerce by furriers or dealers or manufacturers who have been and are competitors of the individuals, partnerships, and corporations for whom respondent performs and has performed the aforesaid service of dressing, dyeing, stamping, and branding such rabbit skins.

PAR. 5. The acts and practices of respondent described in paragraph 2 hereof have aided, assisted, and abetted the sale in interstate commerce of rabbit skins as and for sealskins and the sale of

garments made from such skins, as and for garments made from sealskins. More particularly, such acts and practices have furnished retail dealers, to whom manufacturers or others have sold garments made from rabbit skins, dyed by respondent to resemble and imitate sealskins and trade-marked by respondent as described in paragraph 2, the means by which such retail dealers can perpetrate fraud upon the purchasing public by representing that such garments are made of "Baltic Seal" fur, the designation respondent has attached to the skins from which such garments are made, and by exhibiting to customers and prospective customers the trade-mark stamped on such skins containing the said words "Baltic Seal" to support their false representations that such garments are made from genuine seal fur.

Such acts and practices by respondent have had and have the capacity and tendency to divert trade to the owners of rabbit skins, dressed, dyed, and trade-marked by respondent, who have offered for sale and sold the same in interstate commerce and to manufacturers of garments made from such skins or wholesale dealers offering for sale and selling the same in interstate commerce and to their customers, the retail dealers, from dealers or furriers selling the skins of rabbits, seals and of other fur-bearing animals in interstate commerce, truthfully described and marked, and from manufacturers or wholesale dealers selling in interstate commerce garments made from sealskins, rabbit skins and the skins of other fur-bearing animals, truthfully branded and described, and from their customers, the retail dealers.

PAR. 6. The above and foregoing practices of respondent have been and are and each of them has been and is to the prejudice of the public and of respondent's competitors and the competitors of respondent's principals or 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 the Act 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 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 Philip A. Singer & Bro., Inc., a corporation,

² Published as modified.

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, Philip A. Singer & Bro., Inc., its officers, agents, representatives, and employees, in connection with the dyeing or dressing, sale, offering for sale, or advertising of dyed muskrat 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 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 trade mark), 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 the words "Hudson Seal" may be used as an adjective to de-

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note 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

VAN DYE WAY CORPORATION

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

Docket 2129. Complaint, Nov. 9, 1933—Order, June 25, 1935¹

Complaint charged respondent corporation, engaged in dressing, dyeing, and 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, stamped, or branded by it for them, 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, with its better pliability, durability, wearing quality, and luster, its mark, brand, or designation displaying, in addition to initials of its name, the words "Lapin Seal", in large capital letters, and, in small and inconspicuous letters, noticeable only after close inspection, the words "Dyed Cony", with full knowledge and in aid of sale in interstate commerce by said owners and manufacturers, respectively, of such skins thus dressed, dyed, marked, stamped, or branded by it for them, and garments made therefrom under the name or description "Sealines", on account of their resemblance to the dyed fur of genuine seal, resulting from its aforesaid agency or service, and its said mark, brand, or designation;

With the effect of furnishing wholesale or retail dealers in garments made from said skins, dyed by it to resemble and imitate seal and marked, stamped, branded, or designated as hereinabove set forth, the means of perpetrating a fraud upon the purchasing public by representing said garments as the substantially more costly sealskin product, and by exhibiting to customers and prospective customers the aforesaid brand and designation stamped thereon, containing the words "Lapin Seal", in support of their said false representations, and of aiding, assisting, and abetting sale in interstate commerce of rabbit skins and of garments made thereof as and for seal, and with capacity and tendency to divert trade to said owners offering and selling in interstate commerce such rabbit skins, thus dressed, dyed, and marked by it, and to manufacturers offering and selling in such commerce garments made therefrom, and to latter's wholesale and retail dealer vendees, from furriers or dealers selling in such commerce the skins of rabbit and other fur-bearing animals, truthfully described and marked, and from manufacturers thus selling garments made from seal, or skin of rabbit or other fur-bearing animals, truthfully branded and described, and from latter's wholesale and retail dealer vendees; to the prejudice of the public and of its competitors and those of its principals, 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

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