

Complaint

IN THE MATTER OF

GOTTLIEB BROTHERS, MANUFACTURERS OF SILK
UNDERWEAR, INC.

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

Docket 2522. Complaint, Aug. 17, 1935—Order, Oct. 11, 1935

Consent order requiring respondent corporation, its officers, etc., in connection with the sale in interstate commerce of women's underwear and undergarments, to cease and desist from—

- (a) Representing women's underwear by labels or otherwise as "100 percent pure silk" until such undergarments are composed entirely of silk, the product of the cocoon of the silkworm; and
- (b) Representing women's underwear as "pure silk" until they are composed entirely of silk and contain not more than 10 percent of any substance (weighting) except black, which shall not exceed 15 percent.

Mr. George Foulkes for the Commission.

Mr. Max Levy, of New York City, for respondent.

COMPLAINT

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, having reason to believe that Gottlieb Brothers, Manufacturers of Silk Underwear, Inc., a corporation, hereafter referred to as the respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent is and has been since the year 1930, or thereabouts a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business and office in the city of New York, in said State. It is now and has been since the year 1930, or thereabouts, engaged in the manufacture and sale of women's silk underwear and undergarments. In the course and conduct of its business the respondent sells through salesmen or representatives appointed by it as agents in its behalf to retail dealers, some located in the State of New York and others in other States of the United States, and pursuant to such sales, shipments are made from respondent's place of business in New York to such retailers. In the course and con-

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duct of its business respondent is in substantial competition with other corporations, partnerships, firms and persons engaged in the sale of women's silk underwear and undergarments between and among the various States of the United States.

PAR. 2. The term "100% pure silk" and "pure silk" are well established and standard terms when used in connection with the labeling, marking, advertising, sale, and distribution of silk garments. The term "100% pure silk" is understood by members of the silk industry, retailers, and the purchasing public to signify and designate silk goods, which in the finished state are manufactured entirely from silk and not mixed with any other adulterant fiber and/or substance. Silk is a fibrous substance produced by the larvae of silk worms.

The term "pure silk" is also a standardized and established term among members of the silk industry, retailers and the purchasing public. It signifies and designates a silk cloth not containing more than 10 percent of weighting material or more than 15 percent of weighting material for black silk fabrics.

PAR. 3. The respondent in the course and conduct of its business, as aforesaid, in the manufacturing, soliciting the sale of, and selling of women's silk underwear and undergarments, as described in paragraph 1 hereof, has represented since the year 1930, or thereabouts, and still represents to retail dealers and to prospective retail dealers, by the use of certain labels and other marks which it attaches and has attached, that such women's silk underwear and undergarments do not contain any weighting substance; and the respondent has represented and still represents to retail dealers and to prospective retail dealers by the use of certain other labels and marks which it attaches and has attached, that such women's silk underwear and undergarments do not contain more than 10 percent of weighting substance. The labels used by respondent are, among others, as follows:

Radcliffe
100 PERCENT PURE SILK
Made of Alternating Bias Gores
Will Not Sag in Washing
Nor Rip in Seams

and/or the words:

Radcliffe
PURE SILK
Made of Four Bias Gores
Will Not Sag in Washing
Nor Rip in Seams

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and/or the words:

Regency
 PURE SILK
 TRUE BIAS
 Will Not Sag in Laundering
 Nor Rip in Seams

and/or the words:

Youth Mode
 PURE SILK
 Two Panels
 Two Seams
 True Bias
 Will Not Sag
 Nor Rip in Seams

PAR. 4. In truth and in fact the women's silk underwear and undergarments so labeled and marked as "100% pure silk" and sold as described in paragraphs 1 and 3 hereof, are not, and have not been manufactured from pure silk cloth but such underwear and undergarments contain and have contained up to 52 percent of weighting substances, nor have they been nor are they 100 percent pure silk; and in truth and in fact such women's underwear and undergarments labeled and marked as "pure silk" and sold, as described in paragraphs 1 and 3 hereof, are not and have not been "pure silk" but such underwear and undergarments have contained and do contain from 11 percent to 52 percent of weighting substances.

PAR. 5. There are among the competitors of the respondent described in paragraph 1 hereof, corporations, partnerships, firms, and persons who are engaged in the manufacture and/or sale of garments manufactured from silk cloth containing no weighting substances, who truthfully represent and denominate their products as being manufactured entirely from silk cloth; and there are also among the competitors of the respondent, corporations, partnerships, firms, and persons who are engaged in the manufacture and/or sale of garments manufactured from cloth containing weighting substances who truthfully represent and denominate their products as containing weighting substances.

PAR. 6. The use by the respondent of the said labels and marks has had and still has the tendency and capacity to deceive, has deceived and still deceives retail dealers and prospective dealers into the belief that said product of respondent is made entirely of silk and/or contains 10 percent or less of weighting substances, and to purchase said product from said respondent in such erroneous belief. The use by respondent of such labels and marks has placed, and still places, in the hands of its retail dealers the means of deceiving the purchasing

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public. By the use of such labels and marks, trade is diverted by respondent from its competitors, and thereby substantial injury has been done, and is being done, by respondent to substantial competition in interstate commerce.

PAR. 7. The acts and practices set forth in paragraphs 3, 4, 5, and 6 hereof are all to the prejudice of the public and the respondent's 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

This proceeding having come on for hearing by the Federal Trade Commission upon the complaint and the respondent's answer waiving all further proceeding and consenting that the Commission may make, enter, and serve upon it an order to cease and desist from the method or methods of competition charged in the complaint, and the Commission being fully advised in the premises—

It is now ordered, That the respondent, Gottlieb Brothers, Manufacturers of Silk Underwear, Inc., a corporation, its agents, representatives, servants, and employees, in connection with the sale or offering for sale in interstate commerce of women's underwear and undergarments, cease and desist directly or indirectly from:

(1) Representing women's underwear and undergarments by labels or otherwise as "100 percent pure silk" unless and until such underwear and undergarments are composed entirely of silk the product of the cocoon of the silkworm.

(2) Representing women's underwear and undergarments by labels or otherwise as "pure silk" unless and until content of such underwear and undergarments is composed entirely of silk the product of the cocoon of the silkworm, and unless and until such underwear and undergarments contain not more than 10 percent of any substance (weighting) except black, which shall not exceed 15 percent.

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

Syllabus

IN THE MATTER OF

RAY RENNISON AND MARTHA A. RENNISON, TRADING
AS RAYSON SERVICE BUREAU, RAYSON BUREAU AND
RAYSON SERVICECOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2232. Complaint, Sept. 18, 1934¹—Decision, Oct. 14, 1935*

Where two individuals engaged in the sale of courses of instruction to help purchasers qualify themselves to pass certain examinations for Federal and State civil service places; in advertising their courses in various periodicals, including thirty of national circulation in which their advertisements related chiefly to forestry jobs—

- (a) Stated in the "follow-up" circulars sent to those answering, that they were issuing a course of instruction that would thoroughly qualify the customer "on the required subjects of forestry (forest ranger), postal service, border patrol, game protector, and others", and that "no particular amount of education" was required, and that with their course customer "should have no difficulty in any examination", and their instructions could be browsed over and learned by the customer's "own fireside" in less than two months, the facts being that the position of ranger in the United States Forest Service in recent years, due to constantly increasing demand in the way of qualifications, has been filled from eligibles for superior positions, for which said courses would be of no assistance, since 1931 only one Federal appointment has been made to such position, and since 1930 no examination therefor has been announced or held by the United States Civil Service Commission, and none is contemplated, the forest ranger positions could not be characterized fairly even in those cases in which appointments were made from the lists of such Commission as "easily available", in addressing the general public, untrained in forestry, and the requirements therefor, which included a mental test, representing the "full equipment of a four-year high school education", "at least three years of field experience in forestry, including such activities as lumbering, grazing", etc., as specified in the announcements, and health, medical and ocular tests, and age range between 25 and 35 years, were not such as to warrant use of such statements as "easily available" or "no particular amount of education is required", or general reader, "should have no difficulty in any examination therefor"; with capacity and tendency to induce customers to buy said course in the hope that they might thereby be able to become forest rangers in the Federal service, notwithstanding absence of a present possibility of such an outcome or any reasonable likelihood thereof for an indefinite period as hereinabove set forth;
- (b) Represented in such follow-up literature that their courses would aid customers to secure other positions in the Federal service, such as rural mail carrier, rural postal clerk, immigration patrol inspector, immigration inspec-

¹ As amended Jan. 8, 1935.