

Complaint

IN THE MATTER OF

HARRY KAPUST, TRADING AS ROSELILE MANUFACTURING COMPANY, AND AS ROSELILE CLOTHING MANUFACTURING COMPANY

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

Docket 2653. Complaint, Dec. 10, 1935—Order, Jan. 30, 1936

Consent order requiring respondent individual, his representatives, etc., in connection with the sale or offer for sale of men's suits in commerce among the several States and in the District of Columbia, to cease and desist from—

- (a) Advertising or in any way otherwise representing himself or his company as a manufacturer of men's suits, or using word "manufacturing" as part of or in connection with any trade name under which he carries on his said business, or using words "From maker to wearer" or words of similar import, until and unless he owns, operates, and controls a factory or factories in which such products are made; or
- (b) Advertising or otherwise representing, through advertisements, etc., or salesmen's solicitations or otherwise, that the men's suits of clothing offered for sale and sold by him are "tailored-to-fit" or that said men's suits of clothing are tailored or made to order or to the individual measure of the purchasers thereof, until and unless said suits are actually tailored or made to the order of or to the individual measure of the purchasers thereof.

Mr. J. T. Welch for the Commission.

Mr. Robert R. Scher, of Chicago, Ill., 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 Harry Kapust, trading as Roselile Manufacturing Company and as Roselile Clothing Manufacturing Company, hereinafter 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 the said Commission that a proceeding by it in respect thereof would be in the interest of the public, the said Federal Trade Commission hereby issues its complaint against the respondent and states its charges in that respect as follows:

PARAGRAPH 1. That the respondent, Harry Kapust, is an individual trading under the names and styles of "Roselile Manufacturing Company" and "Roselile Clothing Manufacturing Company", with its

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principal place of business in the city of Chicago, in the State of Illinois. That said respondent is and has been for some time past engaged in selling men's suits of clothing to purchasers located in a State or States other than the State of Illinois, and pursuant to such sales and as a part thereof, causes and has caused said men's suits so sold to be transported from his place of business in the State of Illinois into and through States other than the State of Illinois to said purchasers in the State or States in which they are located.

PAR. 2. That during all of said time stated in paragraph 1 hereof there have been and now are other persons, firms, and corporations engaged in the business of selling men's suits similar to those sold by respondent, and pursuant to such sales and as a part thereof, have caused and do cause such suits to be shipped to customers located in States other than the States of origin of such shipments, and with such other persons, firms, and corporations respondent has been and is in substantial competition.

PAR. 3. That the said respondent, Harry Kapust, in the course and conduct of his business as described in paragraph 1 hereof, by and through sales agents and representatives, sells and has sold men's suits directly to the persons by whom such suits are to be worn; that the respondent furnishes and has furnished to his sales agents and representatives order blanks which set forth directions for taking measurements usually regarded as essential to the tailoring of a suit to the individual measure of a customer, and that such sales agents and representatives, by displaying such order blanks to customers and prospective customers, and by taking the measurements specified thereby, and by their statements and conduct, represent and have represented to such customers and prospective customers and lead and have led them to believe that the men's suits sold by respondent are tailored to the individual measurements of the purchasers thereof. That respondent also furnishes to his said sales agents and representatives, and through said sales agents and representatives and otherwise, displays to and circulates among his customers and prospective customers for men's suits, advertising booklets and other printed matter which contain in conspicuous type the words "Tailored-To-Fit". That in truth and in fact not all of the men's suits sold by respondent as aforesaid are made to the individual measurements of the purchasers thereof, but that on the contrary, many of respondent's orders for men's suits are and have been filled with suits already made in stock sizes, which are altered when necessary to conform to the measurements of the customers.

PAR. 4. That in the advertising booklets and other printed matter furnished to respondent's sales agents and representatives and

displayed to and circulated among respondent's customers and prospective customers for men's suits as set forth in paragraph 3 hereof, there appear in bold and conspicuous type the words "Low Cost Because Sold From Maker to Wearer", and other language to similar effect; and that respondent, by his said statements so made in his said advertising booklets and other printed matter, and by the statements and conduct of his sales agents and representatives, and by the use of the word "Manufacturing" in his trade names as aforesaid, and otherwise, represents and has represented to his customers and prospective customers and leads and has led them to believe that the men's suits so advertised and sold by respondent, are made by respondent in his own factory or place of business. That in truth and in fact the respondent does not and has not during any of the time hereinabove mentioned manufactured any of the men's suits sold by him as aforesaid, but that on the contrary, all of the said men's suits sold by respondent are and have been manufactured in a factory or establishment, or factories or establishments, neither owned, operated nor controlled by respondent.

PAR. 5. That the representations made by respondent as described and set forth in paragraphs 3 and 4 hereof, have the capacity and tendency to mislead and deceive, and do mislead and deceive many of respondent's customers and prospective customers into the erroneous belief that the respondent operates or controls a factory or establishment in which the men's suits sold by respondent as aforesaid are manufactured to the individual measurements of the purchasers thereof, and that persons buying suits sold by respondent are buying such suits directly from the manufacturer thereof, and that such suits are made by respondent to the individual measurements of such purchasers; and that therefore customers and prospective customers of respondent are deceived and misled into the erroneous belief that they are obtaining the benefits of price, service and other advantages not obtainable by purchasing suits from persons, firms, and corporations other than manufacturers, and that they are obtaining the further advantage of having their suits made to their individual measurements, whereas none of the suits sold by respondent are made by respondent, but are made by other manufacturers and not all of such suits are made by such other manufacturers to the individual measurements of the purchasers.

PAR. 6. That there are among the competitors of respondent referred to in paragraph 2 hereof many who manufacture the men's suits which they sell and who rightfully represent that they are the manufacturers thereof; and that there are others of said competitors who purchase the men's suits in which they deal and resell same, and who do not represent that they manufacture said suits;

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that there are also among said competitors many who rightfully represent that the men's suits which they sell are tailored according to the individual measurements of the purchasers thereof, and others of said competitors who sell suits made in stock sizes and who do not represent that such suits are made to the individual measurements of the purchasers; and that the acts and practices of respondent in representing that he manufactures the suits sold by him, and that such suits are tailored to the individual measurements of the purchasers thereof, tend to divert and do divert business from and otherwise injure and prejudice said competitors.

PAR. 7. That the aforesaid acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate commerce within the intent and meaning of Section 5 of the said Act of Congress hereinabove entitled.

ORDER TO CEASE AND DESIST

This matter coming on to be heard by the Commission upon a complaint filed herein on the 10th day of December 1935 and answer to said complaint, filed on January 4, 1936 by Harry Kapust, trading as Roselile Manufacturing Company, etc., respondent herein, which answer of said respondent states that he waives hearing on the charges set forth in the complaint; that he refrains from contesting the proceeding and that he consents that the Commission, without trial, without evidence, and without findings as to facts, or other intervening procedure, may make, enter, issue, and serve upon said respondent, an order to cease and desist from the methods of competition charged in the complaint; and the Commission now being fully advised in the premises:

It is hereby ordered, That the respondent, Harry Kapust, his agents, representatives, salesmen and employees, in connection with the sale or offering for sale, in commerce between and among the several States of the United States and in the District of Columbia, of certain men's suits of clothing, cease and desist from:

(1) Advertising or in any way otherwise representing, directly or by implication, himself or his company, by advertisements, advertising literature, stationery or in any manner or means whatsoever, to be a manufacturer of men's suits of clothing, until and unless he owns, operates and controls a factory or factories in which said men's suits of clothing are manufactured;

(2) The use of the word "manufacturing" as a part of, or in connection with, any trade name under which he carries on his said business of selling men's suits of clothing, or the use in any way of the words "from maker to wearer" or words of similar im-

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port, until and unless he owns, operates and controls a factory or factories in which the said men's suits of clothing are manufactured;

(3) Advertising or in any other way otherwise representing, directly or by implication, through advertisements, advertising literature, salesmen's solicitations, or in any manner or means whatsoever, that the men's suits of clothing offered for sale and sold by him are "tailored-to-fit" or that said men's suits of clothing are tailored or made to order or to the individual measure of the purchasers thereof, until and unless said suits are actually tailored or made to the order of or to the individual measure of the purchasers thereof.

It is further ordered, That respondent shall within 60 days from the date of 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 hereinabove set forth.

IN THE MATTER OF
GENERAL TIRE & RUBBER COMPANY

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

Docket 2669. Complaint, Dec. 24, 1935—Order, Jan. 30, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the distribution, offer for sale and sale in interstate commerce of tires made or sold by it, to cease and desist from—

- (a) Representing or advertising its tires to be "blowout proof", unless and until said tires are proof against blowouts, and from couching its advertisements in such general words and phrases as to cause or tend to cause the public to believe that the tires made or sold by it are blowout proof, unless and until said tires are proof against blowouts; or
- (b) Furnishing to the dealers and distributors in and of its tires copy for advertising to be used in pamphlets, etc., by said dealers and distributors, and which contains space at the bottom of the copy for the insertion of the name and address of the particular dealer or distributor and represents or imports or implies, or causes the purchasing public to believe, that the tires made or sold by it are "blowout proof", unless and until the said tires are proof against blowouts.

Mr. Reuben J. Martin for the Commission.

Waters, Andress, Wise, Roetzel & Mawon, of Akron, Ohio, 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 General Tire & Rubber Company 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 thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. General Tire & Rubber Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal office and place of business located in the city of Akron within said State of Ohio. It is now and for more than two years last past has been engaged in the manufacture of automobile tires and in the sale and distribution thereof between and among the various States of the United States.