

Complaint

IN THE MATTER OF

CHARLES A. SARETSKY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2805. Complaint, May 15, 1936—Decision, Sept. 15, 1936*

Where an individual engaged as jobber and converter of interlinings for ultimate use in manufacture of garments, and in sale thereof to purchasers in various States and in District of Columbia—

Supplied to customer garment manufacturers for their use labels containing legend that "This garment is interlined with Lambs' Wool Filling", or "with 100% Lambs' Wool Filling", or "with 100% Wool Filling", or "With Wool Filling", as case might be, notwithstanding fact his said interlinings were not thus composed, but were made up in part of wool or reworked wool, adulterated with a large percentage of cotton, and cloth to which filling was attached was of cotton entirely;

With effect of misleading and deceiving purchasers of aforesaid products and of finished garments to which such tags or labels were attached by manufacturers thereof, into erroneous belief that said individual's product was in fact composed of lambs' wool or wool, as on said labels set forth, and into purchase of said products in such erroneous beliefs, and with effect of placing in hands of manufacturers, fabricators, jobbers, dealers, and retailers of finished garments composed in part of his said products, a means of misleading and deceiving the purchasing and consuming public and of unfairly diverting trade thereby to him from competitors among whom there are dealers and fabricators of similar filling or interlinings who do not in anywise thus designate their products as "Lambs' Wool", etc., or use language of like import, but truthfully represent the character and quality thereof and do not misrepresent the same; to the substantial injury of competition in commerce:

Held, That such acts and practices, under the conditions and circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John L. Hornor* and *Mr. W. W. Sheppard*, trial examiners.

Mr. James M. Hammond for the Commission.

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 Charles A. Saretsky, an individual, is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing

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to said Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues this, its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Charles A. Saretsky, is an individual trading under his own name, whose office and principal place of business is located at 246 West 38th Street, in the city of New York, State of New York. He is now, and has been for more than one year last past, engaged as a jobber and converter of interlinings for use in the fabrication or manufacture of garments, shipping such products, when sold, to the purchasers thereof, some located in the State of New York, and others located in various States of the United States and in the District of Columbia, and there is now, and has been for more than one year last past, a constant current of trade and commerce by respondent in his aforesaid products. In the course and conduct of his business, the respondent is now, and for more than one year last past has been, in substantial competition with other individuals, and with corporations, firms, and partnerships engaged in the sale of the same and similar products between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, in the course and conduct of his business, has caused said products to be tagged, or labeled, or accompanied by a sufficient quantity of loose tags or labels to permit the purchasers of respondent's products, to affix one of said tags or labels to each of the garments eventually manufactured or fabricated, in part, from respondent's interlining, or "filling" as it is sometimes called. The ratio of loose tags furnished by respondent to his customers, who are the manufacturers of the finished garment, is approximately one tag or label for each two yards of interlining or filling sold and delivered by the respondent.

PAR. 3. The wording on the tags or labels furnished by respondent to his customers, as described in paragraph 2, *supra*, states, among other things, the following:

This garment is interlined with Lambs' Wool filling.

This garment is interlined with 100% Lambs' Wool filling.

This garment is interlined with 100% wool filling.

This garment is interlined with wool filling.

said statements purporting to be descriptive of the character and quality of said products, and serving as representations on the part of respondent as to such quality. In some instances the wording on the tags or labels above described is accompanied by pictures of sheep or lambs, or both.

PAR. 4. In truth and in fact, respondent's product is not "Lambs' Wool filling," nor "100% Lambs' Wool filling," nor "100% wool filling," nor "wool filling," but is a cheap and inferior product, composed in part of wool, or reworked wool, or shoddy, adulterated with a large percentage of cotton, and the cloth to which such filling is attached, and which forms a part of the completed interlining as sold by respondent, is composed entirely of cotton.

PAR. 5. Use by respondent of the aforesaid tags or labels with the wording and representations referred to in paragraph 3, supra, or other similar language, has the capacity and tendency of misleading and deceiving, and has misled and deceived, purchasers of the aforesaid products, and purchasers of the finished garments to which the said tags or labels are attached by the manufacturers or fabricators thereof, into the belief that respondent's said product is in fact composed of "Lambs' Wool," "100% Lambs' Wool," or "100% wool," or "wool," and to purchase such products of respondent in such erroneous belief, and places into the hands of manufacturers, fabricators, jobbers, dealers, and retailers of finished garments composed in part of respondent's products a means of misleading and deceiving the purchasing and consuming public. Among the competitors of respondent mentioned in paragraph 1 hereof are dealers and fabricators of filling or interlining similar to that made and sold by respondent, but who do not in anywise designate such product as "Lambs' Wool," or "100% Lambs' Wool," or "100% wool," or "wool," or by language of like import, and who truthfully represent their products. By the aforesaid acts and practices of respondent, trade is diverted by respondent from his competitors who do not misrepresent their products, whereby substantial injury is being done, and has been done, by respondent to competition in commerce, as herein set out.

PAR. 6. That the above methods, acts, and practices of the respondent are all to the prejudice and injury of the public and to 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 May 15, 1936, issued and served its

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complaint in this proceeding on respondent, Charles A. Saretsky, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, certain testimony was taken by the Commission in support of the complaint. Thereafter the respondent, with the approval of the Commission, withdrew his said answer and filed in the office of the Commission in lieu thereof a substituted answer in which he admitted all the material allegations of the complaint to be true and waived hearing on the charges set forth in said complaint and consented that, without further evidence or other intervening procedure, the Commission might issue and serve upon him findings as to the facts and conclusion, and an order to cease and desist from the violations of law charged in the complaint. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substituted answer; briefs and oral arguments of counsel having been waived, and the Commission having duly considered the record and, being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Charles A. Saretsky, is an individual whose principal place of business is located at 246 West 38th Street, New York City. He is now, and has been for more than one year last past, engaged as a jobber and converter of interlinings for ultimate use in the fabrication or manufacture of garments, shipping his products when sold to the purchasers thereof, some of whom are located in the city of New York, and others located in various States of the United States and in the District of Columbia. There is now, and has been for more than one year last past, a constant current of trade and commerce by respondent in his aforesaid products. In the course and conduct of his business the respondent is now and for more than one year last past has been in substantial competition with other individuals, and with corporations, firms, and partnerships engaged in the sale of the same and similar products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Interlining is an article used in the clothing manufacturing industry, for placing inside the lining of a garment for the purpose of improving the shape of, or giving additional warmth to the finished garment. The respondent's product consists of a layer of

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filling of about one-eighth of an inch in thickness, which, because of its loose consistency and in order to facilitate handling and working, is loosely stitched between an upper and lower layer of very light cotton material. This case pertains only to the filling and does not involve the light outside cotton material to which the filling itself is attached.

PAR. 3. The respondent, in the course and conduct of his business has caused his product to be tagged or labeled or accompanied by a sufficient quantity of loose tags or labels to permit the purchasers of respondent's products, who are manufacturers of finished garments, to affix one of said labels or tags to each of the garments eventually manufactured or fabricated in part from respondent's interlining. When loose tags are furnished by respondent to his customers, they are provided on the ratio of approximately one tag for each two yards of interlining or filling, sold and delivered by respondent.

PAR. 4. The wording on the tags or labels furnished by the respondent to his customers, as above described, states among other things, that:

This garment is interlined with Lambs' Wool Filling.

This garment is interlined with 100% Lambs' Wool Filling.

This garment is interlined with 100% Wool Filling.

This garment is interlined with Wool Filling.

These statements purport to be descriptive of the character and quantity of respondent's product and serve as direct representations on the part of respondent that his said interlining is manufactured from "Lambs' Wool Filling," or "100% Lambs' Wool Filling," or "100% Wool Filling," or "Wool Filling."

PAR. 5. Respondent's said product is not "Lambs' Wool Filling," nor "100% Lambs' Wool Filling," nor "100% Wool Filling," nor "Wool Filling," but is a cheap and inferior product, composed in part of wool or reworked wool, adulterated with a large percentage of cotton, and the cloth to which said filling is attached, is composed entirely of cotton.

PAR. 6. The representations made by respondent as set out and described in paragraph 4 hereof, or other similar language, have a capacity and tendency to mislead and deceive, and have misled and deceived the purchasers of the aforesaid products and purchasers of the finished garments to which the said tags or labels are at-

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tached by the manufacturers or fabricators thereof, into the erroneous belief that the respondent's said product is in fact, composed of "Lambs' Wool," "100% Lambs' Wool," "100% Wool," or "Wool," and into the purchase of said products of respondent in such erroneous belief, and the use of such representations places in the hands of manufacturers, fabricators, jobbers, dealers, and retailers of finished garments composed in part of respondents products a means of misleading and deceiving the purchasing and consuming public. Among the competitors of the respondent mentioned in paragraph 1 hereof, are dealers and fabricators of filling or interlinings similar to that made and sold by respondent, but who do not in anywise designate such products as "Lambs' Wool," "100% Lambs' Wool," "100% Wool," or "Wool," or use language of like import, and who truthfully represent the character and quality of their products. By the aforesaid acts and practices of respondent, trade is unfairly diverted by respondent from his competitors who do not misrepresent their products. As a result thereof substantial injury is being done, and has been done, by respondent to competition in interstate commerce.

CONCLUSION

The aforesaid acts and practices of the respondent, under the conditions and circumstances set forth in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce and constitute a violation 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 been heard by the Federal Trade Commission upon the complaint of the Commission and the substituted answer of respondent filed herein on the 31st day of August 1936, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in said complaint and consents that, without further evidence or other intervening procedure, the Commission may issue and serve upon him findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated 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."

It is ordered, That the respondent, Charles A. Saretsky, his agents, servants, representatives, and employees, in connection with the offering for sale, sale, and distribution of interlining or filling material, in the interstate commerce or in the District of Columbia, do forthwith cease and desist from:

(1) Attaching to his interlining and filling material tags or labels which misrepresent the amount of the wool content, or the kind or quality of the wool content, of such interlining and filling material;

(2) Furnishing to purchasers of his interlining and filling material, to be attached to garments in which such material is used, tags or labels which misrepresent the amount of the wool content, or the kind or quality of wool content, of such interlining and filling material;

(3) In any other manner misrepresenting the amount of the wool content, or the kind or quality of the wool content, of such interlining and filling material.

It is further ordered, That the respondent Charles A. Saretsky, shall, within 60 days from the date of the service upon him 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 this order.

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IN THE MATTER OF

S. M. FRANK & COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2666. Complaint, Dec. 20, 1935—Decision, Sept. 16, 1936*

Where a corporation engaged in manufacture of a pipe designed for equipment with a filter by insertion and use in stem thereof, and in the sale of said pipe and filter for use in connection therewith to wholesalers and to large retailers in the various States and in the District of Columbia; in widely advertising its aforesaid pipes and filters under names "Medico" and "Frank", respectively, in periodicals of national circulation and others, and through display boards and window advertising and otherwise—

Represented that its said "Medico" pipe contained, and was to be used with, the "only filter in the world that really filters", or "the only filter that really filters", or "*THE* pipe filter that really filters", facts being there are other filters on the market which satisfactorily and efficiently serve purpose for which its said pipe filters generally are designed and used, and filter made and sold by it for use in its said "Medico" pipe was not the only one in the world that really filtered or only pipe filter that really performed such function;

With intent to induce prospective purchasers to buy its said pipes and filters in false belief that they were the only articles in existence and on the market which would satisfactorily serve the purpose for which such filters are used and for which it sold its said filter, and with capacity and tendency to mislead and deceive a substantial number of members of purchasing public and cause a substantial diversion of trade to it from its competitors, who do not thus falsely represent their products; to the substantial injury of actual or potential competition in interstate commerce:
Held, That such acts and practices in the sale of said filter were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. Edward M. Averill*, trial examiner.

Mr. Allen C. Phelps for the Commission.

Mr. Edward S. Rogers and *Mr. Junius Parker* of Rogers, Ramsay & Hoge, 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 S. M. Frank & Company, Inc., a corporation, hereinafter referred to as the respondent, has been and is using unfair methods of competition