

IN THE MATTER OF

JACK KING, ALIAS ORRIS DeMATTEIS, TRADING AS
ARTISTIC TAILORING COMPANY AND ARTISTIC
UNIFORM & TAILORING CO.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3621. Complaint, Oct. 4, 1938—Decision, Mar. 22, 1939*

Where an individual engaged in sale and distribution of workmen's service suits, uniforms, shirts, caps, and other wearing apparel to purchasers thereof in other States and in the District of Columbia, in substantial competition with others engaged in sale of apparel similar in kind and character to that sold and distributed by him, and including many who do not in any manner misrepresent the nature, character, and equipment of their business and the quality of their products, and do not make any other false statements in connection with sale and distribution thereof—

- (a) Represented, through statements disseminated in advertisements in newspapers and other periodicals, leaflets, pamphlets, and other printed matter distributed among prospective purchasers in various States and in said District, that products which he sold and distributed were made or manufactured by him, and that he owned, operated, and maintained tailoring plants for manufacture of clothing, and latest up-to-date tailoring equipment and machines, and employed workmen or tailors who were thoroughly experienced in use of such machinery or equipment, through use of word "Tailoring" in trade names employed by him, and statements therein made, and "Our workmanship is unsurpassed by machine or human hands. Every member of our organization is thoroughly experienced in the use of our latest up-to-date machinery and equipment," and "Mail orders direct to factory now," and "We guarantee every garment to be * * * tailored the size as your order specifies"; and—
- (b) Represented, as aforesaid, that he had branch offices in various localities and was manufacturer of "the world's finest Shield Brand Uniforms, caps, trousers," etc., and that he or his business were "Tailors of the world's finest uniforms," through statements aforesaid and such statements, among others, as "We guarantee every garment to be exactly as described and illustrated in our catalog," and "Shipment to be made from Kansas City or your nearest branch factory";

Facts being he did not own, operate, or maintain tailoring plant or establishment at which products sold and distributed were made or manufactured, own, operate, or maintain latest up-to-date tailoring equipment, etc., or any tailoring equipment and machinery, or have in his employ expert workmen or tailors, or own or operate or maintain clothing factories or branch factories in Kansas City, Los Angeles, or New York, did not tailor garments sold and distributed by him to individual size and measurement of purchaser, and his products were not of quality or nature illustrated and described in his catalog or other advertisements, but were inferior thereto in quality and material, and his statements and representations as above set forth were otherwise false and misleading;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and that his business status was as represented, and that his products possessed qualities claimed and represented, and of causing substantial portion of such public, because of such erroneous and mistaken beliefs, to purchase substantial quantities of his said products, and of thus diverting unfairly trade to him from his competitors who truthfully advertise their business status and nature and quality of their products:

Held, That such acts and practices were to the prejudice and injury of the public and competitors and constituted unfair methods of competition and unfair and deceptive acts and practices in commerce.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Jack King, alias Orris DeMatteis, an individual, trading as Artistic Tailoring Co. and Artistic Uniform & Tailoring Co. hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the 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, Jack King, alias Orris DeMatteis, is an individual trading as Artistic Tailoring Co. and Artistic Uniform & Tailoring Co. and having his office and principal place of business at 2107 Grand Avenue, in the city of Kansas City, State of Missouri.

PAR. 2. The respondent is now and has been for more than 1 year last past engaged in the business of selling and distributing workmen's service suits, uniforms, shirts, caps, and other wearing apparel. Respondent sells said products to members of the purchasing public situated in various States of the United States and the District of Columbia, and causes said products, when sold by him, to be transported from his aforesaid place of business in the State of Missouri to the purchasers thereof at their respective points of location in various States of the United States, other than the State of Missouri, and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in commerce in said products among and between the various States of the United States and the District of Columbia.

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PAR. 3. Respondent is engaged in substantial competition in commerce among and between the various States of the United States and the District of Columbia with other individuals and with corporations, partnerships, and firms selling and distributing articles of wearing apparel of a similar kind and character to those sold and distributed by the respondent, as aforesaid. Among such competitors in said commerce are many who do not in any manner misrepresent the nature, character, and equipment of their business and of the quality of their products and who do not make any other false statements in connection with the sale and distribution of their said products.

PAR. 4. In the course and conduct of his said business, and for the purpose of inducing the purchase of his products, respondent has caused advertisements containing representations and claims with respect to his business status and the quality and nature of his products to be disseminated in commerce, as defined in the Federal Trade Commission Act, through the use of advertisements inserted in newspapers and other periodicals having a general circulation throughout the various States of the United States and through the use of booklets, leaflets, pamphlets, and other printed matter distributed among prospective purchasers in the various States of the United States and in the District of Columbia.

Among others, and typical of the representations and claims contained in said false advertising so used and disseminated as aforesaid, are the following:

Tailors of the world's finest uniforms
New York City—Los Angeles, Cal.
2107 Grand Avenue, Kansas City, Mo.

We guarantee every garment to be exactly as described and illustrated in our catalog and tailored the size as your order specified.

We are tailors of the world's finest uniforms.

The Artistic Uniform & Tailoring Company
Manufacturers of

the world's finest Shield Brand Uniforms, caps, trousers, shirts, jackets, etc.,
also smocks and dresses.

Terms: Net 10 days F.O.B. Factory

Our workmanship is unsurpassed by machine or human hands. Every member of our organization is thoroughly experienced in the use of our latest up-to-date machinery and equipment.

Mail orders direct to factory now.

Shipment to be made from Kansas City or your nearest branch factory.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar thereto not herein set out, all

of which purport to be descriptive of the nature, character, and equipment of the business of the respondent and of the quality of respondent's products, respondent has represented directly and indirectly, among other things, that respondent owns, operates, or maintains the tailoring plant or establishment at which the products which are sold and distributed by the respondent, as aforesaid, are made or manufactured, that respondent owns, operates and maintains the latest up-to-date tailoring equipment and machinery and has in his employ expert workmen or tailors who are thoroughly experienced in the use of such machinery or equipment, that respondent is a tailor of the world's finest uniforms, that respondent owns, operates, or maintains a clothing factory to which prospective purchasers can directly send mail orders for wearing apparel, that respondent owns, operates or maintains clothing factories, or branch factories, in Kansas City, Mo., Los Angeles, Calif., and New York City, N. Y., that respondent tailors the garments which he sells and distributes to the individual size and measurement of the purchaser thereof, that respondent's products are of the quality and material as illustrated and described in the catalog and other advertisements of respondent, that respondent's workmanship is unsurpassed by machine or human hands and that respondent is a manufacturer of the world's finest Shield Brand uniforms, caps, trousers, shirts, etc.

PAR. 6. In truth and in fact, respondent does not own, operate, or maintain the tailoring plant or establishment at which the products which are sold and distributed are made or manufactured. He does not own, operate, or maintain the latest up-to-date tailoring equipment and machinery or any tailoring equipment or machinery. He does not have in his employ expert workmen or tailors who are thoroughly experienced in the use of such machinery or equipment, nor does he have in his employ any expert workmen or tailors. He is not a manufacturer of the world's finest Shield Brand uniforms, caps, trousers, shirts, etc. He does not own, operate, or maintain a clothing factory to which prospective purchasers can directly send mail orders for wearing apparel. He does not own, operate, or maintain clothing factories or branch factories in Kansas City, Mo., Los Angeles, Calif., and New York City, N. Y. He does not tailor the garments which he sells and distributes to the individual size and measurement of the purchaser thereof. His products are not of the quality and nature as illustrated and described in his catalog and other advertisements but are inferior thereto in quality and material. His workmanship is not unsurpassed by machine or human hands.

Respondent purchases the said products which he sells and distributes from the manufacturers and same are not tailored or cut to

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the individual measure of the purchaser but are from regular stock and of regular sizes. Respondent removes the manufacturer's label from said products and places thereon his own label.

PAR. 7. The use by respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid, with respect to respondent's business status and the quality and nature of his products, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true, and that respondent's business status is as represented and his products possess the qualities claimed and represented and cause a substantial portion of the purchasing public because of such erroneous and mistaken beliefs to purchase substantial quantities of respondent's said product. As a result trade has been and is now being diverted unfairly to the respondent from his competitors in commerce who truthfully advertise their business status and the nature and quality of their products. In consequence thereof injury has been and is being done by respondent to competitors in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The aforesaid acts and practices as herein alleged are all to the prejudice and injury of the public and the respondent's competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 4, 1938, issued, and on October 11, 1938, served, its complaint in this proceeding upon respondent, Jack King, alias Orris DeMatteis, an individual trading as Artistic Tailoring Co., and Artistic Uniform & Tailoring Co., charging him with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing be-

fore the Commission, on said complaint and substitute answer, and the Commission, having duly considered the matter 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. The respondent, Jack King, alias Orris DeMatteis, is an individual, trading as Artistic Tailoring Co., and Artistic Uniform & Tailoring Co., and having his principal place of business at 6738 Montgall Street in the city of Kansas City, State of Missouri.

PAR. 2. Said respondent is now and has for more than 1 year last past engaged in the business of selling and distributing workmen's service suits, uniforms, shirts, caps, and other wearing apparel. Respondent sells said products to members of the purchasing public situated in various States of the United States and in the District of Columbia and causes said products, when sold by him, to be transported from his aforesaid place of business in the State of Missouri to the purchasers thereof in various States of the United States, other than the State of Missouri, and in the District of Columbia.

Respondent maintains and at all times mentioned herein has maintained a course of trade in commerce in said products among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent is engaged in substantial competition in commerce among and between the various States of the United States and the District of Columbia with other individuals, corporations, partnerships, and firms selling and distributing articles of wearing apparel of a similar kind and character to those sold and distributed by the respondent as aforesaid. Among such competitors in said commerce are many who do not in any manner misrepresent the nature, character, and equipment of their business and of the quality of their products and who do not make any other false statements in connection with the sale and distribution of their said products.

PAR. 4. In the course and conduct of the said business and for the purpose of inducing the purchase of his products, respondent has caused advertisements containing representations and claims with respect to his business status and the quality and nature of his products to be disseminated in commerce, as defined in the Federal Trade Commission Act, through the use of advertisements inserted in newspapers and other periodicals having a general circulation throughout the various States of the United States and through the

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use of booklets, leaflets, pamphlets, and other printed matter distributed among prospective purchasers in various States of the United States and in the District of Columbia. Among others and typical of the representations and claims contained in said false advertising so used and disseminated, as aforesaid, are the following:

Tailors of the world's finest uniforms

New York City—Los Angeles, Cal.

2107 Grand Avenue, Kansas City, Mo.

We guarantee every garment to be exactly as described and illustrated in our catalog and tailored the size as your order specifies.

We are tailors of the world's finest uniforms.

The Artistic Uniform & Tailoring Company

Manufacturers of

the world's finest Shield Brand Uniforms, caps, trousers, shirts, jackets, etc. also smocks and dresses.

Terms: Net 10 days F. O. B. Factory.

Our workmanship is unsurpassed by machine or human hands. Every member of our organization is thoroughly experienced in the use of our latest up-to-date machinery and equipment.

Mail orders direct to factory now.

Shipment to be made from Kansas City or your nearest branch factory.

PAR. 5. Through the use of the statements and representations hereinabove set forth and others similar hereto not herein set out, all of which purport to be descriptive of the nature, character, and equipment of the business of the respondent and of the quality of respondent's products, respondent has represented, directly and indirectly, among other things, that he owns, operates, or maintains the tailoring plant or establishment at which the products, which are sold and distributed by the respondent as aforesaid, are made or manufactured; that respondent owns, operates, and maintains the latest up-to-date tailoring equipment and machinery and has in his employ expert workmen or tailors who are thoroughly experienced in the use of such machinery or equipment; that respondent is the tailor of the world's finest uniforms; that respondent owns, operates, or maintains a clothing factory to which prospective purchasers can directly send mail orders for wearing apparel; that respondent owns, operates, or maintains clothing factories or branch factories in Kansas City, Mo., Los Angeles, Calif., and New York, N. Y.; that respondent tailors the garments which he sells and distributes to the individual size and measurement of the purchaser thereof; that respondent's products are of the quality and material as illustrated and described in the catalog and other advertisements of respondent; that respondent's workmanship is unsurpassed by machinery or human hands; and that respondent is a manufac-

turer of the world's finest Shield Brand Uniforms, caps, trousers, shirts, etc.

PAR. 6. In truth and in fact, respondent does not own, operate, or maintain the tailoring plant or establishment at which the products which are sold and distributed are made or manufactured. He does not own, operate, or maintain the latest up-to-date tailoring equipment and machinery or any tailoring equipment or machinery. He does not have in his employ expert workmen or tailors. He is not a manufacturer of the world's finest Shield Brand uniforms, caps, trousers, shirts, etc. He does not own, operate, or maintain a clothing factory to which prospective purchasers can directly send mail orders for wearing apparel. He does not own, operate, or maintain clothing factories or branch factories in Kansas City, Mo., Los Angeles, Calif., and New York, N. Y. He does not tailor the garments which he sells and distributes to the individual size and measurement of the purchaser thereof. His products are not of the quality and nature as illustrated and described in his catalog and other advertisements but are inferior thereto in quality and material. His workmanship is not unsurpassed by machine or human hands.

PAR. 7. The use by respondent of the foregoing false, deceptive, and misleading statements, representations, and advertisements disseminated as aforesaid, with respect to respondent's business status and the quality and nature of his products, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true, and the respondent's business status is as represented and his products possess the qualities claimed and represented and cause a substantial portion of the purchasing public, because of such erroneous and mistaken beliefs, to purchase substantial quantities of respondent's said products. As a result trade has been, and is now being, diverted unfairly to the respondent from his competitors in commerce who truthfully advertise their business status and the nature and quality of their products.

CONCLUSION

The aforesaid acts and practices of the respondent, Jack King, alias Orris DeMatteis, an individual, trading as Artistic Tailoring Co., and Artistic Uniform & Tailoring Co., are to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Jack King, alias Orris DeMatteis, individually and trading as Artistic Tailoring Co. and Artistic Uniform & Tailoring Co., or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of workmen's service suits, uniforms, shirts, caps, and other wearing apparel in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing through the use of the word "tailoring" or any word of similar import or meaning in his trade name or through any other means or device or in any manner that the products sold and distributed by respondent are made or manufactured by him, or that he owns, operates, or maintains a tailoring plant for the manufacture of clothing, unless and until such respondent actually owns and operates or directly and absolutely controls a manufacturing plant wherein said products are manufactured by him.

2. Representing that he owns, operates, or maintains the latest up-to-date tailoring equipment and machines, or that he employs workmen or tailors who are thoroughly experienced in the use of such up-to-date machinery or equipment when such are not the facts.

3. Representing through the use of fictitious addresses or any other manner that respondent has branch offices in various localities where in fact no such branch office exists.

4. Representing that respondent is a manufacturer of Shield Brand or any other brand of uniforms, caps, trousers, shirts, jackets and other articles of wear which the respondent does not in fact manufacture.

5. Representing that respondent is a tailor of the world's finest uniforms.

It is further ordered, That the respondent shall within 60 days after 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.

Complaint

IN THE MATTER OF

JOSEPH SCULLER, INC., AND JOSEPH SCULLER, MRS.
JOSEPH SCULLER AND HAMEL GURWIN, INDIVIDU-
ALLY AND AS OFFICERS OF JOSEPH SCULLER, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3701. Complaint, Feb. 7, 1939—Decision, Mar. 22, 1939*

Where a corporation, and three officers thereof who formulated, controlled, and directed its policies, acts, and practices and acted together and in cooperation with one another in such acts and practices as below described, engaged in selling and distributing watches, rings, diamonds, and a variety of jewelry and gift articles at wholesale and retail—

Represented, through use of word "Manufacturing" in phrase "Manufacturing Jeweler Wholesale," displayed with trade name employed by them on letter-heads, invoices, and other printed matter for distribution by traveling salesmen and otherwise to customers and prospective customers in other States, that they owned, operated, or controlled plant or factory wherein, or machinery whereby, articles sold by them were made or manufactured;

Facts being they did not own, operate, or control, and had not thus owned, operated, or controlled for some time past, plant or machinery for manufacture of the articles sold and distributed by them as above set forth, but filled orders for such articles with products made in plant or factory and by machinery which they neither owned, operated, nor controlled, and they were not manufacturer or plant operator of such articles, for the purchase of which direct there is a preference on part of certain buyers and prospective buyers, as affording, in their belief, saving of middleman's profit, more uniform line of jewelry, and other advantages;

With effect of causing members of purchasing public situated in various States to have erroneous and mistaken belief that they actually owned and operated, or controlled, plants or factories wherein, or machinery whereby, such merchandise was made or manufactured, and into purchase of substantial amounts of their said products by reason thereof:

Held, That such acts and practices were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. B. G. Wilson for the Commission.

Mr. E. J. Schanfarber, of Columbus, Ohio, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Joseph Sculler, Inc., a corporation, and Joseph Sculler, Mrs. Joseph Sculler, and Hamel Gurwin, individuals and officers of Joseph Sculler, Inc., hereinafter