

IN THE MATTER OF

JULIUS M. FIRK, TRADING AS STRAUSS TAILORING COMPANY, FEDERAL TAILORING COMPANY, BELL TAILORING COMPANY AND ARLIN TAILORING COMPANY

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

Docket 3788. Complaint, May 11, 1939—Decision, Aug. 2, 1939

Where an individual engaged, under various trade names, in manufacture, sale, and distribution of suits and other clothing for men, and in selling his said products to purchasing public in various States directly and through merchant tailors who displayed samples of his cloth, took measurements of individual customers, and sent same to his place of business for making up into suits and other articles of clothing for men; in furtherance of practice of falsely representing constituent fiber or material of which his said clothing was made, and to induce purchase of his clothing, and in endeavor to aid such merchant tailors to procure customers' orders therefor—

- (a) Caused false statements and representations purporting to be descriptive of his said clothing and its constituent fibers or materials to be inserted on swatch cards, markers, price lists, and circulars distributed among purchasers and prospective purchasers, and thus represented, among other things, through placing on swatch cards and in various advertising circulars statements "Guaranteed All Wool," "Woolens of Quality," and "Super Quality Worsteds," that the fabrics so described were composed entirely of "Wool," definite and specific meaning of which word, unqualified, to purchasing or consuming public, is virgin or unused, as distinguished from reclaimed, wool;

Facts being they were not all wool, for purchase of which, by reason of established reputation for superior resistance to cold and wearing qualities, there is decided preference in suits and other clothing for men over fabrics composed in part of cotton, rayon or other fiber, but were composed only in part of wool, and in part of rayon or other materials; and

- (b) Represented that lining used in manufacture of his said clothing was composed predominantly of silk, product of cocoon of silkworm, and thus represented, through practice, among others, of placing on swatch cards or in various advertising circulars and other printed matter statements such as "Silk Celanese Sleeve and Body Lining," "Silk Celatate Sleeve and Body Lining," and "Silk Rayon Sleeve and Body Lining," that fabrics or linings thus described were composed predominantly of silk as aforesaid;

Facts being they were not composed of silk, as long understood by purchasing and consuming public from unqualified use of word as meaning unweighted silk, and were not suit linings composed of silk, held in great public esteem and confidence for its wearing qualities and decidedly preferred by purchasers and prospective purchasers over those linings composed of cotton, rayon, or other fibers, but were composed entirely of rayon, of presence of which, with appearance and feel of silk so as to be practically indistinguishable therefrom by purchasing public, said public was not advised through trade or coined names designating method of manufacture, used alone or in

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conjunction with word "silk," and which were not sufficiently known to or understood by it to be readily identified as designating rayon;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous belief that such representations were true, and that he truthfully represented constituent fiber or material of his clothing, and to cause them to purchase same as result of erroneous belief thus engendered:

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

Mr. J. D. Kash for the Commission.

Mr. Julius J. Schwartz, of Chicago, Ill., for respondent.

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 Julius M. Firk, an individual, trading as Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin 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. Julius M. Firk is an individual, trading and doing business under the name of Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin Tailoring Co., with his principal place of business located at 224 South Wells Street, Chicago, Ill.

PAR. 2. In the course and conduct of his aforesaid businesses, respondent, Julius M. Firk, is, and for several years last past has been, engaged in the manufacture, sale, and distribution of suits and other clothing for men. Sales of such products are made directly and through tailor merchants to the purchasing public located in various States of the United States and in the District of Columbia. Said merchant tailors display samples of respondent's cloth, take measurements of the individual customer, and send same to respondent's place of business in Chicago, Ill., where said orders are made up into suits and other articles of clothing for men. Respondent causes said products, when sold, to be transported from his said place of business in Chicago, Ill., to purchasers thereof located in other States of the United States and in the District of Columbia.

PAR. 3. Respondent maintains and at all times mentioned herein has maintained, a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

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PAR. 4. In the course and conduct of his said business the respondent has engaged in the practice of falsely representing the constituent fiber or material of which the clothing sold and distributed by him is made by means of false representations on swatch cards, markers, price lists, and in various advertising matter and by failure to disclose the rayon content of certain of his clothing. In furtherance of this practice and for the purpose of inducing the purchase of his clothing and endeavoring to aid merchant tailors to procure customers' orders therefor, respondent has caused false statements and representations purporting to be descriptive of such clothing and its constituent fibers or materials to be inserted on swatch cards, markers, price lists, and circulars distributed among purchasers and prospective purchasers of said clothing.

PAR. 5. Among and typical of the acts and practices above described the respondent represents certain of his fabrics as being composed entirely of wool when in fact said fabrics are composed in part of wool and in part of other materials. As an example of this practice the respondent places on swatch cards and in various advertising circulars the following descriptive statements:

Guaranteed all wool.
Woolens of quality.
Super quality worsteds.

By this means the respondent represents that the fabrics so described are composed entirely of wool when in truth and in fact the fabrics so described are composed only in part of wool and in part of cotton, rayon, or other materials.

PAR. 6. Another and typical act and practice engaged in by the respondent in falsely representing his products and fabrics is the representation that the lining material used by the respondent in the manufacture of his clothing is composed predominantly of silk, the product of the cocoon of the silkworm. As an example of this practice respondent places on swatch cards and in various advertising circulars and other printed matter the following statements as descriptive of his lining material:

Silk celanese sleeve and body lining.
Silk celatate sleeve and body lining.
Silk rayon sleeve and body lining.

By this means the respondent represents that the fabrics or linings so described are composed predominantly of silk, the product of the cocoon of the silkworm, when in truth and in fact said fabrics or lining material are composed entirely of rayon.

PAR. 7. Over a period of many years fabrics made of all-wool or woolen materials have established a reputation of possessing superior cold-resistant and wearing qualities over fabrics made from cotton or

other fibers. Purchasers and prospective purchasers of suits and other clothing for men on account of such reputation have a decided preference for such all-wool or woolen fabrics over fabrics composed in part of cotton, rayon, or other fibers. The unqualified word "wool" has in the minds of the purchasing and consuming public the definite and specific meaning of virgin or unused wool as distinguished from reclaimed wool.

The word "silk" for many years last past has had and still has in the minds of the purchasing and consuming public generally a definite and specific meaning as being the product of the cocoon of the silkworm. The unqualified word "silk" has in the minds of the purchasing and consuming public the definite and specific meaning of unweighted silk or silk which has not been subjected to the process of a metallic bath. Suit lining composed of silk has held and still holds great public esteem and confidence for its wearing qualities and purchasers and prospective purchasers on account of such reputation have a decided preference for silk linings over linings composed of cotton, rayon, or other fibers.

The word "rayon" is the name of a chemical fiber or fabric which resembles silk in that it has the appearance and feel of silk and is by the purchasing public practically indistinguishable from silk. By reason of these qualities rayon when not designated as such is readily believed and accepted by the purchasing public as being silk, the product of the cocoon of the silkworm. When trade or coined names or names designating the method of manufacture are used alone or in conjunction with the word "silk" as descriptive of a rayon fabric or material, such words are not sufficiently known to or understood by the public to be readily identified as designating rayon.

PAR. 8. The use by respondent of the representations set forth herein has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations are true and that the respondent has truthfully represented the constituent fiber or material of his clothing and to cause them to purchase respondent's clothing as a result of the erroneous belief engendered as above set forth.

PAR. 9. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice of the public and constitute 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 the 11th day of May 1939, issued,

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and on the 15th day of May 1939, served its complaint in this proceeding upon Julius M. Firk, an individual trading as Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin Tailoring Co., charging him with the use of 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 before 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. Julius M. Firk is an individual trading and doing business under the names of Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin Tailoring Co., with his principal place of business located at 224 South Wells Street, Chicago, Ill.

PAR. 2. In the course and conduct of his aforesaid business respondent, Julius M. Firk, is, and for several years last past has been engaged in the manufacture, sale, and distribution of suits and other clothing for men. Sales of such products are made directly and through tailor merchants to the purchasing public located in various States of the United States and in the District of Columbia. Said merchant tailors display samples of respondent's cloth, take measurements of individual customers, and send same to respondent's place of business in Chicago, Ill., where said orders are made up into suits and other articles of clothing for men. Respondent causes said products when sold to be transported from his said place of business in Chicago, Ill., to purchasers thereof located in other States of the United States and in the District of Columbia.

PAR. 3. Respondent maintains and at all times mentioned herein has maintained a course of trade in said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of his said business the respondent has engaged in the the practice of falsely representing the constituent fiber or material of which the clothing sold and distributed by him is made by means of false representations on swatch cards, markers, price lists, and in various advertising matter and by failure to disclose the rayon content of certain of his clothing. In furtherance of this practice and for the purpose of inducing the purchase of his clothing and endeavoring to aid merchant tailors to procure customers' orders therefor, respondent has caused false statements and representations purporting to be descriptive of such clothing and its constituent fibers or materials to be inserted on swatch cards, markers, price lists, and circulars distributed among purchasers and prospective purchasers of said clothing.

PAR. 5. Among and typical of such acts and practices as above described the respondent represents certain of his fabrics as being composed entirely of wool, when in truth and in fact said fabrics are composed in part of wool and in part of other materials. As an example of this practice, the respondent places on swatch cards and in various advertising circulars the following descriptive statements:

Guaranteed All Wool
Woolens of Quality
Super Quality Worsteds

By this means the respondent represents that the fabrics so described are composed entirely of wool, when in truth and in fact the fabrics so described are composed only in part of wool and in part of rayon or other materials.

PAR. 6. Another and typical act and practice engaged in by the respondent in falsely representing his products or fabrics is the representation that the lining material used by the respondent in the manufacture of his clothing is composed predominantly of silk, the product of the cocoon of the silkworm. As an example of this practice the respondent places on swatch cards or in various advertising circulars and other printed matter the following statements as descriptive of his lining material: "Silk Celanese Sleeve and Body Lining," "Silk Celatate Sleeve and Body Lining," and "Silk Rayon Sleeve and Body Lining." By this means the respondent represents that the fabrics or linings so described are composed predominantly of silk, the product of the cocoon of the silkworm, when in truth and in fact said fabrics or lining materials are composed entirely of rayon.

PAR. 7. Over a period of many years fabrics made of all wool or woolen materials have established a reputation for possessing superior

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cold resistant and wearing qualities over fabrics made from cotton or other fibers. Purchasers and prospective purchasers of suits and other clothing for men on account of such reputation have a decided preference for such all wool or woollen fabrics over fabrics composed in part of cotton, rayon or other fiber. The unqualified use of the word "wool" has in the minds of the purchasing or consuming public the definite and specific meaning of virgin or unused wool as distinguished from reclaimed wool.

The word "silk" for many years last past has had and still has in the minds of the purchasing and consuming public generally a definite and specific meaning as being the product of the cocoon of the silkworm. The unqualified word "silk" has in the minds of the purchasing and consuming public the definite and specific meaning of unweighted silk or silk which has not been subjected to the process of a metallic bath. Suit lining composed of silk has held and still holds great public esteem and confidence for its wearing qualities and purchasers and prospective purchasers on account of such reputation have decided preference for silk linings over linings composed of cotton, rayon, or other fibers.

The word "rayon" is the name of the chemical fiber or fabric which resembles silk in that it has the appearance and feel of silk and is by the purchasing public practically indistinguishable from silk. By reason of these qualities rayon when not designated as such is readily believed and accepted by the purchasing public as being silk, the product of the cocoon of the silkworm. When trade or coined name or names designating the method of manufacture are used alone or in conjunction with the word "silk" as descriptive of a rayon fabric or material, such words are not sufficiently known to or understood by the public to be readily identified as designating rayon.

PAR. 8. The use by respondent of the representations set forth herein has had and now has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations are true and that the respondent has truthfully represented the constituent fiber or material of his clothing and to cause them to purchase respondent's clothing as the result of the erroneous belief engendered as above set forth.

CONCLUSION

The aforesaid acts and practices of the respondent, Julius M. Firk, trading as Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin Tailoring Co., are all to the prejudice of the

public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon a 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 the respondent, Julius M. Firk, an individual, trading as Strauss Tailoring Co., Federal Tailoring Co., Bell Tailoring Co., and Arlin Tailoring Co., or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of men's clothing in commerce, as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that respondent's products are composed of fibers or materials other than those of which they are actually composed; or representing, in any manner, that the fabrics or products manufactured or sold by respondent contain wool in greater quantity, percentage, or degree than is actually the case.

2. Using the words "wool," "woolens," or "worsted," or any other word or words of similar import or meaning, to designate or describe any fabric or other products which are not composed wholly of wool, provided that in the case of a fabric or product composed in part of wool and in part of a material or materials other than wool, such words may be used as descriptive of the wool content, if there is used in immediate connection therewith, in letters of equal size and conspicuousness, a word or words accurately describing and designating each constituent fabric or material thereof in the order of its predominance by weight, beginning with the largest single constituent.

3. Using the unqualified word "silk" or any other word or words of similar import or meaning to designate or describe any fabric or other product which is not composed wholly of unweighted silk, the product of the cocoon of the silkworm.

4. Advertising, offering for sale, or selling, fabrics or any other products composed in whole or in part of rayon without clearly dis-

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closing the fact that such fabrics or products are composed of rayon, and when such fabrics or products are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including the rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent.

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.

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IN THE MATTER OF

WEISS BEDDING COMPANY, INC., AND DAN WEISS, JR.

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

Docket 3809. Complaint, June 6, 1939—Decision, Aug. 2, 1939

Where a corporation and an individual, who was president thereof and formulated, controlled, and directed its sales policies and practices, engaged in manufacture, sale, and distribution of mattresses, and acting in cooperation with each other in doing below described acts and things—

Falsely represented constituent fiber and material of their said mattresses, through means of false and misleading statements and representations placed by them on labels attached thereto, and thus, through various other advertising matter and through such statements and representations, among others disseminated, as "This mattress contains 100% cotton felt," "All new and sanitary," and "Complies with all State laws," represented to prospective purchasers that certain of their mattresses were 100 percent cotton felt, and that material therein was all new and sanitary, and that they complied with all State laws;

Facts being they did not contain 100 percent "cotton felt," or product, as understood from said words in mattress trade by wholesalers and retailers selling and distributing such products and by members of purchasing public, made of cotton fibers which had been garnetted together into a mat or web, material contained therein was not all new and sanitary, and said products did not comply with all State laws;

With effect of misleading and deceiving substantial number of purchasing public into erroneous and mistaken belief that such false and misleading statements and representations were true, and of causing members of said public to buy their said products because of such erroneous and mistaken belief:

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

Mr. L. E. Creel, Jr. for the Commission.

Mr. Grover G. Sales, of Louisville, Ky., 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 Weiss Bedding Co., Inc., a corporation, and Dan Weiss, Jr., an individual, hereinafter referred to as respondents, have violated the provisions of the 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: