

IN THE MATTER OF
USONA SHIRT COMPANY

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

Docket 3842. Complaint, July 6, 1939—Decision, Aug. 8, 1939

Where a corporation engaged in sale and distribution of various grades and types of textile fabrics, including men's shirts, to members of purchasing public in various States and in the District of Columbia; in furtherance of practice of representing falsely condition and constituent fiber or material of which various products sold and distributed by it were made, through false representations on labels attached to its products and in various advertising matter, and, in said connection, of inserting in catalogs, price lists, and other advertising matter distributed among prospective purchasers situated in the various States and in said District, false statements and representations purporting to be descriptive of its said products as aforesaid—

- (a) Represented, as typical, that certain of its products were "shrunk," "pre-shrunk," or "full shrunk," through use of said words on labels thereof, and that such garments thus labeled were made from shrink-proof or non-shrinkable cloth, or from cloth which had been shrunk to such an extent that no residual shrinkage was left therein, facts being products thus marked, stamped, labeled, and advertised were not made of such cloth, and said cloth from which such products were made had not in fact been fully shrunk to the extent that no residual shrinkage was left remaining in goods concerned; and
- (b) Represented, as typical, to purchasing and consuming public, that its said products were made especially for each individual customer, through using, on labels and in catalogs, term "custom made," notwithstanding fact they were manufactured in same way that ready-made shirts are ordinarily manufactured;

With tendency and capacity to mislead and deceive substantial portion of purchasing public into erroneous beliefs that it had truthfully represented condition of constituent fiber or material of which its various products were made, and that they were in fact custom made, and with result, by reason of such erroneous and mistaken beliefs, that number of consuming public purchased substantial volume of its products, and trade was diverted unfairly to it from its competitors also engaged in sale and distribution in commerce as aforesaid of various grades and types of textile fabrics and both custom-made and ready-made shirts:

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

Mr. James L. Fort 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 Usona Shirt Co., a corporation, 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. Respondent, Usona Shirt Co., is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 230 Fifth Avenue, in the city of New York, State of New York.

PAR. 2. Respondent is now, and for a year or more last past has been, engaged in the business of selling and distributing various grades and types of textile fabrics, among which are men's shirts. The respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said products when sold by it to be transported from its place of business in the State of New York to the purchasers thereof at their respective points of location in various States of the United States other than the State of New York, and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce 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 in the District of Columbia, with other corporations and with individuals, firms, and partnerships engaged in the business of selling and distributing various grades and types of textile fabrics and men's shirts in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its said business, the respondent has engaged in the practice of falsely representing the constituent fiber or material, and the condition thereof, of which the various products sold and distributed by it are made, by means of false representations on labels attached to its products and in various advertising matter. In furtherance of this practice and for the purpose of inducing the purchase of its said products, respondent has caused false statements and representations purporting to be descriptive of such products and the condition of their respective constituent fiber or material to be inserted in catalogues, price lists and in other advertising

matter distributed among prospective purchasers of said products situated in various States of the United States and in the District of Columbia.

PAR. 5. Among and typical of the acts and practices above described, the respondent represented certain of its products, by the use of labels thereon, as being "shrunk," "preshrunk," or "full shrunk," and represented that said garments so labeled were made from shrink-proof or nonshrinkable cloth, or from cloth which had been shrunk to such an extent that no residual shrinkage was left in such cloth.

PAR. 6. In truth and in fact, the products so marked, stamped, labeled and advertised as described in paragraph 5 hereof, were not made of shrink-proof, nonshrinkable cloth, and such cloth from which said products were made had not in fact been fully shrunk to the extent that no residual shrinkage was left remaining in such goods.

PAR. 7. Another and typical act and practice engaged in by the respondent in falsely representing its products is the use on labels and in catalogues, distributed as aforesaid, of the term "custom-made," thereby representing to the purchasing and consuming public that its said products were made especially for each individual customer, when in truth and in fact such products were manufactured in the same way that ready-made shirts are ordinarily manufactured.

PAR. 8. The use by the respondent of the aforesaid acts and practices has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous beliefs that the respondent has truthfully represented the condition of the constituent fiber or material of its various products and that such products are in fact custom made. On account of such erroneous and mistaken beliefs, a number of the consuming public have purchased a substantial volume of respondent's products with the result that trade has been diverted unfairly to the respondent from his competitors who are also engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia, of various grades and types of textile fabrics and both custom made and ready-made shirts. As a consequence thereof, injury has been done, and is now being done, by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, are all 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on July 6, 1939, issued, and on July 7, 1939, served its complaint in this proceeding upon respondent, Usona Shirt Co., charging it with unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On July 25, 1939, respondent filed its answer in which it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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. Respondent, Usona Shirt Co., is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 230 Fifth Avenue, in the city of New York, State of New York.

PAR. 2. Respondent is now, and for a year or more last past has been, engaged in the business of selling and distributing various grades and types of textile fabrics, among which are men's shirts. The respondent sells its products to members of the purchasing public situated in the various States of the United States and in the District of Columbia, and causes said products, when sold by it, to be transported from its place of business in the State of New York to the purchasers thereof at their respective points of location in various States of the United States other than the State of New York and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce 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 in the District of Columbia with other corporations and with individuals, firms, and partnerships engaged in the business of selling and distributing various grades and types of textile fabrics and men's shirts in commerce among and between the various States of the United States and in the District of Columbia.

Findings

29 F. T. C.

PAR. 4. In the course and conduct of its said business, the respondent has engaged in the practice of falsely representing the constituent fiber or material, and the condition thereof, of which the various products sold and distributed by it are made, by means of false representations on labels attached to its products and in various advertising matter. In the furtherance of this practice, and for the purpose of inducing the purchase of its said products, respondent has caused false statements and representations purporting to be descriptive of such products and the condition of their respective constituent fiber or material to be inserted in catalogs, price lists, and in other advertising matter distributed among prospective purchasers of said products situated in the various States of the United States and in the District of Columbia.

PAR. 5. Among, and typical of, the acts and practices above described, respondent represented certain of its products, by the use of labels thereon, as being "shrunk" "preshrunk," or "full shrunk," and represented that said garments so labeled were made from shrink-proof or nonshrinkable cloth, or from cloth which had been shrunk to such an extent that no residual shrinkage was left in such cloth.

PAR. 6. In truth and in fact, the products so marked, stamped, labeled, and advertised as described in paragraph 5 hereof, were not made of shrink-proof or nonshrinkable cloth, and such cloth from which said products were made had not in fact been fully shrunk to the extent that no residual shrinkage was left remaining in such goods.

PAR. 7. Another, and typical, act and practice engaged in by the respondent in falsely representing its products is the use, on labels and in catalogs distributed as aforesaid, of the term "custom-made," thereby representing to the purchasing and consuming public that its said products were made especially for each individual customer, when in truth and in fact such products were manufactured in the same way that ready-made shirts are ordinarily manufactured.

PAR. 8. The use by the respondent of the aforesaid acts and practices has had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous beliefs that the respondent has truthfully represented the condition of the constituent fiber or material of which its various products are made, and that such products are, in fact, custom made. On account of such erroneous and mistaken beliefs, a number of the consuming public have purchased a substantial volume of respondent's products, with the result that trade has been diverted unfairly to the respondent from its competitors who are also engaged in the sale and distribution in commerce between and among the various States of

the United States and in the District of Columbia of various grades and types of textile fabrics and both custom made and ready made shirts.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all 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.

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

It is ordered, That the respondent, Usona Shirt Co., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of textile fabrics including men's shirts and other like articles, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "shrunk," "preshrunk," or "full shrunk," or any other words or terms of similar import or meaning, to describe, designate, or in any way refer to, any fabric which is not in fact shrink-proof or nonshrinkable, or which has not been fully shrunk or preshrunk to the extent that no residual shrinkage is left therein.

2. Using the words "custom-made," or any other words or terms of similar import and meaning, to designate, describe, or in any way refer to, shirts or other products which are not made especially for each individual customer.

3. Representing that respondent's products possess a quality, grade, character or condition superior to or different from that which they actually possess.

It is further ordered, That the respondent shall, within 60 days after the service upon it 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 this order.

IN THE MATTER OF
ZO-RO-LO, INC.

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

Docket #030. Complaint, Jan. 8, 1937—Decision, Aug. 12, 1939

Where a corporation engaged in manufacture of its "Zo-Ro-Lo" liquid medicinal preparation, for use, as represented by it, by members of consuming public afflicted with diabetes, arthritis and various other ailments and conditions, and in sale thereof to purchasers at wholesale, authorized to use said name "Zo-Ro-Lo" in their trade names, and by mail direct to consumers; in advertisements in booklets, blotters and other printed matter distributed to members of purchasing public in various States and in broadcasts from radio stations of extrastate audience, and through authorized use by distributors of trade name as aforesaid, and in other ways—

- (a) Represented that said preparation was a cure or remedy for arthritis, asthma, brain disease, Bright's Disease, diabetes, acidity, epileptic convulsions, gall stones, inward goitre, rheumatism, neuritis, sciatica, or sinus, kidney or prostate gland trouble;
- (b) Represented that said "Zo-Ro-Lo" neutralized toxic poison, relieved all pain, or had therapeutic value in the treatment of ailments which are due to intestinal auto-intoxication; and
- (c) Represented that said preparation was beneficial in starting one on the road to health, and in building up resistance to combat the cause of disease;

Facts being said "Zo-Ro-Lo" was no more than a mild laxative, taken in small doses, or purgative, if concentration of salts was high and dose large, had, aside from foregoing, no therapeutic value, and did not tend to neutralize toxic poisons or eliminate cause of majority of diseases, had no therapeutic value in treatment of ailments which were due to intestinal auto-intoxication other than as laxative or purgative, 90 percent of all human ailments are not, as represented by it, traceable to toxins formed in colon by auto-intoxication caused by putrefaction of uneliminated waste products, it was not a cure or remedy for rheumatism or rheumatic fever, caused by infection and defective alimentation, nor for arthritis, for which no cure or remedy is known, nor for various other ailments and conditions above specified, other than as aforesaid noted, nor for general paresis or other mental conditions associated with organic or functional disturbances in the nervous system;

With tendency and capacity to mislead and deceive substantial portion of purchasing public into belief that all said representations were true, and with result, as direct consequence of such mistaken and erroneous belief induced through such advertising and representations, of causing consuming public to purchase substantial volume of said "Zo-Ro-Lo," and of thereby diverting trade unfairly to it from others engaged in sale, in commerce among the various States, of products intended to be used for like and similar purposes, and who truthfully advertise the same: