

Complaint

29 F. T. C.

IN THE MATTER OF
MORBEN HAT WORKS, INC., AND MORRIS S. ALTMAN

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

Docket 3838. Complaint, June 28, 1939—Decision, Sept. 18, 1939

Where a corporation and an individual, who was an officer thereof and principal stockholder therein, and managed, controlled, and dominated its affairs and activities, engaged in manufacture of hats from old, worn, and used felt hats purchased by them, and so treated and processed, through cleaning, steaming, ironing, and shaping and, in some instances, fitting same with new trimmings, sweat bands, and size labels, that they had the appearance of new products made from felts which had never been worn—
Sold said products, with appearance aforesaid, and with no label, marking, or designation stamped thereon to indicate to purchasing public that they were made from old, worn, and previously used felt hat bodies which had been cleaned and renovated by them, to jobbers, wholesalers, and retailers who sold, as buyers direct or from said jobbers and wholesalers, to purchasing public said products, without disclosing fact that such hats were made as aforesaid, and under such circumstances as to indicate that they were in fact new hats;

With effect of misleading and deceiving substantial number of wholesalers, jobbers, retailers, and members of purchasing public into erroneous and mistaken beliefs that said products were made from either new and unused materials or from new, but shopworn hat bodies, cleaned, steamed, and renovated by manufacturers thereof in manner similar to that employed in connection with those made from old, worn, and previously used felt bodies, and into purchase of substantial number of such hats because of said erroneous and mistaken belief:

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

Before *Mr. John L. Hornor*, trial examiner.

Mr. Robert Mathis, Jr. 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 Morben Hat Works, Inc., a corporation, and Morris S. Altman, individually and as an officer of said Morben Hat Works, Inc., hereinafter referred to as respondents, have 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, Morben Hat Works, Inc., is now and has been at all times mentioned herein, a corporation, existing and doing business under and by virtue of the laws of the State of New York. Respondent Morris S. Altman is an individual and an officer and the principal stockholder of respondent Morben Hat Works, Inc., and as such manages, controls and dominates its corporate affairs and activities. All of said respondents have their office and principal place of business at 162 Green Street, in the city and State of New York. Respondents are now, and for more than 1 year last past have been engaged in the business of manufacturing hats from felts and other materials obtained from old, worn and previously used hats and of selling the same to retailers, jobbers, and wholesalers located in the various States of the United States and in the District of Columbia. Respondents cause, and at all times herein mentioned have caused, such hats to be transported from their place of business in the city and state of New York to the aforesaid 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.

PAR. 2. In the course and conduct of said business, described in paragraph 1 hereof, respondents buy old, worn, and used felt hats. The old, worn, and used felt hats are cleaned, steamed, ironed, and shaped by respondents and then in some instances are fitted with new trimmings, sweat bands, size labels, and sold by respondents to retailers who, in turn sell said products to the purchasing public.

PAR. 3. The aforesaid, old, worn, and previously used hat bodies, after having been cleaned and renovated by respondents as described in paragraph 2 hereof, have the appearance of new hats manufactured from felts which have never been worn, and said hats are sold by respondents to retailers, and to jobbers and wholesale dealers without any label, marking, or designation stamped thereon to indicate to the purchasing public that said hats are manufactured from old, worn, and previously used felt hat bodies, which have been cleaned and renovated by respondents. Said hats are sold to jobbers and wholesale dealers and are resold by said jobbers and wholesale dealers to retail dealers, who sell them to the purchasing public without disclosing the fact that said hats are manufactured from felts, previously worn, and then cleaned and renovated, and under such circumstances as to indicate that they are in fact new hats.

It is the practice of various manufacturers of hats to manufacture finished hats from previously used hat bodies, and from new felt hat bodies, obtained from new but shop-worn hats, as well as from newly manufactured felt. Shop-worn hats are new hats which are reclaimed from merchants' shelves by said hat manufacturers, and which have never been worn or used. Said shop-worn hats are cleaned, steamed, and renovated by such hat manufacturers in the same manner as hats made from old, worn, and previously used felt hat bodies.

PAR. 4. The use by respondents of the acts and practices, above set forth, has the capacity and tendency to, and does, mislead and deceive a substantial number of wholesale dealers, jobbers, retail dealers, and members of the purchasing public into the erroneous and mistaken beliefs that the said hats are manufactured from either new and unused materials, or are made from new but shop-worn hat bodies, and into the purchase of a substantial number of said hats because of such erroneous and mistaken beliefs.

PAR. 5. The aforesaid acts and practices of the respondents 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 28th day of June, A. D. 1939, issued and served its complaint in this proceeding upon the respondents, Morben Hat Works, Inc., a corporation, and Morris S. Altman, individually and as an officer of Morben Hat Works, Inc., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 23, 1939, the respondents filed their answer, in which answer they 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, Morben Hat Works, Inc., is now and has been at all times mentioned herein, a corporation, existing and

doing business under and by virtue of the laws of the State of New York. Respondent Morris S. Altman is an individual and an officer and the principal stockholder of respondent Morben Hat Works, Inc., and as such manages, controls, and dominates its corporate affairs and activities. All of said respondents have their office and principal place of business at 162 Green Street, in the city and State of New York. Respondents are now, and for more than 1 year last past have been, engaged in the business of manufacturing hats from felts and other materials obtained from old, worn, and previously used hats and of selling the same to retailers, jobbers, and wholesalers located in the various States of the United States and in the District of Columbia. Respondents cause, and at all times herein mentioned have caused, such hats to be transported from their place of business in the city and State of New York to the aforesaid 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.

PAR. 2. In the course and conduct of said business, described in paragraph 1 hereof, respondents buy old, worn, and used felt hats. The old, worn, and used felt hats are cleaned, steamed, ironed, and shaped by respondent and then in some instances are fitted with new trimmings, sweat bands, size labels, and sold by respondents to retailers who, in turn, sell said products to the purchasing public.

PAR. 3. The aforesaid old, worn, and previously used hat bodies, after having been cleaned and renovated by respondents as described in paragraph 2 hereof, have the appearance of new hats manufactured from felts which have never been worn, and said hats are sold by respondents to retailers, and to jobbers and wholesale dealers without any label, marking, or designation stamped thereon to indicate to the purchasing public that said hats are manufactured from old, worn, and previously used felt hat bodies, which have been cleaned and renovated by respondents. Said hats are sold to jobbers and wholesale dealers and are resold by said jobbers and wholesale dealers to retail dealers, who sell them to the purchasing public without disclosing the fact that said hats are manufactured from felts, previously worn, and then cleaned and renovated, and under such circumstances as to indicate that they are in fact new hats.

It is the practice of various manufacturers of hats to manufacture finished hats from previously used hat bodies, and from new felt hat bodies, obtained from new but shop-worn hats, as well as from newly manufactured felt. Shop-worn hats are new hats which are reclaimed from merchants' shelves by said hat manufacturers, and which have never been worn or used. Said shop-worn hats are

Order

29 F. T. C.

cleaned, steamed, and renovated by such hat manufacturers in the same manner as hats made from old, worn, and previously used felt hat bodies.

PAR. 4. The use by respondents of the acts and practices, above set forth, has the capacity and tendency to, and does, mislead and deceive a substantial number of wholesale dealers, jobbers, retail dealers, and members of the purchasing public into the erroneous and mistaken beliefs that the said hats are manufactured from either new and unused materials, or are made from new but shop-worn hat bodies, and into the purchase of a substantial number of said hats because of such erroneous and mistaken beliefs.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found 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 the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in the said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Morben Hat Works, Inc., a corporation, its officers, representatives, agents, and employees, and respondent Morris S. Altman, individually and as an officer of said corporation, his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of hats in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that hats composed in whole or in part of used or second-hand materials are new or are composed of new materials by failure to stamp on the sweat bands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating said sweat bands, a statement that said products are composed of second-hand or used materials, provided that if sweat bands are not affixed to such hats then such stamping must appear on the bodies

964

Order

of such hats in conspicuous and legible terms which cannot be removed or obliterated without mutilating said bodies.

2. Representing in any manner that hats made in whole or in part from old, used, or second-hand materials are new or are composed of new materials.

It is further ordered, That respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
ROBERT C. OBERLIN, TRADING AS RESEARCH
PRODUCTS CO.

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

Docket 3863. Complaint, Aug. 5, 1939—Decision, Sept. 18, 1939

Where an individual engaged in sale and distribution of various medicinal preparations to purchasers in various other States and in the District of Columbia; in advertisements which he disseminated through the mails, through newspapers, and periodicals of general circulation, and through circulars and other printed or written matter distributed among the various States, and through various other means, and which were intended and likely to induce purchase of his preparations—

- (a) Represented, as aforesaid, that certain preparations thus offered, but not actually sold, and known as "Dupree Pills," "Dupree Double Strength Pills," and "Dr. Gordon's Special Formula Double Strength Pills," constituted cures or remedies for delayed menstruation and competent and effective treatments therefor, and that said preparations were safe and harmless, facts being they were not cures or remedies for said condition, did not constitute competent or effective treatments therefor, and were not safe and harmless, in that they contained extract cotton root bark, extract black hellebore, oil tansy, powdered aloes, oil savin, and ergotin in quantities sufficient to cause serious and irreparable injury to health if taken as prescribed in said advertisements or under such conditions as are customary or usual;
- (b) Failed to reveal, in advertisements disseminated with respect thereto, that use of said preparations, under conditions prescribed in said advertisements or under conditions such as are customary or usual, might result in serious or irreparable injury to health;
- (c) Represented that his medicinal preparation known as "Van Dyke Dutch Brand Haarlem Oil Capsules" was a cure or remedy for and had therapeutic value in treatment of rheumatism, sleeplessness, nervousness, or pains in the back, and would serve to flush poisons out of the kidneys or bladder, facts being it was not a competent and effective remedy for any of said ailments or conditions or competent or effective treatment therefor, and would not accomplish results claimed as above set forth; and
- (d) Represented that use of his preparation known as "Dr. Gordon's Vitam-Perles" or "Vitamin E Perles" was a competent or effective remedy or cure for, and had therapeutic value in the treatment of the conditions known as lack of ambition, loss of strength, loss of blood or anemia, or run-down condition, facts being it was not a competent or effective remedy for any of said ailments, had no potency as such tonic or stimulant, and was not a cure or remedy for various conditions above set forth;

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 to induce substantial