

Order

IN THE MATTER OF

FIORET SALES COMPANY, INC., AND MURRAY W. MORIN
AND IRVING UNTERMAN, INDIVIDUALLY, AND AS
OFFICERS OF FIORET SALES COMPANY, INC.

MODIFIED CEASE AND DESIST ORDER

Docket 3164. Order, Mar. 25, 1940

Modified order, pursuant to provisions of Sections 5 (1) of Federal Trade Commission Act, in proceeding in question, in which original order issued on February 19, 1938, 26 F. T. C. 806, and in which Circuit Court of Appeals for Second Circuit on December 5, 1938, in *Fioret Sales Co., Inc., et al. v. Federal Trade Commission* 100 F. (2d) 358, 27 F. T. C. 1702, rendered its opinion and on April 28, 1939, issued its final decree affirming order in question by modification thereof in certain particulars—

Requiring respondent, its officers, etc., in connection with offer for sale and distribution of perfumes in interstate commerce or in the District of Columbia, to forthwith cease and desist from representing through use of such words as "Les Parfums des Jardines de Fioret," or through the use of any foreign words or phrases, or otherwise, that perfumes made or compounded in the United States are made or compounded in France or any other foreign country or are imported, subject to provision that so long as respondents obey terms of aforesaid prohibition, they may imprint upon or affix to packages, etc., or other containers of their perfumes, words "The concentrates of which these perfumes are made were produced in France and, as such, were imported into the United States where they were combined or diluted with domestic alcohol and the resulting perfume was bottled in United States of America."

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on February 19, 1938, the Commission made its findings as to the facts herein and concluded therefrom that respondents had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on December 5, 1938, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on April 28, 1939 issued its final decree affirming the aforesaid order of the Commission by modifying said order in certain particulars.

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said decree:

Order

30 F. T. C.

It is ordered, That the respondents, Fioret Sales Co., Inc., a corporation, its officers, representatives, agents, and employees, and Murray W. Morin and Irving Unterman, individually, and as officers of respondent Fioret Sales Co., Inc., in connection with the offering for sale, sale and distribution of perfumes in interstate commerce or in the District of Columbia, do forthwith cease and desist from, directly or through implication:

Representing, through the use of such words as "Les Parfums des Jardine de Fioret," or through the use of any foreign words or phrases, or through any other means or device, or in any manner, that perfumes manufactured or compounded in the United States are made or compounded in France or in any other foreign country, or are imported.

It is hereby further ordered, That, so long as respondents shall obey the terms of prohibition 1 hereof, that they be, and hereby are, permitted and authorized to imprint upon, or affix to, packages, cartons, bottles, or other containers of their said perfumes the following words, to wit: "The concentrates of which these perfumes are made were produced in France and, as such, were imported into the United States where they were combined or diluted with domestic alcohol and the resulting perfume was bottled in United States of America."

It is further ordered, That the respondents shall, within 30 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.

Syllabus

IN THE MATTER OF
FAIRBANKS TAILORING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3525. Complaint, Aug. 4, 1938—Decision, Mar. 27, 1940*

Where a corporation engaged in tailoring, on individual orders, suits, overcoats and other clothing for men and suits and coats for women, and in selling and distributing its said wearing apparel through salesmen or agents, who solicited and accepted orders from members of purchasing public, to purchasers in various other States, in substantial competition with others also engaged in sale and distribution of such wearing apparel in commerce among the various States and in the District of Columbia, and including among its said competitors many who do not misrepresent wool content of fabrics from which said garments are made and do not in any manner misrepresent or exaggerate earnings of their salesmen or agents, and do not designate or describe as "free" suits and overcoats not given as gift or gratuity, but as additional compensation for sale of garments—

- (a) Represented, in advertisements in periodicals of general circulation throughout the United States, in which it stated that it had openings for ambitious men to wear suits and overcoats tailored to measure by it and to act as its agents in selling said products, that such agents could make up to \$10 per day by selling its clothing without canvassing, and that experience was not necessary, facts being inexperienced salesman could not earn such amount without canvassing, and it would be necessary for salesman, in order to earn such sum or any amount approximating it, to be consistently employed in, and necessarily in canvassing, sale of its garments;
- (b) Referred, in its said advertisements for agents, to so-called free suit offer, facts being such suits were not free and were not delivered to those replying to such advertisements without cost and unconditionally, but were delivered only to those who sold, within stated period of time, 12 or specified number of its garments, and so-called free suits were earned by those securing same through their services in selling its said products and not as a gift or gratuity; and
- (c) Described, in literature sent to those replying to aforesaid advertisements, material from which wearing apparel was produced by it as "The finest of wool fabrics," "all worsted" and "all wool," and in sample fabric books supplied to its salesmen and agents for display in promoting sale of its said products, respectively described as "all wool Herringbone," etc., and "all worsted twist with rayon design," the two fabrics concerned, and further labeled and described by sample as "all worsted" other fabrics, and in advertising matter referring generally to aforesaid samples, referred thereto as "all wool," "wool," "woolen" and "100% all wool," facts being fabric first referred to was not composed of wool in its entirety or within such tolerances as might have been recognized in industry at time in question, but contained, in substantial part, silk and rayon, "all worsted" fabric aforesaid, designation of which as such word "twist" in no wise modified, was not, as understood by trade and purchasing public from use