

IN THE MATTER OF

LOUIS GOLDMAN, TRADING AS GLOBE RUMMAGE MART

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

Docket 4016. Complaint, Feb. 5, 1940—Decision, May 13, 1940

Where an individual engaged in purchase of second-hand clothing and other merchandise which he bought on the open market from other second-hand dealers, junk dealers, and at rummage sales, and in sale and distribution thereof to purchasers in various other States and in the District of Columbia; in offering and describing through catalogs distributed by him through the mails and in other ways to purchasers and prospective purchasers in the various States and in said District, and through circulars, form letters, and other advertising literature which he disseminated, his said second-hand and reclaimed wearing apparel—

- (a) Represented that such apparel purchased by him as aforesaid was seasonable and salable merchandise of the latest or currently popular style, facts being it was old and out of style;
- (b) Represented that said apparel was salable merchandise in good condition and was only slightly used, facts being it was old, dirty, badly worn, and generally unsalable and frequently packages thereof, when shipped to customers, contained goods that were old, out of style, dirty, worn-out, unsalable, valueless, and of different size, color, age, quality, style, and condition from that ordered by customers;
- (c) Represented that he had complete assortments of wearing apparel available, facts being he did not have complete assortment of sizes available; and
- (d) Represented that any merchandise which was not entirely satisfactory might be returned for replacement, facts being he did not generally, as advertised by him, make satisfactory replacements or refunds where merchandise was not satisfactory;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that such false statements and representations were true and into purchase of said merchandise by reason thereof:

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. R. A. McOuat 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 Louis Goldman, an individual trading as Globe Rummage Mart, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in that respect would be

in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Louis Goldman, is an individual doing business under the name of Globe Rummage Mart, and having his office and principal place of business located at 3238 South State Street in the city of Chicago, State of Illinois. During the past year, and prior thereto, respondent has been engaged in the sale and distribution of second-hand clothing and other merchandise. Respondent causes said merchandise when sold to be transported from his place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of second-hand and reclaimed wearing apparel sold and distributed by him, the respondent publishes a catalog listing and describing the various articles of merchandise sold and distributed by him. Respondent distributes this catalog by United States mail and by other means to purchasers and prospective purchasers located in the various States of the United States and the District of Columbia. In addition to the catalogs distributed by the respondent, the respondent also disseminates advertising by means of circulars, form letters, and other means for the purpose of inducing the purchase of his various articles of merchandise.

In said catalogs and other means of advertising, the respondent has engaged in the practice of falsely representing that the merchandise sold by him is only slightly used merchandise; that all articles listed in his catalog are reclaimed or slightly used but are in good salable condition; that such articles are seasonable merchandise and are the most popular styles and the latest creations; that complete assortments are available, and that any merchandise not entirely satisfactory may be returned for replacements.

PAR. 3. In truth and in fact, all of the said representations, together with others not specifically set out herein are exaggerated, false, and misleading. In fact, the merchandise sold and distributed by the respondent is not only slightly used, and is not seasonable and salable merchandise of the latest style. The respondent buys his stock of merchandise on the open market from other second-hand dealers and junk dealers, and at rummage sales. When an order is shipped to a customer the package frequently contains mer-

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chandise that is old, out of style, dirty, worn out, unsaleable, valueless, and of different size, color, age, quality, style, and condition from the merchandise ordered by the respondent's customers. The respondent does not have a complete assortment of sizes available and does not generally make satisfactory replacements or refunds where merchandise has not been satisfactory, as advertised by him.

PAR. 4. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his said merchandise, 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 belief that such false statements and representations are true and into the purchase of respondent's merchandise because of said erroneous and mistaken belief.

PAR. 5. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury 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 February 5, 1940, issued, and on February 6, 1940, served, its complaint in this proceeding upon respondent, Louis Goldman, an individual trading as Globe Rummage Mart, 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 request 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 the 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. Respondent, Louis Goldman, is an individual doing business under the name of Globe Rummage Mart, and having his

office and principal place of business located at 3238 South State Street in the city of Chicago, State of Illinois. During the past year, and prior thereto, respondent has been engaged in the sale and distribution of second-hand clothing and other merchandise. Respondent causes said merchandise when sold to be transported from his place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said merchandise in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of second-hand and reclaimed wearing apparel sold and distributed by him, the respondent publishes a catalog listing and describing the various articles of merchandise sold and distributed by him. Respondent distributes this catalog by United States mails and by other means to purchasers and prospective purchasers located in the various States of the United States and the District of Columbia. In addition to the catalogs distributed by the respondent, the respondent also disseminates advertising matter in the form of circulars, form letters, and other literature for the purpose of inducing the purchase of his various articles of merchandise.

In said catalogs and other means of advertising, the respondent has engaged in the practice of falsely representing that the merchandise sold by him is only slightly used merchandise; that all articles listed in his catalog are reclaimed or slightly used but are in good salable condition; that such articles are seasonable merchandise and are the most popular styles and the latest creations; that complete assortments are available, and that any merchandise not entirely satisfactory may be returned for replacements.

PAR. 3. In truth and in fact, all of the said representations, together with others not specifically set out herein are exaggerated, false, and misleading. In fact, the merchandise sold and distributed by the respondent is not slightly used second-hand merchandise, and is not seasonable and salable merchandise of the latest style. The respondent buys his stock of merchandise on the open market from other second-hand dealers and junk dealers, and at rummage sales. When an order is shipped to a customer the package frequently contains merchandise that is old, out of style, dirty, worn out, unsalable, valueless, and of different size, color, age, quality, style, and condition from the merchandise ordered by the respondent's customers. The

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respondent does not have a complete assortment of sizes available and does not generally make satisfactory replacements or refunds where merchandise has not been satisfactory, as advertised by him.

PAR. 4. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations with respect to his said merchandise, 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 belief that such false statements and representations are true and into the purchase of respondent's merchandise because of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury 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 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 said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Louis Goldman, individually and trading as Globe Rummage Mart, or under any other name or names, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of second-hand wearing apparel in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, that wearing apparel purchased from junk or other second-hand dealers, which is old or out of style is seasonable and salable merchandise of the latest or currently popular style.
2. Representing, directly or indirectly, that wearing apparel purchased from junk or other second-hand dealers, which is old, dirty, badly worn, or generally unsalable, is salable merchandise in good condition or is only slightly used merchandise.

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3. Representing that respondent has complete assortments of wearing apparel available.

4. Representing that respondent will make replacements or refunds when merchandise is not satisfactory, when such is not the fact.

It is further ordered, That 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.

IN THE MATTER OF

HOWARD L. BREWER AND ALBERT L. TRIBBETT, TRADING AS B & T SALES COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4057. Complaint, Mar. 12, 1940—Decision, May 13, 1940

Where two individuals engaged, under trade name and with only address post office box in certain city, in sale and distribution therefrom, to purchasers in various other States and in the District of Columbia, of their "Menstru-Eze" medicinal preparation; in advertisements thereof which they disseminated and caused to be disseminated through the mails, by insertions in magazines and periodicals of general circulation, and in circulars and other printed matter distributed in commerce, and by other means, and which were intended or likely to induce, directly or indirectly, purchase of their said preparation—

Represented that their said medicinal preparation designated as "MENSTRU-EZE" possessed curative and remedial properties which made it beneficial for use in treating cases of delayed, difficult, painful, and irregular menstruation, and for use in the menopause, and in relieving pain incident to such disorders or conditions;

Facts being their said product possessed no properties which were of any therapeutic value in treatment of disorders and conditions above set forth, and was of no therapeutic value for use in the menopause or in relieving any pains incident to such disorders or conditions, and representations above set forth were grossly exaggerated, false, and misleading;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true, and of inducing, because of such erroneous and mistaken belief, portion of such public to purchase their said medicinal preparation:

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

Mr. R. P. Bellinger 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 Howard L. Brewer, and Albert L. Tribbett, individually, and trading as B & T Sales Co., 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 issued its complaint, stating its charges in that respect as follows: