

IN THE MATTER OF

MEYER BRODIE AND MORRIS WHITE, TRADING AS M & M BAG AND SUITCASE COMPANY

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

Docket 4046. Complaint, Mar 4, 1940—Decision, Oct. 9, 1940

Where two individuals engaged in sale and distribution of leather luggage, consisting of traveling bags, suitcases, and other such products, to retailers and members of purchasing public in the various States and in the District of Columbia—

Represented, through the use of such statements on labels attached to their said products as "This Article is Made of Genuine Buffalo Walrus Leather," that certain of their said suitcases and bags were made of such product, facts being they were not made thereof, but of buffalo leather;

With effect of misleading and deceiving substantial part of purchasing public into mistaken belief that such representations were true and that said products were made of such designated material, and, as result of such mistaken belief, of inducing said public to purchase substantial quantities of such products:

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.

Before *Mr. John W. Addison*, trial examiner.

Mr. S. Brogdyne Teu, II, 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 Meyer Brodie and Morris White, individually and trading as M & M Bag and Suit Case Co., 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. Respondents Meyer Brodie and Morris White are individuals trading as M & M Bag and Suit Case Co. with their principal office and place of business located at 26 Exchange Place in the city of Jersey, State of New Jersey.

PAR. 2. Respondents are now, and for more than 1 year last past have been, engaged in the business of selling and distributing leather luggage consisting of traveling bags, suit cases, and other luggage. Respondents sell their products to retailers and members of the pur-

chasing public situated in the various States of the United States and in the District of Columbia and cause said luggage, when sold by them, to be transported from their principal place of business in the State of New Jersey to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have 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. In the course and conduct of their said business, the respondents have engaged in the practice of falsely representing the material of which their various traveling bags, suit cases, and other luggage are made, such representations being made by means of labels attached to such luggage, and by other means.

PAR. 4. Among and typical of such false representations used by respondents as aforesaid is the following:

This Article is Made of Genuine Buffalo Walrus Leather.

Through the use of such representation and others of similar import not specifically set out herein, the respondents represent that certain of their suit cases and traveling bags are made of Walrus Leather. Such representations are false and misleading. In truth and in fact said suit cases and traveling bags are not made of Walrus Leather but are made of Buffalo Leather.

PAR. 5. The use by respondents of false and misleading representations with respect to their products, as aforesaid, has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true and that respondents' products are made of certain designated kinds of materials, when such is not the fact. As a result of such erroneous and mistaken belief, engendered as above set forth, the purchasing public is induced to, and does, purchase substantial quantities of respondents' products.

PAR. 6. The aforesaid acts and practices of the respondents, 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 the 4th day of March 1940, issued and subsequently served its complaint in this proceeding upon the respondents, Meyer Brodie and Morris White, individually, and trad-

ing as M & M Bag and Suitcase Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 13, 1940, the respondents filed their answer in this proceeding. Thereafter an agreed statement of facts was entered into by and between counsel for the Commission and the respondents whereby it was stipulated and agreed that such statement as to the facts might be taken as the facts in the case. The said stipulations as to the facts was entered in the record of this proceeding, which record was duly filed in the office of the Commission, and the respondents thereafter further waived the filing of a report upon the evidence by the trial examiner, the filing of briefs and other intervening procedure in the case. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint, answer and stipulation, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, Meyer Brodie and Morris White, are individuals trading as M & M Bag and Suitcase Co. Their principal office and place of business is located at 26 Exchange Place, Jersey City, N. J.

PAR. 2. The respondents are now, and for some time last past have been, engaged in the business of selling and distributing leather luggage consisting of traveling bags, suitcases, and other luggage. Respondents sell their products to retailers and members of the purchasing public, and cause such products, when sold, to be transported from their place of business in Jersey City, N. J., to purchasers thereof at their respective points of location in the various States in the United States and in the District of Columbia. The respondents maintain and have, for some time last past, maintained a course of trade in their products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In connection with the sale of their traveling bags, suitcases, and other luggage, respondents, by the use of labels attached thereto and by other means, have made various representations respecting the material of which their products are made. Among and typical of such representations used by the respondents is the following:

This Article is Made of Genuine Buffalo Walrus Leather.

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Through the use of such representations and others similar thereto, respondents represent that certain of their suitcases and traveling bags are made of walrus leather. In fact, such suitcases and traveling bags are not made of walrus leather but are made of buffalo leather.

PAR. 4. The use by the respondents of the foregoing representations with respect to their products as herein set forth, and other representations similar thereto but not herein set forth, has had, and now has, the tendency and capacity to, and does, mislead and deceive a substantial part of the purchasing public into the mistaken belief that such representations are true and that respondents' products are made of certain designated materials when such is not the fact. As a result of such mistaken belief the purchasing public is induced to, and does, purchase substantial quantities of respondents' products.

CONCLUSION

The aforesaid acts and practices of the respondents 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, the answer of the respondents, and an agreed statement of facts entered in the record herein in lieu of testimony or other evidence, which agreed statement also waived the filing of briefs and all other intervening procedure; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Meyer Brodie and Morris White, individually and trading as M & M Bag and Suitcase Co., or trading under any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of traveling bags, suitcases, and other luggage in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that traveling bags, suitcases, or other articles of luggage made of buffalo leather, are made of walrus leather.

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2. Representing that any traveling bag, suitcase, or other article of luggage is made of any specified material, when such traveling bag, suitcase, or other article of luggage is not in fact made of the material specified.

It is further ordered, That the 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.

Syllabus

IN THE MATTER OF

SIEGEL-KAHN COMPANY, INC., DOING BUSINESS UNDER
THAT NAME AND AS MANSHIRE MILLS AND SNUG-
INTUCKS MILLSCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4204. Complaint, July 30, 1940—Decision, Oct. 9, 1940*

Where a corporation engaged in sale and distribution of women's undergarments to purchasers in various other States and in the District of Columbia, and, in course and conduct of its said business, in practice of representing falsely constituent fibers or materials of which its products were made, through legends appearing on labels attached thereto, and by other means—

- (a) Represented, as typical of such false representations, that certain of its products designated "Snugintucks" contained, as case might be, 30 percent wool and 15 percent wool, through statements "8 Ply crotch Snugintucks 30% pure wool," and "8 Ply crotch Snugintucks 15% pure wool," facts being neither of said products contained percentage of wool specified, but actual fiber content thereof was 88 percent cotton, 9 percent rayon and 3 percent wool;
- (b) Represented, as aforesaid, that its products designated "Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, 30% Pure Wool" and "Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, 15% Pure Wool" contained 30 percent and 15 percent wool, respectively, facts being product represented as containing 30 percent wool was composed of 85 percent cotton and only 15 percent wool, while product represented as containing 15 percent wool contained 90 percent cotton and only 10 percent wool;
- (c) Represented, through use of word "Woolywarms" in designating its product "Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, Full Combed," unaccompanied by any specific designation of fiber content thereof, that said product contained substantial percentage of wool, facts being it contained no wool whatsoever, but was composed entirely of cotton;
- (d) Sold and distributed undergarments composed in part of rayon, without disclosing such garments' content of such chemically manufactured fiber or fabric, which, when so made as to simulate wool, has appearance and feel thereof and is by purchasing public practically indistinguishable from wool, or fleece or hair obtained from sheep, as long definitely understood in minds of purchasing public from word "wool," fabrics of which have established reputation for possessing superior cold resisting and wearing, as well as other superior qualities over those made of rayon, and to which purchasers and prospective purchasers of undergarments, therefore, decidedly prefer same;
- (e) Represented, through use of word "Mills" in trade names employed by it, and by other means, that it owned and operated a mill or mills where its products were made, and that it was manufacturer thereof, facts being it purchased all its products from others, did not own or operate any mills, and was not a manufacturer of products, for dealing directly with whom, rather than with wholesalers, jobbers or other dealers, there is preference on