

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

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- part of substantial portion of purchasing public, by reason, in part, of belief that by so dealing lower prices and other advantages may be obtained; and
- (f) Represented, through use of term "Dr. Ames" in connection with certain of its products, as aforesaid, that such products were designed, recommended or approved by a physician, facts being none of them had been thus designed, recommended or approved;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that its said products possessed certain qualities and characteristics which they did not in fact possess, and with result, as consequence of such erroneous and mistaken belief, engendered as above set forth, that such public was induced to, and did, purchase substantial quantities of its said 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.

Mr. Donovan R. Divet 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 Siegel-Kahn Co., Inc., a corporation doing business under that name and as Manshire Mills and as Snugintucks Mills, hereinafter referred to as respondent, 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. The respondent, Siegel-Kahn Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 93 Worth Street in the city of New York, State of New York. Respondent trades under its corporate name and also under the names Manshire Mills and Snugintucks Mills.

PAR. 2. Respondent is now and for more than one year last past has been engaged in the business of selling and distributing women's undergarments. Respondent causes its said products, when sold to be transported from its place of business in the State of New York, or from the places of business of the concerns from which it purchases said products, 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 its 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 its business the respondent has engaged in the practice of falsely representing the constituent fibers

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or materials of which its products are made, such representations being made by means of legends appearing on labels attached to its products, and by other means. Among and typical of such false representations are the following:

8 Ply crotch Snugintucks 30% pure wool.

8 Ply crotch Snugintucks 15% pure wool.

Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch 30% Pure Wool.

Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, 15% Pure Wool.

Dr. Ames Treat Yourself Woolywarms Multi-Play Crotch, Full Combed.

PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein the respondent represents that certain of its products designated "Snugintucks" contain 30 percent and 15 percent wool, respectively. In truth and in fact, neither of said products contains the specified percentage of wool, the actual fiber content of each of said products being 88 percent cotton, 9 percent rayon, and 3 percent wool.

Respondent further represents, in the manner 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" contain 30 percent wool and 15 percent wool, respectively. In truth and in fact the product represented as containing 30 percent wool is composed of 85 percent cotton and only 15 percent wool, while the product represented as containing 15 percent wool contains 90 percent cotton and only 10 percent wool.

Through the use of the word "Woolywarms" in designating its said product "Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, Full Combed," unaccompanied by any specific designation of the fiber content of said product, the respondent represents that said product contains a substantial percentage of wool. In truth and in fact, such product contains no wool whatsoever, but is composed entirely of cotton.

PAR. 5. A further practice on the part of the respondent is the sale and distribution of undergarments composed in part of rayon, without disclosing the rayon content of such garments. Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate wool, and when so manufactured it has the appearance and feel of wool and is by the purchasing public practically indistinguishable therefrom.

The word "Wool" for many years last past has had and now has in the minds of the purchasing public a definite and specific meaning, to wit: fleece or hair obtained from sheep. Fabrics made of wool have established a reputation for possessing superior cold-resisting and wearing qualities, as well as other superior qualities, over fabrics

made of rayon. Because of such reputation, purchasers and prospective purchasers of undergarments have a decided preference for wool fabrics over fabrics composed of rayon.

PAR. 6. The respondent has also represented, through the use of the word "Mills" in its trade names Manshire Mills and Snugintucks Mills, and by other means, that it owns or operates a mill or mills where its products are manufactured and that it is the manufacturer of such products. In truth and in fact, the respondent does not own, or operate, any mill, nor does it manufacture any of its products. The respondent purchases all of its products from other parties.

PAR. 7. The use by the respondent of the word "Mills" in its trade names as aforesaid constitutes within itself a false and misleading representation that the respondent owns or operates a mill or mills in connection with its said business, and that it manufactures its said products.

PAR. 8. There is a preference on the part of a substantial portion of the purchasing public for dealing directly with the manufacturer of products rather than with wholesalers, jobbers, or other dealers, such preference being due in part to a belief on the part of the public that by dealing directly with the manufacturer lower prices and other advantages may be obtained.

PAR. 9. Through the use of the term "Dr. Ames" in connection with certain of its products as aforesaid the respondent also represents that such products are designed, recommended or approved by a physician. In truth and in fact, none of respondent's products have been designed, recommended or approved by any physician.

PAR. 10. The acts and practices of the respondent as herein set forth have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products possess certain qualities and characteristics which they do not in fact possess, and as a result of such erroneous and mistaken belief, engendered as herein set forth, the purchasing public has been induced to, and has, purchased substantial quantities of respondent's products.

PAR. 11. 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 July 30, 1940, issued and subsequently served its complaint in this proceeding upon respondent

Seigel-Kahn Co., Inc., a corporation, doing business under that name and as Manshire Mills and as Snugintucks Mills, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On September 9, 1940, the respondent filed its answer, in which answer 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. The respondent, Siegel-Kahn Co., Inc., a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 93 Worth Street in the city of New York, State of New York. Respondent trades under its corporate name and also under the names Manshire Mills and Snugintucks Mills.

PAR. 2. Respondent is now and for more than 1 year last past has been engaged in the business of selling and distributing women's undergarments. Respondent causes its said products, when sold, to be transported from its place of business in the State of New York, or from the place of business of the concerns from which it purchases said products, 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 its 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 its business the respondent has engaged in the practice of falsely representing the constituent fibers or materials of which its products are made, such representations being made by means of legends appearing on labels attached to its products, and by other means. Among and typical of such false representations are the following:

8 Ply crotch Snugintucks 30% pure wool.

8 Ply crotch Snugintucks 15% pure wool.

Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch 30% Pure Wool.

Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, 15% Pure Wool.

Dr. Ames Treat Yourself Woolywarms Multi-Ply Crotch, Full Combed.

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PAR. 4. Through the use of the foregoing representations and others of similar import not specifically set out herein, the respondent represents that certain of its products designated "Snugintucks" contain 30 percent and 15 percent wool, respectively. In truth and in fact, neither of said products contains the specified percentage of wool, the actual fiber content of each of said products being 88 percent cotton, 9 percent rayon, and 3 percent wool.

Respondent further represents, in the manner aforesaid, that its products designated "Dr. Ames Treat Yourself Woollywarms Multi-Ply Crotch, 30% Pure Wool" and "Dr. Ames Treat Yourself Woollywarm Multi-Ply Crotch, 15% Pure Wool" contain 30 percent and 15 percent wool, respectively. In truth and in fact, the product represented as containing 30 percent wool is composed of 85 percent cotton and only 15 percent wool, while the product represented as containing 15 percent wool contains 90 percent cotton and only 10 percent wool.

Through the use of the word "Woollywarms" in designating its said product "Dr. Ames Treat Yourself Woollywarms Multi-Ply Crotch, Full Combed," unaccompanied by any specific designation of the fiber content of said product, the respondent represents that said product contains a substantial percentage of wool. In truth and in fact, such product contains no wool whatsoever but is composed entirely of cotton.

PAR. 5. A further practice on the part of the respondent is the sale and distribution of undergarments composed in part of rayon, without disclosing the rayon content of such garments. Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate wool, and when so manufactured it has the appearance and feel of wool and is by the purchasing public practically indistinguishable therefrom.

The word "wool" for many years last past has had and now has in the minds of the purchasing public a definite and specific meaning, to wit: fleece or hair obtained from sheep. Fabrics made of wool have established a reputation for possessing superior cold-resisting and wearing qualities, as well as other superior qualities, over fabrics made of rayon. Because of such reputation, purchasers and prospective purchasers of undergarments have a decided preference for wool fabrics over fabrics composed of rayon.

PAR. 6. The respondent has also represented, through the use of the word "Mills" in its trade names Manshire Mills and Snugintucks Mills and by other means, that it owns or operates a mill or mills where its products are manufactured and that it is the manufacturer of such products. In truth and in fact, the respondent does

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not own, or operate, any mill, nor does it manufacture any of its products. The respondent purchases all of its products from other parties.

PAR. 7. The use by the respondent of the word "Mills" in its trade names as aforesaid constitutes within itself a false and misleading representation that the respondent owns or operates a mill or mills in connection with its said business, and that it manufactures its said products.

PAR. 8. There is a preference on the part of a substantial portion of the purchasing public for dealing directly with the manufacturer of products rather than with wholesalers, jobbers, or other dealers, such preference being due in part to a belief on the part of the public that by dealing directly with the manufacturer lower prices and other advantages may be obtained.

PAR. 9. Through the use of the term "Dr. Ames" in connection with certain of its products as aforesaid the respondent also represents that such products are designed, recommended or approved by a physician. In truth and in fact, none of respondent's products have been designed, recommended or approved by any physician.

PAR. 10. The acts and practices of the respondent as herein set forth have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products possess certain qualities and characteristics which they do not in fact possess, and as a result of such erroneous and mistaken belief engendered as herein set forth, the purchasing public has been induced to, and has, purchased substantial quantities of respondent's products.

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 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 said facts, and the Commission having made its findings as to the facts and conclu-

sion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Siegel-Kahn Co., Inc., a corporation, trading under that name and under the names Manshire Mills and Sungintucks Mills, or trading under any other name or names, 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 undergarments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that respondent's products are composed of fibers or materials other than those of which such products are actually composed.

2. Representing that any garment or fabric contains a stated percentage of wool unless such garment or fabric does in fact contain wool in the proportion stated.

3. Advertising, offering for sale or selling garments or fabrics composed in whole or in part of rayon, without clearly disclosing the fact that such garments or fabrics are composed of rayon, and when such garments or fabrics are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent.

4. Using the term "Woolywarms" or any other term containing the word "wool" to designate, describe or refer to any garment or fabric which is not composed entirely of wool, provided, however, that such terms may be used to designate or describe any garment or fabric composed of wool and other materials when the true percentage of wool contained therein is clearly and adequately disclosed.

5. Using the word "Doctor" or "Dr." to designate or describe any garment or fabric which has not in fact been designed, recommended or approved by physicians.

6. Using the word "Mills" or "Mill" as a part of respondent's trade name or names, or otherwise representing that respondent owns or operates a mill or that respondent manufactures the products sold by it.

It is further ordered, That the respondent shall, within 60 days after 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.

Syllabus

IN THE MATTER OF
FRANK SPORS, TRADING AS THE SPORS COMPANY

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

Docket 4246. Complaint, Aug. 20, 1940—Decision, Oct. 9, 1940

Where an individual engaged in sale and distribution of various drugs, cosmetics, fountain pens, mending tissue, household accessories, and numerous other products, including (1) Super-Pure Laxative Bromide Quinine Tablets, (2) Electro Heat-Kwik water heater, (3) Savarip, for silk and rayon garments, and (4) Elgin Style Pointed (fountain) Pens; in advertisements of his said Bromide Quinine Tablets, which he disseminated and caused to be disseminated through the mails and in newspapers and periodicals and by circulars, leaflets, and other advertising literature, and otherwise, and which were intended and likely to induce purchase of said preparation—

- (a) Represented that said tablets constituted a cure or remedy for colds, through such statements as "The Easiest and quickest way to get rid of a cold" and others of similar import, facts being, while said medicinal preparation might afford partial and temporary relief from symptoms of colds, it did not constitute cure or remedy for such ailment or condition; and

Where said individual; in advertisements of said water heater, Savarip and pens, which he caused to be inserted in periodicals and other publications, and in catalogs, circulars, and other printed or written matter distributed among purchasers and prospective purchasers—

- (b) Represented that said heater was capable of heating substantial quantities of water, such as required for family laundry and bathing, and that it might be used with entire safety, and heated such quantities more quickly than gas, coal or wood, and had been approved by the Underwriters' Laboratories, facts being it was incapable of heating such quantities for purposes aforesaid, was not entirely safe and might cause severe shock to user coming in contact with any grounded metal object, did not heat substantial quantities more quickly than gas, coal or wood, and, while cord attached to said product might have been approved as aforesaid, the heater had not been;
- (c) Represented that said Savarip was of substantial value in prevention of runs, snags, and breaks in silk and rayon hosiery and lingerie and rendered such garments rain-spot proof and prevented shrinkage and fading and prolonged life thereof, facts being it was of no substantial value in prevention of runs, etc., as above claimed, did not accomplish aforesaid results and was of no value in prolonging life of such garments; and
- (d) Represented that his said fountain pens were comparable to those retailing for sums up to \$5.00 each, and that flow of ink therefrom was unusually even and steady, and that agents and salesmen reselling the same were enabled to make a profit of 300 percent, facts being said products did not compare favorably with pens selling for \$5.00, or for any sum approxi-