

IN THE MATTER OF
AUGUSTA KNITTING CORPORATION

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

Docket 4162. Complaint, June 13, 1940—Decision, Dec. 19, 1940

Where a corporation engaged in manufacture of tuck stitch garments, sweaters, underwear, bathing suits, and other knitted garments and in interstate distribution and sale thereof to various wholesale and retail dealer-purchasers—

- (a) Represented, as typical of acts and practices engaged in, that certain ladies' undergarments, were composed of mixture of silk and wool through labels, tags, and markers attached thereto, and including label reading "50% SILK AND WOOL," or so reading, but with figures 27 percent under words "Silk and Wool," facts being word "and" on labels in question was printed in minute type and in such manner as to be illegible to all practical intents and purposes, notation 27 percent appearing underneath words "Silk and Wool" in second label was in much smaller type than the "50%" appearing above said words, and was contradictory to label itself and would not be noticeable to purchasing public or understood by it, and knitted undergarments thus labeled were not composed entirely of silk and wool, but contained cotton content ranging from 45 percent to 50 percent;
- (b) Represented that its garments had longer wearing qualities than those knit by its competitors through use, as typical, of such labels "Self-reinforced for 97% longer wear" and "97% Longer Wear," facts being said undergarments did not have longer wearing qualities than garments of equivalent price and quality sold by competitors, and use, as aforesaid, of such statements and representations was false, deceptive and misleading; and
- (c) Failed to disclose by appropriate labels, brands, or tags attached to said garments all of fiber constituents from which they were made and to disclose as substantial constituent thereof, existence of cotton;

With result that through said labels members of purchasing public were misled into believing that said undergarments, thus labeled, were composed entirely of silk and wool in the proportion of 50 percent silk and 50 percent wool, and with effect, through use by it of representations above set forth, of misleading and deceiving substantial portion of purchasing public into erroneous belief that (1) knitted garments sold and distributed by it were composed entirely of silk and wool, fabrics of which have established reputation as possessing superior cold-resistance and other desirable qualities over those containing substantial amounts of cotton, and, as consequence are decidedly preferred by many purchasers and prospective purchasers of undergarments over fabrics containing cotton in substantial amounts, and that (2) said garments were of longer wearing quality than similar products made by competitors, and to cause said portion of public to purchase such products as result of said erroneous beliefs, engendered as above set forth:

Held, That said 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. Robert Mathis, Jr., for the Commission.

Mr. Thomas L. Wilder, of Utica, N. Y., for respondent.

Complaint

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 Augusta Knitting Corporation, a corporation, hereinafter referred to as respondent, has 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 issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Augusta Knitting Corporation, is a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business in the city of Utica, in the State of New York, and a sales office at 180 Madison Avenue, in the city and State of New York.

PAR. 2. Respondent is now, and has been for more than 2 years last past, engaged in the business of manufacturing, distributing, and selling tuck stitch garments, sweaters, underwear, bathing suits, and other knitted garments. In the course and conduct of its business, respondent sells said garments to various wholesale and retail dealers and causes such garments, when sold, to be transported from its aforesaid places of business in the State of New York 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 garments 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 practices of falsely representing the constituent fiber or material of which the various products sold and distributed by it are made, by means of false representations on labels attached to its products. Among and typical of such acts and practices the respondent represents that certain ladies' knitted undergarments manufactured, sold, and distributed by it are composed of a mixture of silk and wool, by means of labels, tags, and markers attached to said garments which designate and describe said products. One of such labels reads:

50%

SILK AND WOOL

Another of such labels reads:

50%

SILK AND WOOL

27% 27%

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The word "and" on the above labels is printed in minute type and in such manner as to be illegible to all practical intents and purposes. On the second label the notation "27%" appearing underneath the words "Silk and Wool" is in much smaller type than the "50%" appearing above the words "Silk and Wool."

By means of the above labels, members of the purchasing public are misled into believing that the said undergarments so labeled are composed entirely of silk and wool in the proportion of 50 percent silk and 50 percent wool. The use on certain labels of "27%" in fine print is contradictory to the label itself and would not be noticeable to the purchasing public or understood by it.

In truth and in fact the knitted undergarments so labeled are not composed entirely of silk and wool but contain a cotton content ranging from 45 to 57 percent.

PAR. 4. In addition to the above labels the respondent represents that its garments have longer wearing qualities than garments manufactured by its competitors. Typical of such representations is the use of the following labels:

Self-reinforced for

97% longer wear

97% Longer Wear

The use by the respondent of the above statements and representations on its labels is false, deceptive, and misleading. In truth and in fact respondent's knitted undergarments do not have longer wearing qualities than garments of equivalent price and quality sold and distributed by its competitors.

PAR. 5. In addition to the acts and practices hereinabove set out the respondent fails to disclose by appropriate labels, brands or tags attached to its said garments all of the fiber constituents from which said garments are made, and fails to disclose the existence of cotton as a substantial constituent of said garments.

PAR. 6. Fabrics made of a mixture of wool and silk fibers have established a reputation as possessing superior cold-resistant and other desirable qualities over fabrics which contain substantial amounts of cotton. In consequence, many purchasers and prospective purchasers of undergarments have a decided preference for silk and wool fabrics over fabrics containing substantial amounts of cotton.

PAR. 7. The use by the respondent of the representations hereinabove set forth 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 the knitted garments sold and distributed by the respondent are composed entirely of silk and wool and are of longer wearing quality than similar garments manufactured by com-

petitors, and to cause them to purchase said products as a result of such erroneous beliefs engendered as above set forth.

PAR. 8. The aforesaid acts and practices of 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 June 13, 1940, issued and subsequently served its complaint in this proceeding upon respondent, Augusta Knitting Corporation, charging it 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 motion 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, Augusta Knitting Corporation, is a corporation organized and existing under the laws of the State of New York, and having an office and principal place of business in the city of Utica, in the State of New York, and a sales office at 180 Madison Avenue, in the city and State of New York.

PAR. 2. Respondent is now, and has been for more than 2 years last past, engaged in the business of manufacturing, distributing and selling tuck stitch garments, sweaters, underwear, bathing suits, and other knitted garments. In the course and conduct of its business, respondent sells said garments to various wholesale and retail dealers and causes such garments, when sold, to be transported from its aforesaid places of business in the State of New York 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

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garments 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 practices of falsely representing the constituent fiber or material of which the various products sold and distributed by it are made, by means of false representations on labels attached to its products. Among and typical of such acts and practices the respondent represents that certain ladies' knitted undergarments manufactured, sold and distributed by it are composed of a mixture of silk and wool, by means of labels, tags, and markers attached to said garments which designate and describe said products. One of such labels reads:

50%

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The word "and" on the above labels is printed in minute type and in such manner as to be illegible to all practical intents and purposes. On the second label the notation "27%" appearing underneath the words "Silk and Wool" is in much smaller type than the "50%" appearing above the words "Silk and Wool."

By means of the above labels, members of the purchasing public are misled into believing that the said undergarments so labeled are composed entirely of silk and wool in the proportion of 50 percent silk and 50 percent wool. The use on certain labels of "27%" in fine print is contradictory to the label itself and would not be noticeable to the purchasing public or understood by it.

In truth and in fact the knitted undergarments so labeled are not composed entirely of silk and wool but contain a cotton content ranging from 45 to 57 percent.

PAR. 4. In addition to the above labels the respondent represents that its garments have longer wearing qualities than garments manufactured by its competitors. Typical of such representations is the use of the following labels:

Self-reinforced for

97% longer wear.

97% Longer Wear

The use by the respondent of the above statements and representations of its labels is false, deceptive, and misleading. In truth and

in fact respondent's knitted undergarments do not have longer wearing qualities than garments of equivalent price and quality sold and distributed by its competitors.

PAR. 5. In addition to the acts and practices hereinabove set out the respondent fails to disclose by appropriate labels, brands, or tags attached to its said garments all of the fiber constituents from which said garments are made, and fails to disclose the existence of cotton as a substantial constituent of said garments.

PAR. 6. Fabrics made of a mixture of wool and silk fibers have established a reputation as possessing superior cold-resistant and other desirable qualities over fabrics which contain substantial amounts of cotton. In consequence, many purchasers and prospective purchasers of undergarments, have a decided preference for silk and wool fabrics over fabrics containing substantial amounts of cotton.

PAR. 7. The use by the respondent of the representations hereinabove set forth 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 the knitted garments sold and distributed by the respondent are composed entirely of silk and wool and are of longer wearing quality than similar garments manufactured by competitors, and to cause them to purchase said products as a result of such erroneous beliefs engendered as above set forth.

CONCLUSION

The aforesaid acts and practices of 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 it 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, Augusta Knitting Corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of its knitted garments in commerce, as "com-

merce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

2. Using the term "silk" or the term "wool" or any other terms indicative of either silk or wool to describe or designate any fabric or product which is not composed entirely of silk or entirely of wool, provided that in the case of a fabric or product composed in part of silk or wool and in part of materials other than silk or wool such terms or similar terms may be used as descriptive of the silk or wool content, as the case may be, when immediately accompanied by a word or words accurately describing and designating each constituent fiber or material thereof in letters of equal size or conspicuousness in the order of its predominance by weight, beginning with the largest single constituent.

3. Representing in any manner or by any means that the fabrics or products offered for sale or sold by respondent contain wool or silk in greater quantity or percentage than is actually the case.

4. Representing that respondent's products have longer wearing qualities than garments of equivalent price and quality ordinarily and customarily sold in the usual course of business; or that the quality, grade, material or character of respondent's products are superior to or different from the actual quality, grade, material or character of such products.

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.

It is further ordered, That no provisions contained in this order shall be construed as authorizing or permitting, after July 14, 1941, the labeling of any wool product in any manner other than in strict conformity with the provisions of the "Wool Products Labeling Act of 1939."

Syllabus

IN THE MATTER OF

JESSE W. ALLRED AND ROBERT A. ALLRED, TRADING
UNDER THE NAME OF ALLRED BROTHERS CANDY CO.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4244. Complaint, Aug. 20, 1940—Decision, Dec. 19, 1940*

Where two individuals engaged in manufacture of candy and in sale and distribution of certain assortments thereof which were so packed and assembled as to involve the use of a game of chance, gift enterprise, or lottery scheme when sold and distributed to the consumers thereof, and included (1) number of bars of candy, together with push card for use in sale and distribution of said bars to purchasing public under a plan in accordance with which purchaser secured bar without cost, or for 1, 2, or 3 cents as determined by his chance receipt of letter "O" or number 1, 2, or 3, through disk selected on card, and (2) various other assortments involving lottery or chance feature and methods of sale and distribution similar to that above described from which they varied in detail only;

Sold said assortments along with such push cards to retailers by whom as direct or indirect purchasers they were exposed and sold to purchasing public in accordance with aforesaid sales plan or methods, involving game of chance or sale of a chance to procure a bar of candy without cost or at a price much less than normal retail price thereof, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale and distribution of their candies in accordance with such sales plans or methods above set forth, contrary to an established public policy of the United States Government and in violation of criminal laws and in competition with many who are unwilling to adopt and use said or any sales plans or methods involving a game of chance or sale of a chance to win something by a chance or any other sales plans or methods contrary to public policy and refrain therefrom;

With result that many dealers in and ultimate consumers of said candy were attracted by said sales plans or methods employed by them in sale and distribution thereof and by element of chance involved therein and were thereby induced to buy their candy in preference to that offered and sold by their said competitors who do not use same or equivalent sales plans or methods and with effect, through use of said sales plans or methods by them and because of said game of chance, of diverting unfairly trade to them from their competitors aforesaid who do not use same or equivalent sales plan or method; to the substantial injury of competition in commerce:

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

Before *Mr. W. W. Sheppard*, trial examiner.
Mr. D. C. Daniel for the Commission.