

IN THE MATTER OF
SAKS & COMPANY

MODIFIED CEASE AND DESIST ORDER

Docket 3456. Order, Apr. 15, 1941

Modified order in proceeding in question, in which original order issued on Apr. 3, 1940, 30 F. T. C. 898, and in which, following the filing of petition for review in the Circuit Court of Appeals for the Second Circuit to set aside such order, and the filing in the court by the Commission of a transcript of the entire record, parties executed a stipulation by the terms of which respondent agreed to dismiss its petition and the Commission agreed, thereupon, to set aside its said order, in lieu thereof, to make, enter, and serve a modified order as therein provided, and court accordingly, on motion of respondent, dismissed said petition, and Commission set aside its aforesaid order¹—

Requiring respondent, its officers, etc., in connection with offer, etc., in commerce, of its furs or fur products or textile fabrics, including women's dresses and wearing apparel, to forthwith cease and desist from misrepresenting (1) customary worth, value, and prices of its furs or fur products, and (2) as new or "brand new" any fur coat not in fact new, and from using (1) unqualified descriptive term "satin," etc., to describe, etc., any fabric or product not composed wholly of silk, product of cocoon of the silkworm, and (2) term "silk," etc., to describe, etc., any fabric or product not composed wholly of silk, as aforesaid; as in said order in detail set forth, and subject to provisos therein stated in connection with use of aforesaid terms.

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. Robert Mathis, Jr. for the Commission.

Mr. Horace G. Hitchcock of Chadbourne, Wallace, Parke & Whiteside, of New York City, for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony, and other evidence taken before Edward E. Reardon, Esq., an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Robert Mathis, Jr., Esq., counsel for the Commission, and by Horace G. Hitchcock, Esq., of the firm of Chadbourne, Wallace, Parke & Whiteside, counsel for the respondent, and the Commission

¹ See *post*, p. 1648.

having made its findings as to the facts and its conclusion that said respondent had violated the provisions of the Federal Trade Commission Act, and having, on April 3, 1940, issued and, on April 4, 1940, served upon the respondent its order to cease and desist from said violations of said act; and said respondent, on June 3, 1940, having petitioned the United States Circuit Court of Appeals for the Second Circuit to review and set aside said order to cease and desist; and the Commission having thereafter certified and filed in said Court a transcript of the entire record in the proceeding theretofore pending before it, in which said order to cease and desist was entered; and said respondent having filed in said Court a printed transcript of said record and its brief; and the parties having, on March 28, 1941, executed a stipulation by the terms of which said respondent agreed to dismiss its said petition for review, and said Commission agreed, upon the dismissal of said petition for review, to set aside its said order to cease and desist issued on April 3, 1940, and in lieu thereof to make, enter, and serve upon respondent a modified order to cease and desist, as provided in said stipulation; and said Circuit Court of Appeals, on April 2, 1941, on motion of said respondent, having entered its order dismissing said petition for review; and the Commission having set aside its said order to cease and desist issued on April 3, 1940; and being fully advised in the premises;

It is ordered, That the respondent, Saks & Co., a corporation, 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 its furs or fur products or its textile fabrics, including women's dresses and women's wearing apparel, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing as the customary or regular worth or value of any furs, or fur products made in whole or in part of fur, prices and values which are in excess of the price at which such products are regularly and customarily sold in the normal and usual course of business.

2. Representing as new or "brand new" any fur coat which is not in fact a new fur coat.

3. Using the unqualified descriptive term "satin," or any other descriptive terms indicative of silk, to describe, designate, or in any manner refer to any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, provided, however, that when said words or descriptive terms are used truthfully

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to designate or describe the type of weave, construction or finish, such words must be qualified by using in connection and conjunction therewith in letters of at least equal size and conspicuousness a word or words clearly and accurately naming or describing the fibers or materials from which said products are made.

4. Using the term "silk," or any other term or terms of similar import or meaning indicative of silk, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm, provided, that in the case of a fabric or product composed in part of silk and in part of materials other than silk, such term or similar terms may be used as descriptive of the silk content when immediately accompanied by a word or words accurately describing and designating such other materials.

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.

Complaint

IN THE MATTER OF

RAMSDELL PACKING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 4355. Complaint, Oct. 24, 1940—Decision, Apr. 15, 1941

Where a corporation engaged in packing, processing and canning sardines at its Maine plants, and in interstate sale and distribution thereof, (1) in some instances through brokers employed as its selling agents to whom it paid a brokerage fee or commission usually amounting to 5 percent of the invoice price on sales, and (2) in other instances directly to purchasers, including some of its brokers buying for their own account—

- (a) Granted and allowed brokerage fees and commissions, and allowances and discounts in lieu thereof, in substantial amounts to certain of its customers, through selling its said product direct to some customers at a price reflecting a reduction from that at which it was currently selling such sardines to other customers in an amount equivalent to brokerage currently being paid by it to its brokers for sales to such other customers; and
- (b) Granted and allowed brokerage fees and commissions, and allowances and discounts in lieu thereof, in substantial amounts to certain customers, through selling to customers, sales to whom were effected through brokers to whom it did not pay, customarily, full brokerage, at a price reflecting a reduction from the prices at which it was currently selling its product to other customers in an amount approximately equal to the difference between such full brokerage and that actually paid:

Held, That in granting and allowing brokerage fees and commissions, or allowances and discounts in lieu thereof, to purchasers in connection with their respective purchases of sardines from it, as above set forth, said corporation violated subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Edward S. Ragsdale for the Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent, named in the caption hereof, and hereinafter more particularly described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C. title 15, sec. 13), issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Ramsdell Packing Co., is a corporation organized and existing under and by virtue of the laws of the State