

Order

IN THE MATTER OF

JACOB SCHACHNOW, TRADING AS MODERN HAT
WORKS

MODIFIED CEASE AND DESIST ORDER

Docket 2047. Order, July 3, 1941

Modified order, pursuant to provisions of Section 5 (1) of Federal Trade Commission Act, in proceeding in question, in which (1) Commission, on November 2, 1940, 31 F. T. C. 1256, made its findings and conclusion and issued cease and desist order, and (2) Circuit Court of Appeals for the Third Circuit, on April 2, 1941, in *Jacob Schachnow, trading as Modern Hat Works v. Federal Trade Commission*, 32 F. T. C. 1875, not reported in Federal Reporter, issued its decree modifying said order and directing Commission to modify the same in accordance therewith—

Requiring respondent, his representatives, etc., in connection with offer, etc., in commerce, of hats, to cease and desist from representing that hats composed in whole or in part of used or second-hand materials are new or composed of new materials, by failure to stamp on the sweat bands, in conspicuous and legible terms which cannot be removed, etc., a statement to such effect, as in order set forth, and subject to proviso thereof; and to cease and desist from representing in any manner that hats made in whole or in part from old, used, or second-hand materials are new or composed of new materials.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on November 2, 1940, the Commission made its findings as to the facts and concluded therefrom that the respondent had violated the provisions of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on April 2, 1941, the United States Circuit Court of Appeals for the Third Circuit issued its decree modifying the aforesaid order of the Commission and directed the Commission to modify its aforesaid order to cease and desist in accordance with said decree.

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act the Commission issues this its modified order to cease and desist in conformity with said court decree.

It is ordered, That respondent Jacob Schachnow, an individual trading as Modern Hat Works, or trading under any other name or names, his representatives, agents and employees, directly or through any corporate or other device in connection with the offering for

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33 F. T. C.

sale, sale and distribution of hats in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that hats composed in whole or in part of used or second-hand materials, are new or are composed of new materials by failure to stamp on the sweatbands thereof, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the sweatbands, a statement that said products are composed of second-hand or used materials (e. g., "Second-Hand," "Used" or "Made-Over"), provided that if sweatbands are not affixed to such hats then such stamping must appear on the bodies of such hats in conspicuous and legible terms which cannot be removed or obliterated without mutilating said bodies.

2. Representing in any manner that hats made in whole or in part from old, used, or second-hand materials are new or are composed of new materials.

Syllabus

IN THE MATTER OF
BERLAND SUPPLY COMPANY, INC., ET AL.

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

Docket 3861. Complaint, July 27, 1939—Decision, July 9, 1941

Where three corporations engaged in manufacture of glassware, including tableware such as tumblers, highball glasses, etc., and in interstate sale and distribution thereof to purchasers, among others, in the Milwaukee trade area, in substantial competition with each other and other manufacturers except insofar as such competition had been hindered or restricted and potential competition forestalled as below set forth; an individual, agent, of one of said manufacturers, and a corporation, agent, of the other two, engaged in the sale of their products in aforesaid area; four corporations dealing at wholesale, in glassware, among other things, with places of business in Milwaukee; and two individuals with places of business therein, engaged in sale of hotel and restaurant supplies, including glassware, and charter members, along with the four corporate wholesalers before referred to, of a corporation organized in 1933 as "Hotel, Restaurant & Tavern Equipment Association," in connection with the enforcement of the National Industrial Recovery Act; in substantial competition with each other and other wholesalers except insofar as such competition had been hindered or restricted and potential competition forestalled, as hereinafter set forth—

- (a) Combined and conspired together and with each other, and cooperated, to cut off supply of glassware of a certain concern when latter, organized as "Badger Cash and Carry Stores" to engage in sale of liquors, tobacco, and cigars, thereafter undertaking sale of glassware at wholesale in trade area in question, cut the resale prices of such ware below those of said wholesalers; forming and participating in a plan for the elimination of said "Cash and Carry Stores" as competitor, under which said wholesalers contacted factory representatives of the aforesaid manufacturers, and former notified their principals, following which said manufacturers refused to sell to said competitor; and

Where said "Hotel, Restaurant & Tavern Equipment Association" and its wholesaler members, pursuant to the aforesaid conspiracy and combination—

- (b) Concertedly wrote letters and used other means of persuasion to, and did, enlist the cooperation of said manufacturers who cooperated with them and others and monopolized trade in commerce in glassware in city in question;

With the result that at least one wholesaler of glassware was unable to purchase supplies from said three manufacturers or their agents, and was thereby handicapped in the conduct of his business; interstate sales were curtailed; elimination of at least one wholesaler tended to stabilize wholesale prices of glassware at levels inconsonant with free competition, competition in the wholesaling of such ware in said trade area was suppressed, and trade was restrained; and