

Complaint

34 F. T. C.

IN THE MATTER OF
VICTOR HAT COMPANY

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

Docket 4629. Complaint, Nov. 12, 1941—Decision, Jan. 26, 1942

Where an individual engaged in the manufacture of women's hats from materials obtained from old and worn felt hats purchased by him, and which, after being cleaned, shaped and fitted with new trimmings had the appearance of new; and in the interstate sale and distribution of said products—

Sold his said hats with no label, marking or designation stamped thereon or attached thereto to indicate that they were in reality made from old and used hat bodies, to wholesale and retail dealers by whom they were resold to the purchasing public without disclosure of aforesaid fact;

With result that a substantial portion of such public was misled into believing that the products in question were manufactured entirely from new materials, and into purchase of substantial quantities thereof; and there was thereby placed in the hands of dealers means whereby they might similarly deceive the purchasing public:

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. L. E. Creel, Jr., for the Commission.

Mr. Irving Block, of Chicago, Ill., for respondent.

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 Frank Gorr, individually and trading as Victor Hat Co., 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. Respondent, Frank Gorr, is an individual, trading as Victor Hat Co., and has his principal office and place of business at 153 North Wabash Avenue, Chicago, Ill.

PAR. 2. Respondent is now, and for several years last past, has been, engaged in the business of manufacturing women's hats from felt and other materials obtained from old, used, and second-hand hats, and of selling the same to retailers, jobbers, or wholesale dealers in the various States of the United States. Respondent causes said hats, when sold, to be transported from his place of business in the State of Illinois to

the aforesaid purchasers located in the various States of the United States other than the State of Illinois. Respondent maintains and at all times mentioned herein has maintained a course of trade in said hats 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 his business, respondent buys second-hand, old, worn, and previously used felt hats. The old, worn, and previously used felt hat bodies are cleaned and shaped and fitted with new trimmings and sold by respondent to dealers, who, in turn, sell said hats to the purchasing public.

PAR. 4. The aforesaid old, worn, and previously used hat bodies, after being manufactured into hats, as hereinabove described, have the appearance of new hats manufactured from felt and other materials which have never been worn or used. When articles which are manufactured from second-hand or used materials which have the appearance of being manufactured from new materials, are offered to the purchasing public, and such articles are not clearly and conspicuously labeled as being manufactured from used or second-hand materials, they are easily and readily accepted by members of the purchasing public as being manufactured entirely from new materials.

Said hats are sold to retailers and other dealers without any label, marking or designation stamped thereon or attached thereto, to indicate to the purchasing public or to the dealers that said hats are, in fact, manufactured from old, worn, and previously used hat bodies. Said hats are resold to the purchasing public without the fact being disclosed that they are manufactured from hat bodies and other materials which have been previously worn or used, and a substantial portion of the purchasing public is thereby misled to believe that they are, in fact, new hats manufactured entirely from new materials. As a result of this erroneous and mistaken understanding and belief, substantial portions of respondent's hats are purchased by members of the public.

PAR. 5. Through the use of the aforesaid acts and practices, the respondent places in the hands of dealers the means and instrumentalities whereby said dealers may deceive or mislead members of the purchasing public into the erroneous and mistaken belief that they are purchasing hats manufactured from new materials, when, in fact, said hats are composed entirely or in part of old, second-hand, and previously used hat bodies.

PAR. 6. 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.

Findings

34 F. T. C.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on November 12, 1941, issued, and subsequently served its complaint in this proceeding upon respondent, Frank Gorr, individually, and trading as Victor Hat Co., charging him 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 hearings 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, Frank Gorr, is an individual, trading as Victor Hat Co., and has his principal office and place of business as 153 North Wabash Avenue, Chicago, Ill.

PAR. 2. Respondent is now, and for several years last past, has been, engaged in the business of manufacturing women's hats from felt and other materials obtained from old, used, and second-hand hats, and of selling the same to retailers, jobbers, or wholesale dealers in the various States of the United States. Respondent causes said hats, when sold, to be transported from his place of business in the State of Illinois to the aforesaid purchasers located in the various States of the United States other than the State of Illinois. Respondent maintains and at all times mentioned herein has maintained a course of trade in said hats 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 his business, respondent buys second-hand, old, worn, and previously used felt hats. The old, worn, and previously used felt hat bodies are cleaned and shaped and fitted with new trimmings and sold by respondent to dealers, who, in turn, sell said hats to the purchasing public.

PAR. 4. The aforesaid old, worn, and previously used hat bodies, after being manufactured into hats, as hereinabove described, have the appearance of new hats manufactured from felt and other materials which have never been worn or used. When articles which are manufactured from second-hand or used materials and which have the appearance of being manufactured from new materials, are offered to the purchasing public, and such articles are not clearly and conspicuously labeled as being manufactured from used or second-hand materials, they are easily and readily accepted by members of the purchasing public as being manufactured entirely from new materials.

Said hats are sold to retailers and other dealers without any label, marking, or designation stamped thereon or attached thereto, to indicate to the purchasing public or to the dealers that said hats are, in fact, manufactured from old, worn, and previously used hat bodies. Said hats are resold to the purchasing public without the fact being disclosed that they are manufactured from hat bodies and other materials which have been previously worn or used, and a substantial portion of the purchasing public is thereby misled to believe that they are, in fact, new hats manufactured entirely from new materials. As a result of this erroneous and mistaken understanding and belief, substantial portions of respondent's hats are purchased by members of the public.

PAR. 5. Through the use of the aforesaid acts and practices, the respondent places in the hands of dealers the means and instrumentalities whereby said dealers may deceive or mislead members of the purchasing public into the erroneous and mistaken belief that they are purchasing hats manufactured from new materials, when, in fact, said hats are composed entirely or in part of old, second-hand, and previously used hat bodies.

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 respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that he 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, Frank Gorr, individually, and trading as Victor Hat Co., 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 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 in some conspicuous place on the exposed surface of the inside of the hat in conspicuous and legible terms which cannot be removed or obliterated without mutilating the hat itself, a statement that said products are composed of second-hand or used materials, provided that if substantial bands, placed similarly to sweat bands in men's hats, are attached to said hats, then and in that event such statement may be stamped upon such bands, provided further, that said stampings are of such nature that they cannot be removed or obliterated without mutilating the band and the band itself cannot be removed without rendering the hat unserviceable.

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.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Syllabus

IN THE MATTER OF

OLD COLONY KNITTING MILLS, 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 4236. Complaint, Aug. 14, 1940—Decision, Jan. 27, 1942

Where a corporation engaged in the manufacture and interstate sale and distribution of knitted goods—

- (a) Marked and labeled certain men's and women's sweaters as "Made of Imported Scotch-Shetland," etc., and as " * * * real Shetland Wool," relying in case of former upon representations made to it by seller of yarn it used therein, and discontinuing latter label after discussion with representatives of such concern; and

Where a corporate manufacturer of yarns—

- (b) Labeled aforesaid yarns sold by it to knitted goods manufacturer above described as "Shetland B" and "Shetland F," and invoiced them to purchasers as "Shetland Blend B," "Shetland B," and "Shetland F";

Notwithstanding the fact such yarns and sweaters made therefrom were composed, in accordance with said letters "B" and "F," of about 75 percent English Hogget wool and 25 percent China Lamb wool, or of about 50 percent English Hogget wool, 40 percent Australian wool and 10 percent Kid Mohair, respectively, and did not contain, as long understood from word "Shetland," wool made of, or product made from wool of, that breed known as Shetland sheep grown on Shetland Islands or contiguous mainland of Scotland, which had become well known to purchasing public by reason of certain definite characteristics and for which there had developed a consumer preference over products known to be made from the simulated Shetland, which even experts found it very difficult, if not impossible, to distinguish from the genuine, more costly, and quite limited Shetland;

With effect of misleading and deceiving purchasers and prospective purchasers into the mistaken belief that the products thus labeled were made of genuine Shetland wool, of which in fact they contained none:

Held, That such acts and practices were all to the prejudice of the public, and constituted unfair acts and practices in commerce.

As respects present significance of word "Shetland" applied to wool or wool products, which has long meant the wool of, or made from the wool of, a breed of sheep known as Shetland sheep grown on the Shetland Islands or the contiguous mainland of Scotland, with certain well known characteristics and which has come to enjoy a consumer preference for certain uses: notwithstanding efforts to induce the wool trade and purchasing public to accept the view that the term signifies only a type of wool or wool product having the distinctive characteristics of the real and more expensive Shetland wool, regardless of its source, such significance still represents the understanding and belief of a substantial portion of the trade in question and purchasing public.

Before *Mr. Miles J. Furnas* and *Mr. Randolph Preston*, trial examiners.