

Syllabus

IN THE MATTER OF

SAMUEL MARTIN, TRADING AS SAMUEL MARTIN, LTD.

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

Docket 4660. Complaint, Dec. 18, 1941—Decision, Mar. 9, 1942

Where an individual, engaged in Seattle, Wash., in the interstate sale and distribution to retailers and to the general public of men's clothing and blankets—

- (a) Represented that he was an English limited company, with principal place of business in London, and that the men's clothing offered and sold by him was made by such company in its factory in Leeds and imported by it and stored in a warehouse at the address given, through use of words "London," "Limited," and "Ltd." in connection with his trade name, and through such statements in connection therewith as "English Top Coats and Lounge Suits, U. S. Warehouse—Seattle, Wash.," and "Pacific Coast Warehouse, 600 Textile Tower, Seattle, Washington, U. S. A.," along with picture of a three-story factory building bearing said trade name above the words "Factory in Leeds, England," on stationery and invoices, in newspaper advertisements, and on labels attached to his garments;

When in fact he was not an English concern, but an individual doing business under the trade name indicated, with no place of business in London; little, if any, of his clothing was made by him, or in Leeds or any place in England, for which there is a preference on the part of a substantial portion of the purchasing public; and the location given was not a warehouse, but his only place of business in which some of the garments sold by him were made;

- (b) Represented that his blankets were products of the Hudson Bay Company through designating them as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket" in newspaper advertisements and on invoices or otherwise;

When in fact the blankets in question were not those widely sold, favorably known and preferred blankets long sold and distributed by the Hudson Bay Co., advertised, labeled and designated "Hudson's Bay 'Point' Blanket," and known generally as "Hudson Bay Blanket";

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such statements were true, and thereby causing it to purchase substantial quantities of his products, and with result also of placing in the hands of retailers means with which to mislead and 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. James I. Rooney for the Commission.

Complaint

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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 Samuel Martin, 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, Samuel Martin, is an individual trading and doing business under the name of Samuel Martin, Ltd., with his principal office and place of business located at 600 Textile Tower, Seattle, Wash.

PAR. 2. Said respondent is now and for more than one year last past has been engaged in the sale and distribution of men's clothing and blankets to retailers for resale and to the general public. Respondent causes said merchandise, when sold, to be shipped from his place of business in Seattle, Wash., to the purchasers thereof, who are located at points 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 merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of his men's clothing, respondent has made many false, misleading, and deceptive statements and representations respecting his business status and the origin and place of manufacture of merchandise, on stationery and invoices and in advertisements inserted in newspapers, all of which are disseminated and circulated among the purchasing public and on labels attached to said garments. Among and typical of the representations so made by the respondent are the following:

SAMUEL MARTIN, LTD.
SAMUEL MARTIN, LIMITED
SAMUEL MARTIN, LTD., LONDON
SAMUEL MARTIN, LIMITED, LONDON
SAMUEL MARTIN, LTD.
LONDON
English Top Coats and Lounge Suits
U. S. Warehouse, Seattle, Wash.
SAMUEL MARTIN, LTD.
LONDON
Seattle, U.S.A.

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SAMUEL MARTIN, LIMITED
LONDON
Pacific Coast Warehouse
600 Textile Tower
Seattle, Washington, U.S.A.

(Picture representation of a three-story factory building upon which appears the name SAMUEL MARTIN, LTD., and beneath which is the following: "FACTORY IN LEEDS, ENGLAND")

SAMUEL MARTIN, LTD.
LONDON
English Top Coats
1417 Fourth Avenue, Seattle, Wash.
Factory, Leeds, England

PAR. 4. Through the use of the aforesaid statements and representations and other similar thereto not specifically set out herein, respondent represents that Samuel Martin, Ltd., is an English limited company, with its principal place of business at London, England; that the men's clothing offered for sale and sold by him is made by said company in a factory owned or controlled by it in Leeds, England, and imported by it from England to the United States; that the location described at 600 Textile Tower, Seattle, Wash., is the warehouse in which the imported garments are stored when received from England.

PAR. 5. In truth and in fact, respondent is not an English limited company, or an English concern or enterprise, but he is an individual doing business under the trade name of Samuel Martin, Ltd., as described in paragraph 1 hereof. Respondent has no office or place of business in London, England. Little, if any, of the men's clothing offered for sale and sold by respondent is made by him or by a company or concern which he owns or controls or in a factory owned or controlled by him in Leeds, England, or at any other place or location in England or is imported from England. The location at 600 Textile Tower, Seattle, Wash., is not a warehouse for the storage of imported garments but is the respondent's only place of business and is the place where some of the garments sold by respondent are made.

There has long been and is now a preference on the part of a substantial portion of the purchasing public for men's clothing manufactured in England and there is a demand among the purchasing public for such clothing.

PAR. 6. In the course and conduct of his business, as aforesaid, and for the purpose of inducing the purchase of his blankets, respondent

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has falsely represented by various means, such as advertisements inserted in newspapers and on invoices sent to purchasers, that said blankets are products of the Hudson's Bay Co. by designating and describing said blankets as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket."

Hudson Bay Company is a corporation organized under the laws of England in the year 1670, having its principal place of business at Vancouver, British Columbia. For a great number of years it has sold and distributed blankets throughout the United States under its corporate name, such blankets being advertised, labeled and designated "Hudson's Bay 'Point' Blanket" and generally known to the purchasing public as "Hudson Bay Blanket." These blankets have enjoyed a wide sale and are well known for their excellent qualities and there is a preference and demand among the purchasing public for such blankets.

The blankets designated as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket" offered for sale and sold by respondent, while imported from England, are not the product of Hudson Bay Co. nor are they Hudson Bay Point Blankets or Hudson Bay Blankets.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading statements and representations, disseminated as aforesaid, has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and has caused a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's products.

The respondent's aforesaid practices with respect to his said products places in the hands of retailers of said products a means and instrumentality wherewith to mislead and deceive members of the purchasing public in the manner and form hereinabove set out and described.

PAR. 8. 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 December 18, 1941, issued and subsequently served its complaint in this proceeding upon respondent, Samuel Martin, individually and trading as Samuel Martin, Ltd., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On January 10, 1942, the respondent filed his answer, in which answer he 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. Respondent, Samuel Martin, is an individual trading and doing business under the name of Samuel Martin, Ltd., with his principal office and place of business located at 600 Textile Tower, Seattle, Wash.

PAR. 2. Said respondent is now and for more than one year last past has been engaged in the sale and distribution of men's clothing and blankets to retailers for resale and to the general public. Respondent causes said merchandise, when sold, to be shipped from his place of business in Seattle, Wash., to the purchasers thereof, who are located at points 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 merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of his men's clothing, respondent has made many false, misleading and deceptive statements and representations respecting his business status and the origin and place of manufacture of said merchandise, on stationery and invoices and in advertisements inserted in newspapers, all of which are disseminated and circulated among the purchasing public and on labels at-

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tached to said garments. Among and typical of the representations so made by the respondent are the following:

SAMUEL MARTIN, LTD.
SAMUEL MARTIN, LIMITED
SAMUEL MARTIN, LTD., LONDON
SAMUEL MARTIN, LIMITED, LONDON
SAMUEL MARTIN, LTD.
LONDON
English Top Coats and Lounge Suits
U. S. Warehouse, Seattle, Wash.
SAMUEL MARTIN, LTD.
LONDON
Seattle, U. S. A.
SAMUEL MARTIN, LIMITED
LONDON
Pacific Coast Warehouse
600 Textile Tower
Seattle, Washington, U. S. A.

(Picture representation of a three-story factory building upon which appears the name "SAMUEL MARTIN, LTD.," and beneath which is the following: "FACTORY IN LEEDS, ENGLAND")

SAMUEL MARTIN, LTD.
LONDON
English Top Coats
1417 Fourth Avenue, Seattle, Wash.
Factory, Leeds, England

PAR. 4. Through the use of the aforesaid statements and representations and others similiar thereto not specifically set out herein, respondent represents that Samuel Martin, Ltd., is an English limited company, with its principal place of business at London, England; that the men's clothing offered for sale and sold by him is made by said company in a factory owned or controlled by it in Leeds, England, and imported by it from England to the United States; that the location described as 600 Textile Tower, Seattle, Wash., is the warehouse in which the imported garments are stored when received from England.

PAR. 5. In truth and in fact, respondent is not an English limited company, or an English concern or enterprise, but he is an individual doing business under the trade name of Samuel Martin, Ltd., as described in paragraph 1 hereof. Respondent has no office or place of business in London, England. Little, if any, of the men's clothing offered for sale and sold by respondent is made by him or by a com-

pany or concern which he owns or controls or in a factory owned or controlled by him in Leeds, England, or at any other place or location in England or is imported from England. The location at 600 Textile Tower, Seattle, Wash., is not a warehouse for the storage of imported garments but is the respondent's only place of business and is the place where some of the garments sold by respondent are made.

There has long been and is now a preference on the part of a substantial portion of the purchasing public for men's clothing manufactured in England and there is a demand among the purchasing public for such clothing.

PAR. 6. In the course and conduct of his business, as aforesaid, and for the purpose of inducing the purchase of his blankets, respondent has falsely represented by various means, such as advertisements inserted in newspapers and on invoices sent to purchasers, that said blankets are products of the Hudson's Bay Co. by designating and describing said blankets as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket."

Hudson Bay Co., is a corporation organized under the laws of England in the year 1670, having its principal place of business at Vancouver, British Columbia. For a great number of years it has sold and distributed blankets throughout the United States under its corporate name, such blankets being advertised, labeled and designated "Hudson's Bay 'Point' Blanket" and generally known to the purchasing public as "Hudson Bay Blanket." These blankets have enjoyed a wide sale and are well known for their excellent qualities and there is a preference and demand among the purchasing public for such blankets.

The blankets designated as "Imported Hudson Bay Blankets" and "Hudson Bay Blanket" offered for sale and sold by respondent, while imported from England, are not the product of Hudson Bay Co. nor are they Hudson Bay Point Blankets or Hudson Bay Blankets.

PAR. 7. The use by the respondent of the foregoing false, deceptive and misleading statements and representations, disseminated as aforesaid, has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and has caused a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's products.

The respondent's aforesaid practices with respect to his said products place in the hands of retailers of said products a means and instrumen-

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tality wherewith to mislead and deceive members of the purchasing public in the manner and form hereinabove set out and described.

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, Samuel Martin, individually and trading as Samuel Martin, Ltd., or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of men's clothing and blankets in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "London" in conjunction with respondent's name or in conjunction with any trade name used by respondent, or in any manner representing that the respondent's enterprise is a British corporation or an English concern.

2. Representing in any manner, directly or indirectly, that any merchandise sold and distributed by respondent is manufactured in the British Isles, unless the merchandise so described has been manufactured in the British Isles.

3. Using the words "Factory, Leeds, England," or representing in any manner that the merchandise sold and distributed by respondent is manufactured by him, unless and until the respondent actually owns and operates or directly and absolutely controls the plant or factory in which such merchandise is manufactured.

4. Representing, directly or indirectly, that respondent operates a warehouse or other building in connection with his business for the storage of imported merchandise, unless such is the fact.

5. Using the words "Imported Hudson Bay Blankets" and "Hudson Bay Blanket" or words of similar import in connection with and as descriptive of blankets sold and distributed by respondent unless such blankets are the same as those sold and distributed by Hudson Bay Company, incorporated under the laws of England in 1670 with its principal place of business located in Vancouver, British Columbia.

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.

IN THE MATTER OF

HERBERT NEBENZAHL AND IRVING NEBENZAHL,
TRADING AS OLANDO MANUFACTURERS

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

Docket 4664. Complaint, Jan. 7, 1942—Decision, Mar. 9, 1942

Where two individuals, engaged in the manufacture and interstate sale and distribution of sweaters—

- (a) Represented through use of trade name "Kamelo" that their said products were composed in whole or in part of camel hair, and displayed on labels attached to said products such name superimposed in large, dark-faced type upon a camel, with the words "cotton and rayon" in much smaller and less conspicuous type on the borderline of the label where they might be easily hidden or covered in attaching the same to the garment;
- Notwithstanding the fact that the material from which garments in question were made was not composed, either in whole or in part, of camel hair—yarn and garments of which have long enjoyed a substantial public demand and preference for certain purposes—but were made of cotton fiber and of rayon which, when, as here, manufactured to simulate camel hair, has the appearance and feel thereof, and is readily accepted by the purchasing public as camel hair; and
- (b) Failed to disclose adequately the rayon content of their said sweaters, which, labeled as aforesaid, were so manufactured as to simulate camel hair and had the appearance and feel thereof;

With effect of misleading and deceiving a substantial portion of the purchasing public, and inducing it to purchase substantial quantities of 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. James M. Hammond 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 Herbert Nebenzahl and Irving Nebenzahl, individually and trading as Olando Manufacturers, hereinafter referred to as respondents, have 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. Respondents, Herbert Nebenzahl and Irving Nebenzahl, are individuals trading as Olando Manufacturers, with their