

IN THE MATTER OF

S. REIFFE & SONS, INC., TRADING AS FAIRMOUNT MERCHANDISE COMPANY AND CROWN MAIL ORDER COMPANY

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

Docket 4665. Complaint, Jan. 7, 1942—Decision, June 1, 1942

Where a corporation, engaged in buying old, worn, and previously used articles of clothing, including dresses, overcoats, men's suits, hats and shoes, and in interstate resale thereof by mail order; by means of statements in catalogues, letters, pamphlets, advertisements in newspapers and periodicals, and other printed and written material—

- (a) Represented, through such statements as "Silk dresses—10¢," that products advertised by it were made of silk, and that one or any other reasonable number thereof might be purchased for 10 cents; the facts being that many of such dresses were made in whole or in part from rayon, and could not be purchased at 10 cents except in lots of 25;
- (b) Represented that its products were obtained from companies or individuals in bankruptcy, and were in such condition and of such style and size as to be wearable by the purchaser; notwithstanding fact that most of its products were old and worn, only a small portion thereof had been obtained as aforesaid, and many of them were so out of style, of such improper sizes and in such condition as to be unsuitable for wear when received by purchaser;
- (c) Represented that in case of dissatisfaction refunds would be made without delay and without expense or inconvenience to dissatisfied customers, and that goods ordered would be delivered within a reasonable time without inconvenience or expense to purchaser; notwithstanding fact that customers were obliged to bear the expense of returning goods before receiving refunds, and, frequently, delivery was delayed for 2 months or longer, and in many instances customers were obliged to communicate repeatedly with said corporation and apply to Better Business Bureaus and other agencies for assistance in order to secure refunds or delivery; and
- (d) Further represented its products as silk through failure to disclose their content of rayon which, when made to simulate silk, is practically indistinguishable therefrom by the purchasing public, which accepted such products as silk in whole or part;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said statements were true, thereby inducing it to purchase a substantial volume of the products in question: *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. Donovan Divet for the Commission.

Kopf & Rosenbluth, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, any by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that S. Reiffe & Sons, Inc., a corporation, individually, and doing business under the trade names, Fairmount Merchandise Co. and Crown Mail Order Co., hereinafter referred to as the 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 in that respect as follows:

PARAGRAPH 1. The respondent, S. Reiffe & Sons, Inc., is a corporation, organized and existing by virtue of the laws of the State of New York, doing business under the trade names, Fairmount Merchandise Co. and Crown Mail Order Co., and having its principal place of business at 160-166 Monroe Street in the city of New York, State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of buying and of reselling by mail order old, worn, and previously used articles of clothing, including dresses, overcoats, men's suits, hats, and shoes. Respondent causes said products, when sold, to be transported from its place of business in the State of New York to the purchasers thereof at their respective points of location 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 its said products 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 its aforesaid business respondent has engaged in the practice of falsely representing the constituent fiber or material of which its products are made, as well as the newness, the sources of supply and physical condition of such products, the circumstances and conditions under which it makes refunds and the time within which it fills orders, such false representations being made by means of statements appearing in catalogues, letters, pamphlets, advertisements published in newspapers and magazines, and other printed and written material.

Among and typical of said false, misleading, and deceptive statements are the following:

SILK DRESSES—10¢

Men's suits \$2.00; Overcoats \$1 00; Ladies' shoes 50¢; Hats 40¢. Many other low-priced BARGAINS. FREE CATALOGUE. Send name on postcard. Write today.

Complaint

34 F. T. C.

BANKRUPT BARGAINS

Every time we succeed in capturing another big bankrupt stock, loaded with every variety of fine, clean, stylish apparel for men, women, boys and girls, we are happy in feeling that here's another joyous money-saving feast of sterling values for our many friends.

Just remember there's no possible chance for you to have any dissatisfaction with what you buy because of our guarantee to promptly return your money for anything that doesn't please you!

The word "silk" has been long and favorably known to the purchasing and consuming public as descriptive of goods made from the product of the cocoon of the silkworm.

By means of the aforesaid representations and others of similar import or meaning not herein specifically set forth, the respondent represents that its products advertised as silk are made from silk, the product of the cocoon of the silkworm, and that one or any other reasonable number of its dresses described as silk may be purchased for 10 cents; that its products are new and unused; that its products are obtained from companies or individuals in bankruptcy; that its products are in such condition and of such a style and size to be wearable by the purchaser; that in case of dissatisfaction refunds will be made to dissatisfied customers without delay and without expense or inconvenience to such dissatisfied purchasers, and that goods ordered will be delivered within a reasonable time without inconvenience or expense to the purchaser.

Such representations are false and misleading. In truth and in fact, many of the respondent's products advertised and represented as silk are made in whole or in part from rayon; dresses advertised as silk and as being for sale at 10 cents cannot be purchased except in lots of 25; although respondent sells some new clothing, most of its products are old, worn, and previously used; only a small portion of respondent's products are obtained from persons or concerns in bankruptcy; many of respondent's products are so out of style, of such improper sizes and in such physical condition as to be unsuitable for wear when received by the purchaser; dissatisfied customers before obtaining a refund are obliged to bear the expense of returning the goods, and in many instances are put to the inconvenience of repeatedly communicating with respondent and of applying to Better Business Bureaus and other agencies for assistance before receiving refunds; in many instances, goods ordered are not delivered within a reasonable time, but instead delivery is delayed for 2 months and longer, and in many instances customers are obliged to communicate repeatedly with respondent and to apply to Better Business Bureaus and other agencies for assistance in order to secure delivery.

Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate silk. When manufactured to simulate silk, it has the appearance and feel of silk. By reason of these qualities rayon, when manufactured to simulate silk and not designated as rayon, is by the purchasing public practically indistinguishable from silk. Products made from rayon resembling silk are accepted by the public as silk even though such products may not be designated by terms representing or implying that they are silk.

In addition to misrepresenting certain of its products by use of the word "silk" as heretofore alleged, the respondent by failing to disclose the rayon content of said products, which resemble silk, represents that said products are composed entirely of silk, the product of the cocoon of the silkworm, whereas in truth and in fact said products are in some cases composed entirely of rayon and in other cases partly of rayon.

PAR. 4. The acts and practices of the respondent as herein set forth have the tendency and capacity to, and do mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true. On account of these erroneous beliefs, a number of the consuming and purchasing public purchases a substantial volume of respondent's products.

PAR. 5. 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 January 7, 1942, issued and on January 14, 1942, served its complaint in this proceeding upon respondent, S. Reiffe & Sons, Inc., a corporation, individually, and doing business under the trade names, Fairmount Merchandise Co. and Crown Mail Order Co., 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 pro-

Findings

34 F. T. C.

ceeding regularly came on for final hearing before the Commission on 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. The respondent, S. Reiffe & Sons, Inc., is a corporation, organized and existing by virtue of the laws of the State of New York, doing business under the trade names, Fairmount Merchandise Co. and Crown Mail Order Co., and having its principal place of business at 160-166 Monroe Street in the city of New York, State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of buying and of reselling by mail order, old, worn, and previously used articles of clothing, including dresses, overcoats, men's suits, hats, and shoes. Respondent causes said products, when sold, to be transported from its place of business in the State of New York to the purchasers thereof at their respective points of location 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 its said products 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 its aforesaid business respondent has engaged in the practice of falsely representing the constituent fiber or material of which its products are made, as well as the newness, the sources of supply and physical condition of such products, the circumstances and conditions under which it makes refunds and the time within which it fills orders, such false representations being made by means of statements appearing in catalogs, letters, pamphlets, advertisements published in newspapers and magazines, and other printed and written material.

Among and typical of said false, misleading, and deceptive statements are the following:

SILK DRESSES—10¢

Men's suits \$2.00; Overcoats \$1.00; Ladies' shoes 50¢; Hats 40¢. Many other low-priced BARGAINS. FREE CATALOGUE. Send name on postcard. Write today.

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we are happy in feeling that here's another joyous money-saving feast of sterling values for our many friends.

Just remember there's no possible chance for you to have any dissatisfaction with what you buy because of our guarantee to promptly return your money for anything that doesn't please you!

The word "silk" has been long and favorably known to the purchasing and consuming public as descriptive of goods made from the product of the cocoon of the silkworm.

By means of the aforesaid representations and others of similar import or meaning not herein specifically set forth, the respondent represents that its products advertised as silk are made from silk, the product of the cocoon of the silkworm, and that one or any other reasonable number of its dresses described as silk may be purchased for 10 cents; that its products are new and unused; that its products are obtained from companies or individuals in bankruptcy; that its products are in such condition and of such a style and size as to be wearable by the purchaser; that in case of dissatisfaction refunds will be made to dissatisfied customers without delay and without expense or inconvenience to such dissatisfied purchasers, and that goods ordered will be delivered within a reasonable time without inconvenience or expense to the purchaser.

Such representations are false and misleading. In truth and in fact, many of the respondent's products advertised and represented as silk are made in whole or in part from rayon; dresses advertised as silk and as being for sale at 10 cents cannot be purchased except in lots of 25; although respondent sells some new clothing, most of its products are old, worn, and previously used; only a small portion of respondent's products are obtained from persons or concerns in bankruptcy; many of respondent's products are so out of style, of such improper sizes and in such physical condition as to be unsuitable for wear when received by the purchaser; dissatisfied customers before obtaining a refund are obliged to bear the expense of returning the goods and in many instances are put to the inconvenience of repeatedly communicating with respondent and of applying to Better Business Bureaus and other agencies for assistance before receiving refunds; in many instances, goods ordered are not delivered within a reasonable time, but instead delivery is delayed for 2 months or longer, and in many instances customers are obliged to communicate repeatedly with respondent and to apply to Better Business Bureaus and other agencies for assistance in order to secure delivery.

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Order

34 F. T. C.

ties rayon, when manufactured to simulate silk and not designated as rayon, is by the purchasing public practically indistinguishable from silk. Products made from rayon resembling silk are accepted by the public as silk even though such products may not be designated by terms representing or implying that they are silk.

In addition to misrepresenting certain of its products by use of the word "silk," as heretofore found, the respondent by failing to disclose the rayon content of said products, which resemble silk, represents that said products are composed entirely of silk, the product of the cocoon of the silkworm; where in truth and in fact said products are in some cases composed entirely of rayon and in other cases partly of rayon.

PAR. 4. The acts and practices of the respondent as herein set forth have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true. On account of said erroneous belief, a number of the consuming and purchasing public purchases a substantial volume of respondent's products.

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 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, S. Reiffe & Sons, Inc., a corporation, individually, and doing business under the trade names, Fairmount Merchandise Co. and Crown Mail Order Co., 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 clothing in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "silk" or any other term or terms of similar import or meaning indicative of silk to describe or designate any garment which is not composed wholly of silk, the product of the cocoon of the silkworm; *Provided, however,* That in the case of a garment composed in part of silk and in part of materials other than silk, such term or terms may be used as descriptive of the silk content if there are used in immediate connection or conjunction therewith in letters of at least equal size and conspicuousness words truthfully describing and designating each constituent fiber thereof.

2. Representing that any garment may be purchased for 10 cents or any other sum, when in fact such garment may be purchased at the price mentioned only in lots of more than one, without clearly disclosing the number of garments which must be purchased to obtain said garments for 10 cents or any other sum each.

3. Representing that old, used, worn, or secondhand garments are new.

4. Representing that garments secured from sources other than bankrupt estates have been obtained from companies or individuals in bankruptcy.

5. Representing that garments not in a wearable physical condition, not of a current mode for the type of article sold, or not of the size indicated by the purchaser are suitable for wear, and from including in the fulfilment of any order for garments represented as suitable for wear, any garment which is not in such condition and of such style as to be wearable by the purchaser without change or alteration or which is not of the size ordered by the purchaser.

6. Representing that refunds will be made to purchasers without delay, expense, or inconvenience to the purchaser unless and until respondent establishes and maintains the uniform practice of making all refunds in such manner, and from failing to make any refunds so represented, without expense and without unusual delay and without unusual inconvenience to the purchaser.

7. Representing that garments ordered will be delivered within a reasonable time or without inconvenience or expense to the purchaser unless and until respondent establishes and maintains the uniform practice of making all deliveries in such manner, and from failing to deliver garments so represented without expense, to the purchaser, within a reasonable time, and without unusual inconvenience to the purchaser.

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

34 F. T. C.

IN THE MATTER OF
RADIO WIRE TELEVISION, INC.

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

Docket 4491. Complaint, Apr. 19, 1941—Decision, June 2, 1942

Where a corporation, engaged in the competitive interstate sale and distribution of radio receiving sets, accessories, and parts, and kits for use in home construction; by means of advertisements in catalogues, pamphlets, and other advertising matter—

Represented that its "One-tube battery operated all-wave set" had the power or capacity to "tune in the world"; and by the designations "Two-tube AC-DC kit" and "Two-tube AC-DC set" that such sets were two tube sets;

The facts being that such so-called "all-wave sets" did not have the power and capacity to bring in all-wave radio programs from wherever broadcast and it was not possible for the "one tube battery set," "to tune in the world," or bring in programs broadcast from stations located throughout the world; while so-called "two-tube" kits and sets were not equipped with two fully functioning tubes, but were equipped with one detecting, amplifying or receiving tube and one tuning or rectifying tube;

With effect of misleading and deceiving a substantial number of members of the purchasing public—which believes that the greater number of actually functioning tubes there are in a set the better the performance, and buys radios in the belief that an all-wave set has power and capacity to and will bring in programs broadcast on all wave lengths from stations throughout the world—into the mistaken belief that aforesaid representations were true, with result that they purchased substantial volume of said products, thereby unfairly diverting trade to it from its competitors; to the 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. Miles J. Furnas*, trial examiner.

Mr. S. Brogdyne Tew, II for the Commission.

Baar, Bennett & Fullen, of New York City, 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 Radio Wire Television, Inc., 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,