

Complaint

IN THE MATTER OF

THE LEONARD CUSTOM TAILORS CO., ETC.

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

Docket 4845. Complaint, Oct. 2, 1942—Decision, Jan. 14, 1943

Where a corporation, engaged in the manufacture and interstate sale and distribution of men's clothes; in advertisements in pamphlets, newspapers, magazines, and other periodicals of interstate circulation—

Represented that its product was benchmade, or made strictly by hand, from woolen materials which were exclusive to it and could not be obtained elsewhere;

Facts being that it was not so made, and men's clothing manufactured from identical woolens could be purchased from other dealers;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such misrepresentations were true, because of which it purchased said product:

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

Mr. R. P. Bellinger 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 The Leonard Custom Tailors Co., a corporation, also trading as Leonard Custom Tailors Co., as Leonard Custom Tailors, and as Avon Park Clothes, 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. Respondent, The Leonard Custom Tailors Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Ohio, having its office and principal place of business in the Textile Building, Cincinnati, Ohio. Respondent is now and for some time last past has been engaged in the manufacture, sale, and distribution of men's clothes, under its corporate name and under the trade names Leonard Custom Tailors Co., Leonard Custom Tailors and Avon Park Clothes.

PAR. 2. In the course and conduct of its said business respondent, in its own name, or one of its aforesaid trade names, has transported

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its said product, or caused the same to be transported, when sold, from its place of business in the State of Ohio to purchasers thereof located in the various States of the United States, other than the State of Ohio, and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said product, 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 misleadingly and falsely represented that its said product is handmade from woolens obtainable exclusively from respondent, such false representations being made through the use of statements and advertisements appearing in pamphlets, newspapers, magazines, and other periodicals sent through the United States mails and having interstate circulation. Among and typical of the said false, misleading, and deceptive statements and representations are the following:

America's foremost direct-to-consumer Leonard custom tailoring, Made-To-Measure, Exclusive Woolens, bench-made quality, \$31.75 to \$39.75. Also Deluxe Imported Fabrics, \$44.75 up to \$59.75. American selling rights confined to us.

Greatest Opportunity Offering America's foremost direct-to-consumer Leonard custom tailoring Made-To-Measure. \$29.75 to \$39.75 Exclusive Leonard woolens, same quality bench-made clothes always featured by Leonard.

Leonard alone features exclusive imported fabrics from the choice looms of Europe and selected domestics from the finest American mills.

* * * your assurance of real bench-made quality in the precise manner of the fine custom tailor.

† Exclusive Leonard woolens. American selling rights confined to us.

PAR. 4. By means of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, the respondent has represented, directly or by implication, that its men's clothes are bench-made, or made strictly by hand, from woolen materials which are exclusive to respondent and cannot be obtained elsewhere.

PAR. 5. Such statements and representations are false, misleading, and deceptive. In truth and in fact respondent's clothes are not bench-made, or made strictly by hand, and the woolen materials from which said clothing is made are not peculiar to or exclusive to respondent, but men's clothes manufactured from identically the same woolens can be purchased in the United States from dealers other than respondent.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations as herein set forth have had and now 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, and because of said erroneous and mistaken belief a substantial number of the purchasing public has purchased and is purchasing respondent's said product.

PAR. 7. 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 October 2, 1942, issued and thereafter served its complaint in this proceeding upon the respondent, The Leonard Custom Tailors Co., a corporation, also trading as Leonard Custom Tailors Co., as Leonard Custom Tailors and as Avon Park Clothes, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 26, 1942, the respondent filed its answer, in which answer it 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, The Leonard Custom Tailors Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Ohio, having its office and principal place of business in the Textile Building, Cincinnati, Ohio. Respondent is now and for some time last past has been engaged in the manufacture, sale, and distribution of men's clothes, under its corporate name and under the trade names Leonard Custom Tailors Co., Leonard Custom Tailors, and Avon Park Clothes.

PAR. 2. In the course and conduct of its said business, respondent, in its own name or one of its aforesaid trade names, has transported its said product, or caused the same to be transported, when sold, from its place of business in the State of Ohio to purchasers thereof located

in the various States of the United States, other than the State of Ohio, and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said product, 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 misleadingly and falsely represented that its said product is handmade from woolens obtainable exclusively from respondent, such false representations being made through the use of statements and advertisements appearing in pamphlets, newspapers, magazines, and other periodicals sent through the United States mails and having interstate circulation. Among and typical of the said false, misleading, and deceptive statements and representations are the following:

America's foremost direct-to-consumer Leonard custom tailoring, Made-to-Measure, Exclusive Woolens, bench-made quality \$31.75 to \$39.75. Also Deluxe Imported Fabrics, \$44.75 up to \$59.75. American selling rights confined to us.

Greatest Opportunity Offering America's foremost direct-to-consumer Leonard custom tailoring Made-To-Measure. \$29.75 to \$39.75 Exclusive Leonard woolens, same quality bench-made clothes always featured by Leonard.

Leonard alone features exclusive imported fabrics from the choice looms of Europe and selected domestics from the finest American mills.

* * * your assurance of real bench-made quality in the precise manner of the fine custom tailor.

Exclusive Leonard woolens. American selling rights confined to us.

PAR. 4. By means of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, the respondent has represented, directly or by implication, that its men's clothes are bench-made, or strictly by hand, from woolen materials which are exclusive to respondent and cannot be obtained elsewhere.

PAR. 5. Such statements and representations are false, misleading, and deceptive. In truth and in fact respondent's clothes are not bench-made, or made strictly by hand, and the woolen materials from which said clothing is made are not peculiar to or exclusive to respondent, but men's clothes manufactured from identically the same woolens can be purchased in the United States from dealers other than respondent.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations as herein set forth 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 said statements and representations are true, and because of said erroneous and mistaken belief a substan-

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tial number of the purchasing public has purchased and is purchasing respondent's said product.

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, The Leonard Custom Tailors Co., a corporation, also trading as Leonard Custom Tailors Co., as Leonard Custom Tailors, and as Avon Park Clothes, or trading under any other name or names, 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 men's clothes in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that its men's clothes are bench-made or hand-made.

2. Representing that the woolen materials from which respondent's men's clothing is made are exclusive to respondent or that respondent is the only dealer from whom clothes manufactured from the same materials can be purchased.

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.

IN THE MATTER OF
HOLLYWOOD MAGIC GARMENT CO.

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

Docket 4702. Complaint, Feb. 5, 1942—Decision, Jan. 19, 1943

Where a corporation, engaged in interstate sale and distribution of its so-called "Hollywood Magic Garment" for removal of excess flesh, made of rubberized cloth and fitted tightly about the neck, wrists, and ankles—or the thighs in the event a shorter garment was desired—to induce perspiration; by means of advertisements disseminated through the mails, and by various other means, directly or by implication—

Represented that use of its device constituted an effective means for removing excess weight or flesh, and that it might be used with entire safety, through such statements, among others, as "LOSE A POUND A DAY"; "TAKE INCHES OFF!"; "MELT POUNDS AWAY"; "* * * lose as much as a pound a day safely, leisurely"; etc;

The facts being that the reduction in weight brought about through perspiration induced by the increased body temperature and inability of perspiration to escape, with further increase of temperature and further loss by the body of water and salt, was only temporary, due to marked thirst and consumption of water or other liquids thereby induced, and resulting substantial restoration of weight; the only method recognized by medical science, as established by expert testimony, for effective reduction of weight in the usual case is curtailment of the food intake, particularly as to fats and carbohydrates; use of such devices is, accordingly, regarded as wholly ineffective, is not safe in all cases, especially of elderly and over-fat persons, and never in presence of any serious pathological condition and especially heart disease;

With tendency and capacity of misleading and deceiving a substantial portion of the purchasing public with respect to properties and safety of said device, and causing its purchase thereof because of such mistaken belief:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

As respects the offer and sale of tight fitting rubber garments as a means for reducing excess flesh through the perspiration and temporary reduction in weight thus brought about, expert testimony established that the only method recognized by medical science as effective for the reduction of weight in the usual or ordinary case is curtailment of the food intake, particularly as to fats and carbohydrates; and that the use of such devices is regarded as wholly ineffective for obtaining any permanent reduction in weight, since they have no substantial effect upon accumulated fatty tissues.