

Complaint

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IN THE MATTER OF

ISAAC S. BRILL, HERMAN A. GALLANT, AND SIMON D.
BRILL, TRADING AS GALLANT TRADING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4780. Complaint, July 6, 1942—Decision, Apr. 2, 1943*

Where three individuals, engaged as partners in interstate sale and distribution of various articles of merchandise, including clothing, shoes, blankets, mattresses, and tarpaulins; by means of pamphlets, circulars, letters, other printed material, and newspaper advertisements, directly or by implication—

- (a) Represented that some of their Army Ill-Top shoes were absolutely perfect; that their mattresses were new and perfect Army mattresses which had been manufactured to Government specifications but, for some unknown reason, had been rejected by the Government; that their tarpaulins were all perfect; and that their blankets were Army blankets;

The facts being that said shoes showed signs of wear; mattresses in question had been renovated and repaired after having been gnawed by mice, and were not Army mattresses or manufactured to Government specifications, or rejected by the Government; not all of their tarpaulins were perfect; and some of their blankets were not Army blankets; and

- (b) Represented falsely that they dealt in Army goods exclusively, that all of their merchandise was purchased from the Government, and that no other dealers had such goods to offer to the public;

With effect of misleading and deceiving a substantial portion of the purchasing public with respect to the nature, quality, and value of said merchandise, thereby inducing its purchase thereof:

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.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Mr. David I. Lippert, of Los Angeles, Calif., for Isaac S. Brill and Simon D. Brill.

Mr. Charles Watkins, of Los Angeles, Calif., for Herman A. Gallant.

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 Isaac S. Brill, Herman A. Gallant, and Simon D. Brill, copartners, trading as Gallant Trading Co., hereinafter referred to as the 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 in that respect as follows:

PARAGRAPH 1. The respondents, Isaac S. Brill, Herman A. Gallant, and Simon D. Brill are copartners, trading as Gallant Trading Co., with their principal place of business located at 1111 South Hill Street, Los Angeles, Calif., and a branch or warehouse storage room located at 1619 South Vermont Street, Los Angeles, Calif.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the business of selling and distributing general merchandise, including clothing, shoes, blankets, mattresses, tarpaulins, and other commodities.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their 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 their aforesaid business respondents have falsely represented that their said products are new and perfect, having been purchased from the Government and are to be found only at the store of respondents, the largest exclusive retail army goods store in the country, such false representations being made by the use of statements appearing in pamphlets, circulars, letters, advertisements published in newspapers, and other printed and written material. Among and typical of said false, misleading, and deceptive statements and representations, are the following:

U. S. ARMY MARCHING SHOES NEW

If you can wear a Size 5 to 6½ (a few Size 7) you can get a brand new pair of Army marching shoes, perfect in every respect, for less than half what the Government is paying;

ARMY NEW KAPOK MATTRESSES ARMY TARPAULINS

Welgh from 14 to 30 oz. Every size. All perfect. Some new.

ARMY HI-TOP SHOES

New Oak soles—rubber heels—absolutely perfect.

THE WEST'S LARGEST EXCLUSIVE ARMY GOODS DEALERS

GALLANT TRADING CO.
Eleventh & Hill St. Prospect 2958

ALL-WOOL BLANKETS NEW

100% wool. Grey. Weight 4 lbs. Size 66 x 84. An unusually large and heavy army emergency blanket.

PERHAPS THESE AND HUNDREDS OF OTHER GOVERNMENT PURCHASED ITEMS, TO BE FOUND ONLY HERE, WILL HELP YOU SOLVE YOUR GIFT PROBLEMS.

PROBABLY THE LARGEST EXCLUSIVE RETAIL ARMY GOODS STORE IN THE UNITED STATES.

KAPOK MATTRESSES

GOV't. rejects; but for what reason we don't know, as the mattresses appear perfect 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 respondents have represented, directly or by implication, that their Army marching shoes are brand new and perfect in every respect; that their Army Hi-Top shoes are absolutely perfect; that their mattresses are new Army mattresses, are perfect, and for some unknown reason have been rejected by the Government; that their tarpaulins are all perfect, some of which are new; that respondents are exclusive Army goods dealers; that their blankets are Army blankets; that their merchandise is all purchased from the Government and no dealers, other than respondents, have such goods to sell to the public.

PAR. 5. Such statements and representations are false, misleading, and deceptive. In truth and in fact respondents' Army marching shoes are neither new nor perfect, but are old obsolete shoes manufactured approximately 20 years ago. Respondents' Army Hi-Top shoes are not absolutely perfect, but show signs of wear. Respondents' mattresses are not Army mattresses; they are not new; they are not perfect but have been renovated and repaired, after having been gnawed by mice; they have not been rejected by the Government. Respondents' tarpaulins are not all perfect, and none of them are new. Respondents are not exclusive Army goods dealers, but purchase substantial quantities of merchandise from sources other than Government agencies. Respondents' blankets are not Army blankets. Respondents' merchandise is not all purchased from the Government and many goods similar thereto and of the same type as respondents' goods can be bought by the public from dealers other than respondents.

PAR. 6. The use by the respondents of the foregoing false, deceptive, and misleading statements and advertisements 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, representations, and advertisements are true and because of said erroneous and mistaken belief a substantial number of the purchasing public has purchased and is purchasing respondents' said products.

PAR. 7. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and consti-

tute 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 July 6, 1942, issued and subsequently served its complaint in this proceeding upon the respondents, Isaac S. Brill, Herman A. Gallant, and Simon D. Brill, copartners, trading as Gallant Trading Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondents' answers to the complaint, a hearing was held before a trial examiner of the Commission theretofore duly designated by it, at which hearing a stipulation as to the facts was entered into between the attorney for the Commission and the attorney for respondents and dictated into the record. This stipulation provided that the facts therein set forth should be taken as the facts in the proceeding, and in lieu of testimony in support of the allegations of the complaint or in opposition thereto. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, answers, stipulation as to the facts (such stipulation having been accepted and approved by the Commission), and brief in support of the complaint (no brief having been filed by respondents and oral argument not having been requested); 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 respondents, Isaac S. Brill, Herman A. Gallant, and Simon D. Brill, are individuals, who for a period of time immediately preceding February 27, 1942, were copartners, trading as Gallant Trading Co., with their principal place of business located at 1111 South Hill Street, Los Angeles, Calif. Respondents were engaged in the business of selling and distributing various articles of merchandise, including, among others, clothing, shoes, blankets, mattresses, and tarpaulins.

PAR. 2. Respondents caused their merchandise, when sold, to be transported from their place of business in the State of California to purchasers thereof located in various other States of the United States. Respondents maintained a course of trade in their merchandise in commerce among and between various States of the United States.

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PAR. 3. In the course and conduct of their business and for the purpose of inducing the purchase of their merchandise, respondents distributed and caused to be distributed among prospective purchasers certain advertising material in the form of pamphlets, circulars, and letters, as well as other printed material. Respondents also advertised their merchandise in newspapers having a general interstate circulation. Among and typical of the statements and representations contained in respondents' advertisements were the following:

ARMY HI-TOP SHOES

New Oak soles—rubber heels—absolutely perfect.

**ARMY NEW KAPOK MATTRESSES
KAPOK MATTRESSES**

GOV't. rejects; but for what reason we don't know, as the mattresses appear perfect to us.

ARMY TARPAULINS

Weight from 14 to 30 oz. Every size. All perfect.

ALL-WOOL BLANKETS NEW

100% wool. Gray. Weight 4 lbs. Size 66 x 84. An unusually large and heavy army emergency blanket.

**THE WEST'S LARGEST EXCLUSIVE ARMY GOODS DEALERS
GALLANT TRADING CO.**

Eleventh & Hill St. Prospect 2958

**PROBABLY THE LARGEST EXCLUSIVE RETAIL ARMY GOODS STORE IN
THE UNITED STATES**

PERHAPS THESE AND HUNDREDS OF OTHER GOVERNMENT PURCHASED ITEMS, TO BE FOUND ONLY HERE, WILL HELP YOU SOLVE YOUR GIFT PROBLEMS.

PAR. 4. Through the use of these statements and representations and others of a similar nature, respondents represented, directly or by implication, that some of their Army Hi-Top shoes were absolutely perfect; that their mattresses were new and perfect Army mattresses which had been manufactured to Government specifications but which for some unknown reason had been rejected by the Government; that their tarpaulins were all perfect; that their blankets were Army blankets; that respondents dealt in Army goods exclusively and that all of their merchandise was purchased from the Government; and that no dealers other than respondents had such goods to offer to the public.

PAR. 5. The Commission finds that these statements and representations were misleading and deceptive. Respondents' Army Hi-Top shoes were not absolutely perfect but showed signs of wear. The mattresses were not Army mattresses, nor were they new or perfect; they

were mattresses which had been renovated and repaired after having been gnawed by mice. They had not been manufactured to Government specifications, and did not constitute merchandise which had been rejected by the Government. All of the tarpaulins were not perfect. Some of the blankets were not Army blankets. Respondents did not deal in Army goods exclusively, nor was all of their merchandise obtained from the Government. Merchandise of the same type and character as that sold by respondents could be obtained by the public from numerous other dealers.

PAR. 6. The Commission finds further that the use by the respondents of these deceptive and misleading representations had the tendency and capacity to and did mislead and deceive a substantial portion of the purchasing public with respect to the nature, quality, and value of respondents' merchandise, and as a result of the erroneous and mistaken belief engendered by such representations, such portion of the public was induced to purchase respondents' merchandise.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice 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, the answers of respondents, stipulation as to the facts, and brief in support of the complaint (no brief having been filed by respondents and oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Isaac S. Brill, Herman A. Gallant, and Simon D. Brill, individually, and trading as Gallant Trading Co., or trading under any other name, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of respondents' merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents' shoes are perfect, when such is not the fact.

2. Representing, directly or by implication, that respondents' mattresses are Army mattresses, or are new or perfect, when such is not the fact.

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3. Representing, directly or by implication, that respondents' mattresses were manufactured to Government specifications but have been rejected by the Government for some unknown reason, when such is not the fact.

4. Representing, directly or by implication, that respondents' tarpaulins are perfect, when such is not the fact.

5. Representing, directly or by implication, that respondents' blankets are Army blankets, when such is not the fact.

6. Representing, directly or by implication, that respondents deal in Army goods exclusively, or that all of their merchandise is obtained from the Government.

7. Misrepresenting in any manner, or by any means, the condition or origin of respondents' merchandise.

8. Representing, directly or by implication, that merchandise of the same type and character as respondents' merchandise is not available to the public from other dealers.

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

Complaint

IN THE MATTER OF

BENJAMIN L. GRABOSKY AND SAMUEL GRABOSKY,
TRADING AS GRABOSKY BROTHERS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (d) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS
AMENDED BY ACT OF JUNE 19, 1936

Docket 4740. Complaint, Mar. 26, 1942—Decision, Apr. 6, 1943

Where a firm, engaged in the manufacture and interstate sale and distribution
of cigars to retail drug chains and independent retailers—

Contracted to make, and made, valuable payments to certain selected chain
store customers, as compensation for the furnishing of services or facilities,
such as counter, showcase, or window displays for the advertising of their
cigars, making payments amounting to as much as \$255 a month to a
single customer on the basis of \$1.50 per month per branch store, and
to as much as \$500 a month on a flat sum basis, while refusing frequent
requests to make such payments available on proportionally equal or any
terms to independent retail customers and other chain store customers who
were able and willing to furnish the same services and facilities and were
competitive with customers compensated as aforesaid:

Held, That aforesaid payments, and contracts for such payments, were in vio-
lation of subsection (d) of sec. 2 of the Clayton Act, as amended.

Mr. W. C. Kern for the Commission.

Blumberg & Kleeblatt, of New York City, for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that
the parties respondent named in the caption hereof and hereinafter
more particularly designated and described, since June 19, 1936,
have violated and are now violating the provisions of subsection
(d) of section 2 of the Clayton Act (U. S. C. title 15, sec. 13) as
amended by the Robinson-Patman Act, approved June 19, 1936,
hereby issues its complaint, stating its charges with respect thereto
as follows:

PARAGRAPH 1. Respondents, Benjamin L. Grabosky and Samuel
Grabosky, are copartners, trading as Grabosky Bros., having their
principal office and place of business at Northeast Corner Eleventh
and Wood Streets, Philadelphia, Pa. Respondents operate and
maintain manufacturing plants at Philadelphia, Pa., and at Perth
Amboy, N. J.

PAR. 2. Respondents are now, and have been since June 19, 1936,
engaged in the manufacture, sale, and distribution of cigars. Re-