

IN THE MATTER OF
HECHT COMPANY ALSO TRADING AS HECHT BROS.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4840. Complaint, Sept. 28, 1942—Decision, May 25, 1943

Where a corporation engaged in the operation of department stores in Baltimore, Washington, and New York, and in interstate sale and distribution, among other things, of mattresses—

Falsely represented through statements in periodicals, catalogs, circulars, lists and other advertising material, that its \$19.75 price for mattresses was much less than the usual price therefor and was a special price, affording the purchaser a substantial saving over the customary one; when in fact such was its usual selling price;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it to purchase its said products:

Held, That said 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. J. W. Brookfield, Jr. for the Commission.

Lauchheimer & Frank, of Baltimore, Md., 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 the Hecht Co., a corporation, also trading as Hecht Bros., 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, Hecht Co., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Maryland with its principal office and place of business located in the city of Baltimore, State of Maryland. It also trades as and uses the name of Hecht Bros. Respondent is now and for some time last past has been engaged in the business of selling and distributing mattresses and other merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent maintains and operates department stores in the cities of Baltimore, Md., Washington, D. C., and New York, N. Y. Respondent causes its merchandise when sold to be shipped from its

place of business in the States of Maryland and New York and in the District of Columbia to purchasers thereof located in various other States of the United States and 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.

In the course and conduct of its said business respondent is now and has been for some time last past in competition with other corporations and with individuals and firms engaged in the sale and distribution of similar merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. To induce the purchase of its said mattresses, respondent has disseminated and is now disseminating false and misleading statements and representations with respect to said products and the purchase price thereof. Such statements and representations are inserted in periodicals having a general circulation and in catalogs, circulars, lists, and other advertising material which are distributed among prospective customers. Among and typical of such false and misleading representations are the following:

Actually One-Half Price "Paisley Quilted" \$39.50 Inner-spring Mattress \$19.75.

Only because of our far-sighted planning is it possible for us to offer this QUILTED mattress to you at HALF price.

\$39.50 Inner-spring Mattress actually one-half price, \$19.75.

PAR. 3. By the use of the foregoing statements, together with other statements similar thereto, not specifically set out herein, the respondent represents that the \$19.75 prices for its mattresses are much less than the customary and usual prices at which such mattresses are sold and are special prices and that in purchasing said mattresses at the advertised price, a substantial saving, over the usual and customary price, is afforded a purchaser.

PAR. 4. The foregoing representations are false, misleading, and deceptive. In truth and in fact prices at which respondent's mattresses are advertised for sale are not in fact reduced or half prices and do not represent any substantial saving to the purchaser but are substantially the same prices at which said mattresses are usually sold by respondent and by others selling similar mattresses.

PAR. 5. The use by respondent of the aforesaid false and misleading statements and representations referred to herein 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 because of such erroneous and mistaken belief a substantial portion of the purchasing public is induced to and does purchase respondent's said products.

PAR. 6. The aforesaid acts and practices of the respondent, as herein set forth, 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 September 28, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Hecht Co., a corporation, also trading as Hecht Bros., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. On October 15, 1942, the respondent filed its answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondent and Richard P. Whiteley, assistant chief counsel for the Federal Trade Commission, subject to the approval of the Commission, might be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission might proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint, answer, and stipulation (said stipulation having been approved, accepted and filed) 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, Hecht Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located in the city of Baltimore, State of Maryland. It also trades as and uses the name of Hecht Bros. Respondent is now, and for some time last past, has been engaged in the business of selling and distributing mattresses and other merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent maintains and operates department stores in the cities of Baltimore, Md., Washington,

D. C., and New York, N. Y. Respondent causes its merchandise, when sold, to be shipped from its places of business in the States of Maryland and New York and in the District of Columbia to purchasers thereof located in various other States of the United States and 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. 2. To induce the purchase of its said mattresses, respondent has disseminated statements and representations with respect to said products and the purchase price thereof. Such statements and representations were inserted in periodicals having a general circulation, and in catalogs, circulars, lists, and other advertising material which were distributed among prospective customers. Among and typical of such representations are the following:

Actually One-Half Price "Paisley Quilted" \$39.50 Inner-spring Mattress \$19.75.

Only because of our far-sighted planning is it possible for us to offer this QUILTED mattress to you at HALF price.

\$39.50 Inner-spring Mattress actually one-half price, \$19.75.

PAR. 3. By the use of the foregoing statements, together with other statements similar thereto not specifically set out herein, the respondent represented that the \$19.75 price for its mattresses was much less than the customary and usual price at which such mattresses were sold by it and was a special price, and that in purchasing said mattresses at the advertised price, a substantial saving over the usual and customary price was afforded the purchaser.

PAR. 4. In truth and in fact, the price at which respondent's said mattresses were advertised for sale was not half price and did not represent any such substantial saving to the purchaser, but was substantially the same price at which said mattresses were and are usually sold by respondent.

PAR. 5. The use by respondent of the aforesaid statements and representations had the tendency and capacity to and did mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations were true, and, because of such erroneous and mistaken belief, a substantial portion of the purchasing public was induced to and did purchase respondent's said mattresses.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public, and constitute

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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 answer of respondent, and a stipulation as to the facts entered into between the respondent and Richard P. Whiteley, assistant chief counsel for the Commission, which provided among other things that, without further evidence or other intervening procedure, the Commission might issue and serve upon the respondent findings as to the facts and conclusion based thereon, and an order disposing of the proceeding; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Hecht Co., a corporation, also trading as Hecht Bros., or trading under any other name, and 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 mattresses in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing as the customary or regular price of respondent's mattresses any price which is in excess of the price at which such mattresses have been regularly sold by respondent in the usual course of business.

2. Representing that the price at which respondent's mattresses are offered for sale constitutes a special or reduced price or half price, when in fact such price is the usual or customary price at which such mattresses are offered for sale by respondent in the usual course of business.

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

IN THE MATTER OF

BEN KOTTENBROOK, TRADING AS CONWAY TAILORS

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

Docket 4910. Complaint, Feb. 12, 1943—Decision, May 26, 1943

Where an individual engaged in the manufacture and interstate sale and distribution of men's wearing apparel in response to orders solicited therefor from persons in various states—

Sold his said garments under a so-called "club" plan in accordance with which participating purchasers undertook to pay \$1 down and \$1 a week, and each week a suit of clothes was awarded to one of the purchasers by chance on the basis of the weekly clearing house figures published in the local paper, without payment of further installments, and thereby conducted lotteries in accordance with aforesaid sales plan involving sale of a chance to procure an article at less than the contract retail price, contrary to an established public policy of the United States Government, and in competition with many who do not use any method contrary to public policy;

With the result that many were attracted by his said sales method and by the element of chance involved therein, and were thereby induced to buy his merchandise in preference to that of his aforesaid competitors;

With tendency and capacity to divert trade in commerce from his said competitors to him:

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and of competitors, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Mr. J. W. Brookfield, Jr., for the Commission.

COMPLAINT¹

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 Ben Kottonbrook, an individual, trading as Conway Tailors, 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

¹ The complaint was amended by an order of the Commission dated May 1, 1943, as follows:

The Commission issued its complaint on February 12, 1943, naming Ben Cottonbrook, an individual, trading as Conway Tailors, as party respondent, and it appearing to the Commission that the correct spelling of the name of the respondent is "Kottenbrook" and not "Cottonbrook."

It is hereby ordered, That the complaint hitherto issued in the matter be, and the same hereby is, amended to change the spelling of the name of the respondent from "Cottonbrook" to "Kottenbrook."