

Complaint

38 F. T. C.

IN THE MATTER OF

CLERMONT CRAVAT COMPANY, INC.

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

Docket 4791. Complaint, July 30, 1942—Decision, May 31, 1944

Where a corporation engaged in the manufacture and interstate sale and distribution of men's neckties,

- (a) Represented certain type as "all silk" through labels attached thereto, notwithstanding fact product involved was not composed entirely of pure silk, preferred by the public over those containing weighting material, but contained about 50% of metallic weighting;
- (b) Represented through labels attached to certain of its neckties that they were "hand-made," facts being that while one of the major operations employed in the manufacture was performed by hand, all the others were performed by machine, and ties concerned, therefore, could not properly be designated as hand-made;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public and to cause it to purchase substantial quantities of such products as a result of the mistaken belief so engendered:

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. Harry B. Denner and *Rabbino & Rabbino*, 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 Clermont Cravat Company, Inc., a corporation, 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, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Clermont Cravat Company, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York, and having its principal office and place of business at 39 West 29th Street in the city of New York, State of New York. It is now, and for some time past has been, engaged in the manufacture of men's neckties and in the sale and distribution thereof in commerce between and among the various States of the United States. It causes and has caused said products, when sold, to be shipped from its place of business in the State of New York, to various purchasers thereof located in States other than the State of New York. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its said business, and for the purpose of promoting the sale of its products, the respondent has engaged in the practice of falsely representing the constituent fiber or material of certain of such products and of falsely representing the source of the material of which certain others of them are made, and the persons by whom made, and the manner in which they are made; by means of false representations appearing on labels attached to said products, and otherwise.

PAR. 3. Illustrative of the respondent's practices described in paragraph 2 hereof is its labeling of a necktie designated as "The Aldrich No. 1202." This tie is labeled and represented as "all silk." For many years, the word "silk" has had, and still has, in the minds of the consuming public generally a definite and specific meaning, to wit, the product of the cocoon of the silkworm. For many years silk products have been held in high public esteem and confidence by reason of their preeminent qualities. Products composed entirely of pure silk and made without weighting are regarded by the public generally as superior to, and much to be preferred over, silk products which contain weighting. The label "all silk" attached to respondent's neckties designated "The Aldrich No. 1202," constitutes a representation that such necktie is made wholly and entirely from pure silk without any weighting material whatever.

PAR. 4. Weighted silk has the same general appearance as pure silk or unweighted silk and due to such similarity in appearance consumers generally are not able to distinguish between such products at the time of purchase. Respondent's failure to disclose the presence of weighting material in certain of its neckwear and the amount of such weighting constitutes a representation to its customers and to the purchasing public that such neckties are in fact made entirely from pure silk. In truth and in fact the fabric from which certain of respondent's neckties, including the one designated "The Aldrich No. 1202," are made is composed to a very substantial extent of weighting material.

PAR. 5. Among the products manufactured and sold by respondent is a necktie designated "The Cherokee, No. 1275," bearing an Indian head on the label thereof, and the legend "Hand Made Tie." By the use of such label, words and representations, respondent represents that the material of which said necktie is composed was woven by the Cherokee Indians and that it is made by hand.

In truth, and in fact, the material from which said necktie known as "The Cherokee" is composed is not woven or manufactured by the Cherokee Indians or any other Indians, and is not properly represented, designated or referred to as made by hand, since part of the work on such tie was and is performed with or by machines.

PAR. 6. The use by respondent of the aforesaid methods of labeling and representing certain of its neckties as "All Silk," "Cherokee" and "Hand Made," has had, and has, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations are true, and to induce them to purchase substantial quantities of respondent's said neckties.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 30, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Clermont Cravat Company, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondent's answer, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, briefs in support of and in opposition to the complaint, and oral argument; 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, Clermont Cravat Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business located at 39 West 29th Street, New York, N. Y. Respondent is now and for a number of years last past has been engaged in the manufacture and sale of men's neckties.

PAR. 2. In the course and conduct of its business respondent causes its products, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and has maintained a course of trade in its products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the types of neckties manufactured and sold by respondent is one which is represented by respondent as being "all silk," such representation being made by means of labels attached to the ties. Actually, the fabric from which this tie is made is not composed entirely of silk but contains approximately fifty percent of metallic weighting material. The word "silk" has to the consuming public generally a definite and specific meaning, to wit, the product of the cocoon of the silk-worm; and, when not qualified, the word is understood by the public as denoting pure or unweighted silk. There is a preference on the part of the public for products made of pure silk over those which are not composed entirely of silk but contain weighting material.

PAR. 4. Weighted silk has the same general appearance as unweighted or pure silk, and because of such similarity in appearance the public generally is unable to distinguish between the two types of products. In the absence of information to the contrary, the public understands that products having the appearance of silk are in fact made from pure silk rather than weighted silk. Respondent does not in any way disclose the presence of weighting material in the necktie in question, and the

failure to make such disclosure has the effect of causing the public to believe that such necktie is made entirely from pure silk.

PAR. 5. Respondent also represents by means of labels attached to certain of its neckties that such ties are "hand-made." While one of the major operations employed in the manufacture of such ties is performed by hand, all of the other operations are performed by machine rather than by hand, and such ties therefore cannot properly be designated as hand-made.

PAR. 6. The acts and practices of the respondent as herein set forth, including the failure of respondent to disclose the presence and amount of weighting material in certain of its products, have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the materials of which respondent's products are made and the method of manufacture of such products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondent, 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 answer of respondent, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, briefs in support of and in opposition to the complaint, and oral argument; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Clermont Cravat Company, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of respondent's neckties in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "All Silk," or the unqualified word "Silk," or any other word or words of similar import, to designate or describe any fabric which is not composed wholly of unweighted silk, the product of the cocoon of the silkworm.

2. Advertising, offering for sale or selling products made in whole or in part from silk containing metallic weighting without clearly and conspicuously disclosing in all invoices and advertising material, and on labels or tags attached to such products, the presence of such weighting and the percentage thereof by weight in relation to the total weight of the silk in its finished state—as, for example, "Silk, weighted 50%"; provided, however, that such disclosure may be made by stating truthfully that such weighting is not in excess of a specified percentage—as, for example, "Silk, weighted not over 60%."

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3. Using the words "Hand Made," or any other word or words of similar import, to designate or describe products not made entirely by hand.

4. Misrepresenting in any manner or by any means the materials of which respondent's products are made or the method by which such products are made.

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.

Syllabus

IN THE MATTER OF
NATHAN I. GOLDBERG, TRADING AS COMMONWEALTH
TRAINING INSTITUTE

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

Docket 4880. Complaint, Dec. 30, 1942—Decision, May 31, 1944

Where an individual engaged in the interstate sale and distribution of correspondence courses to prepare students for examinations for certain Civil Service positions in the United States Government,—

- (a) Represented through statements in advertising material distributed to prospective students and through agents, designated as "registrars," who called upon them, that he could offer positions in the government which were under his control and which could be secured by taking his courses;
- (b) Represented through said "registrars" that he and his school were connected with the Government and were authorized by the Civil Service Commission to qualify applicants for government positions; and that applicants for his courses of training were specially selected; and
- (c) Represented, as aforesaid, that vacancies existed in certain branches of the Government which could be filled immediately after an applicant had passed the examination with respect thereto;

The facts being he had no positions to offer and could not qualify any one for a Government job, had no connection with the Government or any branch thereof, and could not guarantee positions or appointments of persons who passed examination; applicants were not specially selected, but all who applied were generally accepted; his list of positions contained many in which no open competitive examinations had been announced for a number of years; in many instances where his agents represented that vacancies existed, the positions had either been abolished or the vacancies supplied; and in many other cases, even though a student might successfully pass the examination and be placed on the eligible list, he might not be given appointment for a considerable period of time; and

- (d) Represented or implied to prospective students, through his trade name "Commonwealth Training Institute," that he conducted an institution of learning with a staff of experienced and qualified educators, and that his school was an extensive institution offering training in philosophy, art, science, and other learned subjects; employing such terms, to further said impressions, as "Department of Education," "Department of Administration," "Muniment of Matriculation," and other terms implying the existence of a substantial resident institution;

The facts being he offered only one course of study which was substantially the same regardless of the examination for which his students wished to prepare; all the material used by him in connection with his course was purchased from various publishers; no specific or thorough instruction was given in any subject of learning; and his said school was not an institution of learning in the accepted sense of the term;

With tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous belief that such representations were true and thereby induce a substantial number thereof to purchase his courses of study and instruction and pursue the same: