

IN THE MATTER OF
CARADINE HAT COMPANY

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

Docket 5151. Complaint, Apr. 15, 1944—Decision, Aug. 16, 1944

Where a corporation engaged directly and through its subsidiaries in the importation and manufacture and competitive interstate sale and distribution of various types, styles and grades of hats to jobbers, retail chain stores, independent retailers, and retailers affiliated with buying organizations;

Selling its said products by its salesmen, who solicited all retailer customers individually at their respective places of business, where it also delivered their orders, and treating all without distinction other than billing the buying organizations for the purchases of members or affiliates, while billing the non-numbers or non-affiliates directly—

Discriminated in price between different purchasers of its said hats of like grade and quality through granting and allowing larger discounts and in some instances lower net prices to favored customers, generally members or affiliates of such buying organizations, than to certain of their competitors, through treating the purchases of such members or affiliates as those of a single customer, and granting to each the preferred net prices, discounts and other allowances which it had determined were applicable to a single purchaser who purchased such an amount;

Effects of which discriminations in price might be substantially to lessen competition in the sale and distribution of products concerned in the respective lines of commerce in which it and its customers were engaged, and to injure, destroy or prevent competition with it and with its customers who received the benefits of such discriminatory prices:

Held, That such discriminations in price by it between different purchasers of hats of like grade and quality in interstate commerce, under the facts and circumstances set forth, were in violation of the provisions of Section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act.

Mr. Edward S. Ragsdale for the Commission.

Greensfelder & Hemker, of St. Louis, Mo., for respondent.

COMPLAINT

Pursuant to the provisions of an act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes" (the Clayton Act), as amended by an act approved June 19, 1936, entitled "An Act to amend Section 2 of the act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C., Title 15, Section 13) and for other purposes" (the Robinson-Patman Act), the Federal Trade Commission having reason to believe that Caradine Hat Company, a corporation, is vi-

olating and has been violating the provisions of the said Clayton Act as amended, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Caradine Hat Co., is a corporation, organized and existing under the laws of the State of Missouri, with its principal office and place of business located at 8 South 4th Street, St. Louis, Mo. The respondent is directly engaged, and is also indirectly engaged through its various subsidiaries, in the business of importing, manufacturing, distributing, and selling various types, styles, and grades of hats, and has sold and sells such products to four groups of customers: jobbers; retail chain stores; independent retailers; and retailers who are members of, or affiliated with, certain buying organizations.

The respondent facilitates its sales by the use of a staff of traveling salesmen who travel in various States of the United States soliciting and securing orders. Many additional orders are secured from customers through the mails after solicitation by salesmen and others.

The respondent owns in their entirety a number of subsidiaries, some of which are listed below. Each of said subsidiaries has its principal office located at 18 South 4th Street, St. Louis, Mo.

The Superior Hat Co.,
William T. Christmas Co.,
Cardinal Hat Co.,
The Independent Hat Co.,
Richard Van Lier, Inc.,
Fitwell Hat Co.,
Helmet Corporation of America.

PAR. 2. Since June 19, 1936, in the course and conduct of its business the respondent has been and is now importing, manufacturing, selling and distributing various types, styles and grades of hats, and has sold, shipped, and does now sell and ship, such products, in commerce between and among the various States of the United States, from the State in which respondent's principal office, factories and warehouses are located, across State lines to purchasers thereof located in States other than the State in which respondent's principal office, plants and warehouses are located.

PAR. 3. The respondent in the course and conduct of its business since June 19, 1936, has been and is now in substantial competition with other corporations, individuals, partnerships and firms engaged in the business of manufacturing, selling and distributing various types, styles and grades of hats in commerce.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936, the respondent has been, and is now, in the course of such commerce, directly and indirectly discriminating in price between different purchasers of its hats of like grade and quality, which products are sold for use, consumption, and resale within the several States of the United States, in that the respondent has been, and is now, selling such hats to some purchasers at a higher price than the price at which such hats are sold to other purchasers generally competitively engaged with the favored purchasers.

Respondent effects said discriminations in prices by granting and allowing larger discounts from list prices to its favored customers, and also by selling to some of such favored purchasers at lower net prices than to other

competing purchasers. The extent of said discriminations in price varies from differentials of approximately fifteen per cent to differentials of approximately thirty per cent, depending upon the type and grade of product sold and the purchaser, and also depending upon whether the customer is, or is not, a member of a favored buying organization.

The favored customers generally are affiliated with, or are member of, certain buying organizations, representative of which are the following:

Twin City Wholesale Grocery Co., Minneapolis, Minn.

Allied Clothiers, Kansas City, Mo.

Allied Clothiers, St. Paul, Minn.

Northwestern Buyers and Jobbers, St. Paul, Minn.

Midwest Stores, Inc., Minneapolis, Minn.

Northwestern Purchasing Co., St. Paul, Minn.

Egyptian Retailers' Association, Ramsey, Ill.

The respondent customarily sells its products by having its salesmen call on its customers and solicit their orders. Its favored customers are usually certain retailers who are members of, or affiliated with, certain buying organizations; and its unfavored customers are customarily neither members of, nor affiliated with, such buying organizations.

The method of soliciting and receiving orders from either type of customer is the same. The respondent's salesmen call on such retailers and solicit their orders individually, and transmit such orders to the respondent, who invoices and ships the merchandise to the retailer. The only difference in the method of sale is that the respondent bills and collects from the respective buying organization for the purchase price of the hats purchased by its preferred customer while the nonpreferred customer is billed and pays the respondent direct. Such salesmen, however, call on such preferred and unpreferred customers at their respective and geographically separated places of business, solicit and receive their respective orders, and the respondent delivers its hats, when purchased, to both the favored and unfavored purchasers at their respective places of business.

Each of said preferred firms is a separate, distinct, and independent legal and business entity doing business with respondent as aforesaid, yet the basis upon which respondent grants the preferred net prices, discounts, and other allowances to each of said firms is that respondent considers and treats all the purchasers who are members of or affiliated with each favored buying organization collectively, as constituting the purchases of a single customer, and grants to each of said customers the preferred net prices, discounts, and other allowances which respondent has determined are applicable to a single purchaser who purchases approximately the amount purchased by all collective members of each of the respective buying organizations.

PAR. 5. The effect of the discriminations in prices as hereinbefore set forth may be substantially to lessen competition in the sale and distribution of the said products in the respective lines of commerce in which respondent and its customers are engaged, and has been, and may be, to injure, destroy or prevent competition in the sale and distribution of said products with the respondent and with its customers who receive the benefits of such discriminatory prices.

PAR. 6. Such discriminations in prices by respondent between different purchasers of hats of like grade and quality in interstate commerce in the

manner and form aforesaid are in violation of the provisions of Section 2 (a) of the act described in the preamble hereof.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, Sec. 13), the Federal Trade Commission on April 15, 1944, issued and thereafter served its complaint in this proceeding upon the party respondent named in the caption hereof, charging said respondent with violating the provisions of subsection (a) of Section 2 of said act, as amended.

After the issuance of said complaint, the respondent in due course filed its answer admitting, with certain exceptions, the material allegations of fact set forth in the complaint and waiving all intervening procedure and further hearing as to the facts. Thereafter, the matter came on for final hearing before the Commission on said complaint and answer, and the Commission, having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Caradine Hat Co., is a corporation, organized and existing under the laws of the State of Missouri, with its principal office and place of business located at 8 South Fourth Street, St. Louis, Mo. The respondent is directly engaged, and is also indirectly engaged through its various subsidiaries, in the business of importing, manufacturing, distributing, and selling various types, styles, and grades of hats, and has sold and sells such products to four groups of customers: jobbers; retail chain stores; independent retailers; and retailers who are members of, or affiliated with, certain buying organizations.

The respondent facilitates its sales by the use of a staff of traveling salesmen who travel in various States of the United States soliciting and securing orders. Many additional orders are secured from customers through the mails after solicitation by salesmen and others.

The respondent owns in their entirety a number of subsidiaries, some of which are listed below. Each of said subsidiaries has its principal office located at 18 South Fourth Street, St. Louis, Mo.

The Superior Hat Co.

William T. Christmas Co.

Cardinal Hat Co.

The Independent Hat Co.

Richard Van Lier, Inc.

Fitwell Hat Co.

Helmet Corporation of America

PAR. 2. Since June 19, 1936, in the course and conduct of its business the respondent has been and is now importing, manufacturing, selling, and

distributing various types, styles, and grades of hats, and has sold and shipped, and does now sell and ship, such products in commerce between and among the various States of the United States, from the State in which respondent's principal office, factories, and warehouses are located across State lines to purchasers thereof located in States other than the State in which respondent's principal office, plants, and warehouses are located.

PAR. 3. The respondent in the course and conduct of its business since June 19, 1936, has been and is now in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of manufacturing, selling, and distributing various types, styles, and grades of hats in commerce.

PAR. 4. In the course and conduct of its business as aforesaid, since June 19, 1936, the respondent has been, and is now, in the course of such commerce, directly and indirectly discriminating in price between different purchasers of its hats of like grade and quality, which products are sold for use, consumption, and resale within the several States of the United States, in that the respondent has been, and is now, selling such hats to some purchasers at a lower price than the price at which such hats are sold to other purchasers generally competitively engaged with the favored purchasers.

Respondent effects said discriminations in prices by granting and allowing larger discounts from list prices to its favored customers, and also by selling to some of such favored purchasers at lower net prices than to other competing purchasers.

The favored customers generally are affiliated with, or are members of, certain buying organizations, representative of which are the following:

Twin City Wholesale Grocery Co., Minneapolis, Minn.

Allied Clothiers, Kansas City, Mo.

Allied Clothiers, St. Paul, Minn.

Northwestern Buyers and Jobbers, St. Paul, Minn.

Midwest Stores, Inc., Minneapolis, Minn.

Northwestern Purchasing Co., St. Paul, Minn.

Egyptian Retailers' Association, Ramsey, Ill.

The respondent customarily sells its products by having its salesmen call on its customers and solicit their orders. Its favored customers are usually certain retailers who are members of, or affiliated with, certain buying organizations; and its unfavored customers are customarily neither members of, nor affiliated with, such buying organizations.

The method of soliciting and receiving orders from either type of customer is the same. The respondent's salesmen call on such retailers and solicit their orders individually, and transmit such orders to the respondent, who invoices and ships the merchandise to the retailer. The only difference in the method of sale is that the respondent bills and collects from the respective buying organization for the purchase price of the hats purchased by its preferred customer while the nonpreferred customer is billed and pays the respondent direct. Such salesmen, however, call on such preferred and unpreferred customers at their respective and geographically separated places of business, solicit and receive their respective orders, and the respondent delivers its hats, when purchased, to both the favored and unfavored purchasers at their respective places of business.

Each of said preferred firms is a separate, distinct and independent legal and business entity doing business with respondent as aforesaid, yet the basis upon which respondent grants the preferred net prices, discounts, and other allowances to each of said firms is that respondent considers and treats all the purchasers who are members of or affiliated with each favored buying organization collectively, as constituting the purchases of a single customer, and grants to each of said customers the preferred net prices, discounts, and other allowances which respondent has determined are applicable to a single purchaser who purchases approximately the amount purchased by all collective members of each of the respective buying organizations.

PAR. 5. The effect of the discriminations in prices as hereinbefore set forth may be substantially to lessen competition in the sale and distribution of the said products in the respective lines of commerce in which respondent and its customers are engaged, and has been, and may be, to injure, destroy or prevent competition in the sale and distribution of said products with the respondent and with its customers who receive the benefits of such discriminatory prices.

CONCLUSION

Under the facts and circumstances set forth in the foregoing findings as to the facts, the Commission concludes that such discriminations in prices by respondent between different purchasers of hats of like grade and quality in interstate commerce in the manner and form aforesaid are in violation of the provisions of Section 2 (a) of the act described in the preamble hereof.

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 the respondent, which answer admits, with certain exceptions, the material allegations of the complaint and waives all intervening procedure and further hearing as to the facts, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of subsection (a) of Section 2 of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by an Act of Congress approved June 19, 1936 (the Robinson-Patman Act) (U.S.C. Title 15, Sec. 13).

It is ordered, That the respondent, Caradine Hat Co., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in the sale of hats in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from discriminating, directly or indirectly, in the price of such products of like grade and quality as among purchasers of such products where the differences in price are not justified by differences in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which such products are sold or delivered:

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By selling such products to some purchasers at prices which are lower than the prices charged other purchasers competing with such favored purchasers in the sale and distribution of such products. (For purposes of comparison, the term "price" as used in this order takes into account discounts, allowances, and other terms and conditions of sale.)

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

BENJAMIN CHAITT, ISAAC CHAITT, MAX CHAITT, AND
MRS. ELIZABETH CARL

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT APPROVED SEPT. 26, 1914, AND THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 15, 1940

Docket 5041. Complaint, Sept. 4, 1943—Decision, Aug. 22, 1944

Where three brothers and a sister engaged in the operation in New York and Pennsylvania of four stores from which they sold women's ready-to-wear, and in the interstate and intrastate purchase from manufacturers, for resale to the public, of coats, suits, dresses and other wearing apparel, including many composed in whole or in part of wool products as defined by the Wool Products Labeling Act and which, when delivered to them had affixed thereto the stamp, tag, label or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool and non-wool fiber, maximum percentage of adulterating matter, and proper identification of the manufacturer, seller, etc. as required by the Act;

Acting in concert with one another, and with their family corporation and store owner prior to its dissolution, and with intent to violate the provisions of said act and rules and regulations, removed and mutilated, and participated in and caused the removal and mutilation of said identifying stamps, etc., and did not replace them; so that, when offered for sale and sold by them and by said corporation to the general public at said stores said products did not have affixed thereto stamps, tags, labels or other means of identification containing the information required by said act and rules and regulations:

Held, That their aforesaid acts, practices, and methods, under the circumstances set forth, were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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

Mr. DeWitt T. Puckett for the Commission.

Gardner & Moseson, of Elmira, N. Y., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said acts, the Federal Trade Commission, having reason to believe that Benjamin Chaitt, Isaac Chaitt, Max Chaitt, and Mrs. Elizabeth Carl, individuals, hereinafter referred to as respondents, have violated the provisions of said acts, and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the commission that a proceeding by it in respect thereof would be in the public