

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

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interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondents are now and for more than one year last past have been engaged in the business of purchasing for resale and selling ladies' ready-to-wear, including coats, suits, dresses, and other wearing apparel.

Respondent, Benjamin Chaitt, operates a store under the trade name Logan-Rogers at 134 West Water Street, Elmira, N. Y., where he sells said merchandise direct to the general public.

Respondent, Isaac Chaitt, operates a store in Harrisburg, Pa., where he sells said merchandise to the general public.

Respondent, Max Chaitt, operates a store at 7 East King Street, Lancaster, Pa., where he sells said merchandise to the general public.

Respondent, Mrs. Elizabeth Carl, operates a store at 816 Cumberland Street, Lebanon, Pa., where she sells said merchandise to the general public.

PAR. 2. For more than one year prior to August, 1942, the aforesaid stores were owned and operated by Logan's, Inc., a Pennsylvania corporation of which respondents, Benjamin Chaitt and his brothers, Max Chaitt and Isaac Chaitt, were officers and stockholders, and their sister, respondent, Mrs. Elizabeth Carl, was a stockholder. All of the capital stock of said corporation was owned by the aforesaid respondents and Mrs. Benjamin Chaitt, wife of respondent, Benjamin Chaitt. The aforesaid respondents were in active control of the aforesaid stores during the existence of the corporation and since the dissolution of the corporation, the respondents have continued to operate their respective stores, and they have acted, during all of the time aforementioned, in concert in carrying out the policies and practices hereinafter described.

PAR. 3. Respondents now purchase and while the stores were operated by the aforesaid corporation, it purchased women's clothing, including coats, suits, dresses and other wearing apparel, for resale in the respective stores from various manufacturers of women's apparel located in States other than the States in which said stores are located and caused such clothing to be transported in commerce through regular and continuous channels of trade in which such apparel through respondents reached the ultimate purchaser-consumer in a State other than the State of manufacture or first introduction into such commerce. Respondents also purchase and during the life of the corporation it purchased said clothing from various manufacturers located in the State in which said stores are located who manufacture such clothing for introduction into said commerce.

Said clothing transported in commerce as aforesaid and also clothing manufactured for introduction into said commerce is thereafter offered for sale and sold by the respondents, and prior to August, 1942 by the aforesaid corporation, to the general public at said places of business. Respondents maintain, and during the life of the corporation it maintained, a regular course of trade in said clothing in commerce as aforesaid.

PAR. 4. Among the clothing purchased and transported in commerce as aforesaid by respondents and prior to August, 1942 by the aforesaid corporation, and also among the clothing manufactured for introduction into said commerce and thereafter offered for sale and sold by respondents and by the aforesaid corporation, during its existence, since July 15, 1941, are

many articles which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939 in that such articles are composed in whole or in part of wool, reprocessed wool, and reused wool as those terms are defined in said act.

All of said wool products purchased and transported in said commerce as aforesaid, and all of said wool products manufactured for introduction into said commerce, were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and all of said wool products had affixed thereto by the manufacturer thereof, or by some person authorized under the provisions of said act and said rules and regulations, a stamp, tag, label or other means of identification purporting to show (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation, not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentages by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling or adulterating matter; (c) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product, as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to Section 3 of said act with respect to such wool product; (d) the percentages, in words and figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 5. After said wool products were delivered to the respondents and to the aforesaid corporation during its existence at the said stores and places of business as aforesaid, and before said wool products were offered for sale or sold by respondents and by the corporation during its existence, to the general public, said respondents and said corporation with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, did remove, and participate in and cause the removal of, the stamps, tags, labels or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof or by some person authorized or required by said act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 6. After said wool products were delivered to the respondents and to the aforesaid corporation at the said stores and places of business as aforesaid, and before said wool products were offered for sale or sold by respondents and by the said corporation to the general public, said respondents, and the said corporation with intent to violate the provisions of said Wool Products Labeling Act of 1939 and said rules and regulations promulgated thereunder, did mutilate and participate in and cause the mutilation of the stamps, tags, labels or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof, or by some person authorized or required by said act to affix such stamps, tags, labels or other means of identification to said wool products.

PAR. 7. Said respondents and the aforesaid corporation did not replace said stamps, tags, labels, or other means of identification with substitute stamps, tags, labels, or other means of identification containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations thereunder. As a result of respondents' and the said corporation's said acts and practices in removing and mutilating said stamps, tags, labels or other means of identification affixed to said wool products, said wool products, when offered for sale and sold by respondents and by the said corporation to the general public at the said stores and places of business, did not have affixed thereto stamps, tags, labels, or other means of identification containing the information required by said act and said rules and regulations.

PAR. 8. The aforesaid acts, practices and methods of the respondents and the aforesaid corporation as herein alleged, were and are in violation of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder, 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 and the Wool Products Labeling Act of 1939, the Federal Trade Commission on September 4, 1943, issued and subsequently served its complaint in this proceeding upon respondents, Benjamin Chaitt, Isaac Chaitt, Max Chaitt, and Mrs. Elizabeth Carl, individuals, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939. After the issuance of said complaint and the filing of respondents' answer thereto, the matter was set down for hearing on November 10, 1943, at which hearing respondents made a motion of record for permission to withdraw their answer to the complaint and to file in lieu thereof an answer admitting all of the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which motion was granted by the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and respondents' substitute 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. The respondents are now, and for more than one year last past have been, engaged in the business of purchasing for resale and selling ladies' ready-to-wear, including coats, suits, dresses, and other wearing apparel.

Respondent, Benjamin Chaitt, operates a store under the trade name Logan-Rogers at 134 West Water Street, Elmira, N. Y., where he sells said merchandise direct to the general public.

Respondent, Isaac Chaitt, operates a store in Harrisburg, Pa., where he sells said merchandise to the general public.

Respondent, Max Chaitt, operates a store at 7 East King Street, Lancaster, Pa., where he sells said merchandise to the general public.

Respondent, Mrs. Elizabeth Carl, operates a store at 816 Cumberland Street, Lebanon, Pa., where she sells said merchandise to the general public.

PAR. 2. For more than one year prior to August, 1942, the aforesaid stores were owned and operated by Logan's, Inc., a Pennsylvania corporation of which respondents, Benjamin Chaitt and his brothers, Max Chaitt and Isaac Chaitt, were officers and stockholders, and their sister, respondent, Mrs. Elizabeth Carl, was a stockholder. All of the capital stock of said corporation was owned by the aforesaid respondents and Mrs. Benjamin Chaitt, wife of respondent, Benjamin Chaitt. The aforesaid respondents were in active control of the aforesaid stores during the existence of the corporation, and since the dissolution of the corporation the respondents have continued to operate their respective stores, and they have acted, during all of the time aforementioned, in concert in carrying out the policies and practices hereinafter described.

PAR. 3. Respondents now purchase, and while the stores were operated by the aforesaid corporation it purchased, for resale in the respective stores, women's clothing, including coats, suits, dresses, and other wearing apparel, from various manufacturers of women's apparel located in States other than the States in which said stores are located, and caused such clothing to be transported in commerce through regular and continuous channels of trade in which such apparel, through respondents, reached the ultimate purchaser-consumer in a State other than the State of manufacture or first introduction into such commerce. Respondents also purchase, and during the life of the corporation it purchased, said clothing from various manufacturers located in the State in which said stores are located who manufacture such clothing for introduction into said commerce.

Said clothing transported in commerce as aforesaid and also clothing manufactured for introduction into said commerce is thereafter offered for sale and sold by the respondents, and prior to August, 1942, by the aforesaid corporation, to the general public at said places of business. Respondents maintain, and during the life of the corporation it maintained, a regular course of trade in said clothing in commerce as aforesaid.

PAR. 4. Among the clothing purchased and transported in commerce as aforesaid by respondents, and prior to August, 1942, by the aforesaid corporation, and also among the clothing manufactured for introduction into said commerce and thereafter offered for sale and sold by respondents and by the aforesaid corporation during its existence, since July 15, 1941, are many articles which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939 in that such articles are composed in whole or in part of wool, reprocessed wool, and reused wool as those terms are defined in said act.

All of said wool products purchased and transported in said commerce as aforesaid, and all of said wool products manufactured for introduction

into said commerce, were subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and all of said wool products had affixed thereto by the manufacturer thereof or by some person authorized under the provisions of said act and said rules and regulations, a stamp, tag, label, or other means of identification purporting to show (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation, not exceeding 5 per centum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentages by weight of such fiber were 5 per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a subsequent seller or reseller of the product, as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to Section 3 of said act with respect to such wool product; (d) the percentages, in words and figures plainly legible, by weight of the wool contents of said wool product where said wool product contained a fiber other than wool.

PAR. 5. After said wool products were delivered to the respondents, and to the aforesaid corporation during its existence, at the said stores and places of business as aforesaid, and before said wool products were offered for sale or sold by respondents, and by the corporation during its existence, to the general public, said respondents and said corporation, with intent to violate the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, did remove, and participate in and cause the removal of, the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said act and said rules and regulations affixed to said wool products by the manufacturer thereof or by some person authorized or required by said Act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 6. After said wool products were delivered to the respondents and to the aforesaid corporation at the said stores and places of business as aforesaid, and before said wool products were offered for sale or sold by respondents and by the said corporation to the general public, said respondents, and the said corporation, with intent to violate the provisions of said Wool Products Labeling Act of 1939 and said rules and regulations promulgated thereunder, did mutilate, and participate in and cause the mutilation of, the stamps, tags, labels, or other means of identification which purported to contain the information required by the provisions of said Act and said Rules and Regulations affixed to said wool products by the manufacturer thereof or by some person authorized or required by said Act to affix such stamps, tags, labels, or other means of identification to said wool products.

PAR. 7. Said respondents and the aforesaid corporation did not replace said stamps, tags, labels, or other means of identification with substitute stamps, tags, labels, or other means of identification containing the information required under the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations thereunder. As a result of respondents' and the said corporation's said acts and practices in removing and

mutilating said stamps, tags, labels, or other means of identification affixed to said wool products, said wool products, when offered for sale and sold by respondents and by the said corporation to the general public at the said stores and places of business, did not have affixed thereto stamps, tags, labels, or other means of identification containing the information required by said act and said rules and regulations.

CONCLUSION

The aforesaid acts, practices, and methods of respondents, as herein found, were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and 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 substitute answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939.

It is ordered, That respondents, Benjamin Chaitt, Isaac Chaitt, Max Chaitt, and Mrs. Elizabeth Carl, individuals, jointly or severally, their respective agents, representatives, and employees, directly or indirectly, in connection with the purchase, offering for sale, sale, or distribution of women's coats, suits, dresses, and wearing apparel, or any other "wool product" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from causing or participating in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to any such "wool product" pursuant to the provisions of the Wool Products Labeling Act of 1939, with intent to violate the provisions of said act, and which stamp, tag, label, or other means of identification purports to show all or any part of the following:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation, not exceeding 5 per centum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is 5 per centum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter.

(c) The name of the manufacturer of such wool product; or the manufacturer's registered identification number and the name of a seller of such wool product; or the name of one or more persons introducing such wool product into commerce, or engaged in the sale, transportation, or distribu-

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tion thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

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.

Syllabus

IN THE MATTER OF
AMERICAN ASSOCIATION OF LAW BOOK
PUBLISHERS ET AL.

ORDER MODIFYING MODIFIED ORDER TO CEASE AND DESIST¹

¹ For findings, and cease and desist order as modified June 26, 1944, see 38 F. T. C. 319.

Docket 4526. Order, August 23, 1944

Order, modifying prior modified order requiring respondent association, its members, their officers, etc., in connection with the offer, etc., in commerce, of law books and related publications to cease and desist from concertedly or cooperatively establishing, fixing or maintaining discounts and terms or conditions of sale therefor, etc., as in detail there set forth and subject to the provisos there set out; so as to make such order subject to the proviso that it is not to be construed as prohibiting joint publishers of any specific law book, set of law books or related legal publication, from engaging in the cooperative activities otherwise prohibited by this order, provided that such activities are pursued in good faith and solely with respect to publishing and selling such jointly published law book, set of law books, or related legal publications in the usual and ordinary course of business and are not used for the purpose of evading the terms of the order, it appearing that the record did not specifically raise any issue of the legality of joint publication ventures, and that it was not necessary to determine any such issue in the present proceeding, and the Commission's instant action being taken without passing upon the legality or illegality thereof and without prejudice to the Commission's right to institute a new proceeding at any time with respect to such legality.

Before Mr. Randolph Preston, trial examiner.

Mr. Lynn C. Paulson, Mr. James H. Boyle and Mr. Karl E. Steinhauer for the Commission.

Lundgren & Lincoln, of New York City, for James R. Spillane, The American Law Book Co., Burdette Smith Co., Edward Thompson Co., Vernon Law Book Co., Washington Law Book Co. and West Publishing Co.

Paxton & Seasongood, of Cincinnati, Ohio, for Clifford W. Mueller.

Mr. Neile F. Towner, of Albany, N. Y., for Richard Reiner.

Goodwin, Nixon, Hargrave, Middleton & Devans, of Rochester, N. Y., for R. Walter White.

Davies, Richberg, Beebe, Busick & Richardson, of Washington, D. C., for Baker, Voorhis and Co., Bancroft-Whitney Co., Bender-Moss Co., The Michie Co. and Thomas Law Book Co., and along with—

Paxton & Seasongood, of Cincinnati, Ohio, for The W. H. Anderson Co.;

Mr. Neile F. Towner, of Albany, N. Y., for Matthew Bender and Co., Inc. and Fallon Law Book Co.;

Walton, Bannister & Stitt, of New York City, for Clark Boardman Co., Ltd.;

Mr. Julius Birge, of Indianapolis, Ind., for Bobbs-Merrill Co.;

Mr. Henry Ward Beer, of New York City, for John Byrne and Co.;

Garono, Jaekle & Kelly, of Buffalo, N. Y., for Dennis and Co., Inc.;

Dorsey, Stubbs & Dorsey, of Atlanta, Ga., for The Harrison Co.;