

Complaint

IN THE MATTER OF
CRAVAT-SILKS, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT, APPROVED SEPT. 26, 1914, AND THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940

Docket 5022. Complaint, Aug. 10, 1943—Decision, Sept. 26, 1944

Where a corporation engaged in interstate sale and distribution of various types of fabrics used in the manufacture of men's neckties, including certain fabrics which were composed of approximately 93% rayon and 7% wool, and which simulated silk in texture and appearance—

- (a) Failed to follow practice of disclosing affirmatively to its customers—though supplying the information on inquiry—the fact that said fabrics contained rayon which, when made to simulate silk, is practically indistinguishable by the purchasing public from silk, a product of the cocoon of the silk worm and products of which have long been held in high esteem and widely demanded;

With tendency and capacity to mislead and deceive a substantial number of purchasers and prospective purchasers of such fabrics with respect to the fibers or materials of which they were made, and to cause them to purchase substantial quantities of such fabrics as a result of such erroneous belief; and

- (b) Sold certain wool products, misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they did not have affixed thereto a stamp, tag, etc., showing the percentage of the total fiber weight of wool, reprocessed wool, and reused wool and non-wool fiber, and maximum percentage of adulterating matter; and proper identification of the manufacturer, seller, etc., as required by the Act:

Held, That such acts and practices, under the circumstances set forth, were in violation of the Wool Products Labeling Act, and the rules and regulations promulgated thereunder, and were all to the prejudice 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.

Kent & Kent, of New York City, for respondent.

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 Cravat-Silks, Inc., a corporation, hereinafter referred to as respondent, had violated the provisions of the 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 interest, hereby issues its complaint, stating its charges in that respect as follows:

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PARAGRAPH 1. Cravat-Silks, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office located at 180 Madison Avenue, New York, N. Y. and its mills located in Paterson, N. J.

PAR. 2. Respondent is now, and for more than two years last past, has been engaged in manufacturing fabrics from rayon and wool, which fabrics are sold by respondents to manufacturers of men's ties.

Respondent causes its said fabrics, when sold, to be transported from its place of business in the State of New York or from its mills in Paterson, New Jersey, to the purchasers thereof located in various other States of the United States and in the District of Columbia.

Respondent maintains and at all times mentioned herein has maintained a substantial course of trade in said fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk and when so manufactured, it has the appearance and feel of silk and is by the purchasing public practically indistinguishable from silk. By reason of these qualities, rayon, when manufactured to simulate silk and not designated as rayon, is readily believed to be and is accepted by the purchasing public as being silk, the product of the cocoon of the silkworm.

PAR. 4. Over a period of many years, the word "silk" has had and still has, in the minds of the purchasing and consuming public generally, a definite and specific meaning as denoting the product of the cocoon of the silkworm. Silk products for many years have held and still hold great public esteem and confidence for their preeminent qualities and there is a widespread public demand for such products.

PAR. 5. The fabrics manufactured and sold by respondent in commerce as aforesaid, are composed of approximately 93 percent rayon and approximately 7 percent wool. Said fabrics simulate in texture and appearance fabrics composed of silk, the product of the cocoon of the silkworm. Respondent does not inform the purchasing public of the fact that its said fabrics are composed of rayon and wool and not of silk.

The practice of the respondent in offering for sale and selling its said fabrics manufactured from rayon and wool, which fabrics resemble in texture and appearance fabrics manufactured from silk, in commerce as aforesaid, without disclosing in words familiar to the purchasing public the fact that said fabrics are composed of rayon and wool, is misleading and deceptive, and many members of the purchasing public are thereby led to believe that the said fabrics are composed of silk, the product of the cocoon of the silkworm.

PAR. 6. In addition to misrepresenting the fiber content of its said fabrics, in the manner described above, the respondent has, in the course and conduct of its said business, further misrepresented the fiber content of its fabrics through the use of the word "Silks" in its corporate name which appears on its letterheads, in its invoices, price lists, tags, labels, and in various other ways.

By and through the use of the word "Silks" in the manner aforesaid, the respondent has represented and now represents that its said fabrics composed of rayon and wool are composed of silk, the product of the cocoon of the silkworm.

PAR. 7. The use by the respondent of the acts and practices hereinabove described, have the capacity and tendency to and do mislead and deceive the purchasers of its said fabrics as to the fiber content thereof. By said acts and practices respondent also places in the hands of the purchasers of its fabrics a means and instrumentality whereby they may and do mislead and deceive wholesalers, retailers and the purchasing public as to the fiber content of the ties manufactured from respondents' said fabrics. As a result of this deception substantial quantities of respondent's products are purchased in the belief that they are composed wholly of silk.

PAR. 8. Among the fabrics manufactured, sold and distributed by respondent in commerce, as aforesaid, since July 15, 1941, are some which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such fabrics are composed in part of wool, reprocessed wool or reused wool, as those terms are defined in said act. Said fabrics are subject to the provisions of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder.

The said wool products sold and distributed by respondent in commerce, as aforesaid, were misbranded in violation of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated under such act in that said wool products, when introduced into said commerce, did not have on or affixed thereto a stamp, tag, label or other means of identification or a substitute in lieu thereof as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum 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 was 5 percentum 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 in lieu thereof a registered number with the name of a reseller under the conditions 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 such wool product where said wool product contains a fiber other than wool.

PAR. 9. The aforesaid acts, practices and methods of the respondent, as herein alleged, 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 to 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 August 10, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, Cravat-Silks, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act, and with

violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder. 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, and briefs in support of and in opposition to the complaint (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 respondent, Cravat-Silks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office located at 180 Madison Avenue, New York, N. Y. Respondent is now, and for a number of years last past, has been engaged in the sale and distribution of various types of fabrics used in the manufacture of men's neckties, such fabrics being sold by respondent to manufacturers of such ties.

PAR. 2. In the course and conduct of its business respondent causes and has caused its fabrics, when sold, to be transported 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 fabrics in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the fabrics sold by respondent are some which are composed of approximately 93% rayon and approximately 7% wool. These fabrics simulate in texture and appearance fabrics composed entirely of silk.

The word "silk" has and for many years has had in the minds of the purchasing public a definite and specific meaning, to wit, the product of the cocoon of the silkworm. Silk products hold and for many years have held the esteem and confidence of the public for their preeminent qualities, and there is a wide-spread public demand for such products.

Rayon is a chemically manufactured fiber which may be so manufactured as to simulate silk, and when so manufactured it has the appearance and feel of silk and is practically indistinguishable from silk by the purchasing public. By reason of these qualities, rayon, when manufactured to simulate silk and not designated as rayon, is readily believed by the purchasing public to be silk and is accepted as such.

In the sale of its fabrics composed of rayon and wool, respondent has not in the past followed the practice of affirmatively disclosing to its customers the fact that the fabrics contained rayon, although such information has been supplied by respondent when inquiry as to the fiber content of the fabrics was made by the customer.

PAR. 4. The failure of respondent to make adequate disclosure of the rayon content of its fabrics had the tendency and capacity to mislead and deceive a substantial number of purchasers and prospective purchasers of such fabrics with respect to the fibers or materials of which such fabrics were made, and the tendency and capacity to cause such parties to purchase substantial quantities of such fabrics as a result of the erroneous and mistaken belief so engendered.

PAR. 5. Some of the fabrics sold and distributed by respondent are "wool products" within the meaning of the Wool Products Labeling Act of 1939, in that they are composed in part of wool, reprocessed wool, or reused wool, as those terms are defined in that act. Such fabrics are subject to the provisions of the act and the rules and regulations promulgated thereunder.

These fabrics have in the past been misbranded by respondent in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that the fabrics, when introduced into commerce, did not have on or affixed thereto a stamp, tag, label, or other means of identification or a substitute in lieu thereof, as provided by such Act, showing (a) the percentage of the total fiber weight of the product, exclusive of ornamentation not exceeding five percentum of the total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percentage by weight of such fiber was five percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling, or adulterating matter; and (c) the name of the manufacturer of the wool product or, in lieu thereof, a registered number with the name of a reseller under the conditions provided for in the rules and regulations promulgated under the act, or the name of one or more persons subject to Section 3 of the act with respect to such product.

PAR. 6. The record indicates that since this proceeding was instituted and the foregoing matters brought to the respondent's attention, respondent has adopted the practice of disclosing affirmatively the rayon content of its fabrics, and also of labeling its fabrics in accordance with the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

CONCLUSION

The acts and practices of the respondent, as herein found, were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and were all to the prejudice of the public and constituted 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, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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 and the provisions of the Wool Products Labeling Act of 1939.

I. It is ordered, That the respondent, Cravat-Silks, 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 fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Advertising, offering for sale, or selling fabrics composed in whole or in part of rayon without clearly disclosing such rayon content; and when such fabrics are composed in part of rayon and in part of other fibers or materials, all of such fibers or materials, including the rayon, shall be clearly and accurately disclosed.

II. It is further ordered, That the respondent, Cravat-Silks, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, transportation, or distribution in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding fabrics or other "wool products," as defined in and subject to the Wool Products Labeling Act of 1939, which contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool," or "reused wool," as those terms are defined in said act, by failing to securely affix to or place on such products a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner:

(a) the percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum 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 five percentum or more, and (5) the aggregate of all other fibers;

(b) the maximum percentage of the total weight of such wool product of any nonfibrous 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 distribution thereof in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939; and *provided*, further, that nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the rules and regulations promulgated thereunder.

III. 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.

IV. It is further ordered, That that portion of the complaint relating to the use by respondent of the word "Silks" in its corporate name be, and it hereby is, dismissed without prejudice to the right of the Commission to institute further proceedings should future facts so warrant.

Complaint

IN THE MATTER OF
HARRY V. PLATTNER, TRADING AS PLATTNER
DISTRIBUTING COMPANY

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

Docket 4655. Complaint, Dec. 8, 1941—Decision, Sept. 28, 1944

Where an individual engaged in competitive interstate sale and distribution of various articles of merchandise, including cigarette lighters, cosmetics, barber supplies, and razor blades to wholesalers, jobbers and retailers—

Furnished in connection with the sale of certain merchandise, lottery devices for the purchaser's use in the resale thereof to the purchasing public, a typical assembly consisting of a cigarette lighter, together with a push card for use in its sale under a plan by which the amount paid for a chance was dependent upon the number disclosed by a punch on one of the twelve months of the year—as displayed on the card—ranging from one cent to twenty-nine cents, and the person selecting by chance the month found to correspond with that concealed under the card's master seal, secured the lighter, others receiving nothing; and thereby—

Supplied to and placed in the hands of retail dealers who, as direct or indirect purchasers, exposed and sold his merchandise in accordance with such sales plans, means of conducting lotteries in the sale of his products, contrary to an established public policy of the United States government, and in competition with those who do not use, in the sale and distribution of their merchandise, sales plans or methods involving lotteries or games of chance;

With the result that many persons were attracted by said plan and the element of chance involved therein, and were thereby induced to buy and sell his merchandise in preference to that of his aforesaid competitors, and with tendency and capacity, by reason thereof, to divert substantial trade unfairly to him from them, whereby substantial injury was done by him to competition in commerce:

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

Before *Mr. John W. Addison* and *Mr. Lewis C. Russell*, trial examiners.
Mr. J. W. Brookfield, Jr. for the Commission.
Mr. Gordon L. Bazelon, of Chicago, Ill., 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 Harry V. Plattner, an individual, trading under the name of Plattner Distributing Co., 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 interest of the public, hereby issues its complaint stating its charges in that respect as follows: