

Complaint

IN THE MATTER OF

SAMUEL R. ISRAEL AND AL GOLDSTEIN, TRADING AS
HOUSE OF ROYALSUN

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

Docket 5078. Complaint, Nov. 10, 1943—Decision, Apr. 27, 1945

Where the words "Shetland," "Saxony" and "Scotch" were long and favorably known to the purchasing and consuming public as descriptive, respectively, of products composed of the wool of sheep raised in the Shetland Islands, of products of foreign origin, and of products made from the wool of sheep raised in Scotland; and thereafter two individuals engaged in the interstate sale and distribution of knitting yarn; in catalogues, sample books, labels, letterheads, and otherwise—

Falsely represented the composition and source of their products through use of words "Shetland," "Saxony" and "Scotch"; as respectively descriptive of domestic yarns or yarns not composed of fibers of wool from sheep raised in the Shetland Islands; of yarns not composed entirely of wool nor of wool from sheep raised in the province of Saxony; and of yarns made neither entirely nor in part from the fleece of sheep raised in Scotland;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing and consuming public into the erroneous belief that said representations were true, on account of which a number thereof purchased a substantial volume of their said products:

Held, That said 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. Arthur F. Thomas*, trial examiner.

Mr. Carrel F. Rhodes for the Commission.

Mr. Samuel R. Israel, of New York City, for respondents.

COMPLAINT ¹

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 Samuel R. Israel and Al Goldstein, copartners, trading as House of Royalsun, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it

¹ Complaint published as amended by stipulation and agreement, approved April 19, 1945 by the Commission, as follows:

It is hereby stipulated and agreed, By and between Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, and Samuel R. Israel, attorney for the respondents, Samuel R. Israel and Al Goldstein, that the Commission's complaint in this case filed on the 18th day of November 1943, may be and hereby is amended by striking the words "or on islands contiguous to the mainland of Scotland," descriptive of Scotch wool, from the allegations in the indented subparagraph 3 of paragraph 3 and from the indented subparagraph 2 of paragraph 4 thereof.

It is hereby further agreed, By the respondents that the admission answer heretofore submitted by the respondents and dated April 17, 1944, may be received and accepted as the respondents' answer to the Commission's complaint as amended in paragraph 1 above.

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in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Samuel R. Israel and Al Goldstein, are individuals, trading as House of Royalsun, with their principal place of business located at 5 West 36th Street in the city of New York, State of New York.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in the sale and distribution of various grades and types of knitting yarn. Respondents cause their said products, when sold, to be transported from their place of business in the State of New York to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained a course of trade in their said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business in connection with the offering for sale, sale and distribution of their products in commerce, and for the purpose of inducing the purchase thereof by the public, respondents have made or caused to be made various statements and representations purportedly descriptive of their business and their products, and of the place of origin of, and the nature of the constituent fibers or materials of their products to be inserted in catalogs, sample books, labels and other printed and written material and on their letterheads, which they have distributed among customers and prospective customers located in the various States of the United States and in the District of Columbia.

Many of the designations and descriptions of the respondents' said yarns and of their constituent fibers and materials used by respondents are false and misleading. Among and typical, but not exclusive, of such false and misleading designations, descriptions, statements and representations are the following:

"Shetland" used as descriptive of domestic yarns or yarns not composed of fibers of wool from sheep raised in the Shetland Islands.

"Saxony" used as descriptive of yarns not composed entirely of wool and not composed of wool from sheep raised in the province of Saxony.

"Scotch" used as descriptive of yarns made neither entirely nor in part from the fleece of sheep raised in Scotland.

PAR. 4. The word "Shetland" has been long and favorably known to the purchasing and consuming public as descriptive of products composed of the wool of sheep raised in the Shetland Islands.

The word "Saxony" has been long and favorably known to the purchasing and consuming public as descriptive of products composed entirely of wool of foreign origin.

The word "Scotch" has been long and favorably known to the purchasing and consuming public as descriptive of products made from the wool of sheep raised in Scotland.

PAR. 5. The use by the respondents of the foregoing acts and practices has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and that respondents have truthfully represented the constituent fiber and material of which their products are made and the source and origin thereof, as well as the nature of their business. On account of these erroneous beliefs a

number of the consuming and purchasing public have purchased a substantial volume of respondents' said products.

PAR. 6. The aforesaid acts and practices of the respondents, as herein alleged, 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 November 10, 1943, issued and duly served its complaint in this proceeding upon Samuel R. Israel and Al Goldstein, copartners, trading as House of Royalsun, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint, the respondents filed their answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearings as to said facts, which said answer was duly filed in the office of the Commission. Thereafter, a stipulation and agreement was entered into between Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, and Samuel R. Israel, attorney for the respondents, whereby the complaint was amended in certain particulars, and it was agreed that the admission answer submitted by respondents and dated April 17, 1944, may be received and accepted as respondent's answer to the Commission's complaint as amended, which stipulation and agreement was duly approved by the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on said amended complaint and answer, and the Commission having duly considered the matter and being now fully advised in the premises, finds 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. Respondents, Samuel R. Israel and Al Goldstein, are individuals, trading as House of Royalsun with their principal place of business located at 5 West 36th Street in the city of New York, State of New York.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in the sale and distribution of various grades and types of knitting yarn. Respondents cause their said products, when sold, to be transported from their place of business in the State of New York to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business in connection with the offering for sale, sale and distribution of their products in commerce, and for the purpose of inducing the purchase thereof by the public, respondents have made or caused to be made various statements and representations purportedly descriptive of their business and their products, and of the place of origin of, and the nature of the constituent

fibers or materials of their products to be inserted in catalogs, sample books, labels, letterheads and other printed and written material, which they have distributed among customers and prospective customers located in the various States of the United States and in the District of Columbia.

Many of the designations and descriptions of the respondents' said yarns and of the constituent fibers and materials used by respondents are false and misleading. Among and typical, but not exclusive, of such false and misleading designations, descriptions, statements and representations are the following:

"Shetland" used as descriptive of domestic yarns or yarns not composed of fibers of wool from sheep raised in the Shetland Islands.

"Saxony" used as descriptive of yarns not composed entirely of wool and not composed of wool from sheep raised in the province of Saxony.

"Scotch" used as descriptive of yarns made neither entirely nor in part from the fleece of sheep raised in Scotland.

PAR. 4. The word "Shetland" has been long and favorably known to the purchasing and consuming public as descriptive of products composed of the wool of sheep raised in the Shetland Islands.

The word "Saxony" has been long and favorably known to the purchasing and consuming public as descriptive of products composed entirely of wool of foreign origin.

The word "Scotch" has been long and favorably known to the purchasing and consuming public as descriptive of products made from the wool of sheep raised in Scotland.

PAR. 5. The use by the respondents of the foregoing acts and practices has had and now has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and that respondents have truthfully represented the constituent fiber and material of which their products are made and the source and origin thereof, as well as the nature of their business. On account of these erroneous beliefs, a number of the consuming and purchasing public have purchased a substantial volume of respondents' said products.

CONCLUSION

The acts and practices of the respondents, 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 and the 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:

It is ordered, That respondents, Samuel R. Israel and Al Goldstein, trading as House of Royalsun, whether trading under that name or some other trade name, their representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for

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sale, sale, and distribution of knitting yarns in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Shetland" or any simulation thereof, either alone or in connection or conjunction with any other word or words, to designate, describe, or refer to any yarn or product which is not composed entirely of the wool of Shetland sheep grown on the Shetland Islands; provided, however, that in the case of a product composed in part of such wool and in part of other fibers or materials, such word may be used as descriptive of the Shetland wool content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

2. Using the word "Saxony" or any simulation thereof, either alone or in connection or conjunction with any other word or words to designate, describe, or refer to any yarn or product which is not composed entirely of wool imported from the province of Saxony or from sheep raised in the province of Saxony; *provided, however*, that in the case of a product composed in part of such wool and in part of other fibers or materials, such word may be used as descriptive of the Saxony wool content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

3. Using the word "Scotch" to designate or describe any product not made from the wool of sheep raised in Scotland; *provided, however*, that in the case of a product composed in part of such wool and in part of other fibers or materials, such word may be used as descriptive of the Scotch wool content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

4. Representing, through the use of the words "Shetland," "Saxony," "Scotch" or any other words or any terms indicating foreign origin, or otherwise, that yarns made or manufactured from domestic products are imported or made from imported products.

It is further ordered, That nothing herein contained shall be construed as prohibiting the use of the word "Shetland" to refer to the wool of Shetland sheep grown on the mainland of Scotland contiguous to the Shetland Islands.

It is further ordered, That respondents shall, within 60 days after the service upon them of this order, file with the Commission a report in writing setting forth in detail the method and form in which they have complied with this order.

IN THE MATTER OF

GUSTAVE GOLDSTEIN, TRADING AS
HUMANIA HAIR GOODS & SPECIALTY COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5249. Complaint, Nov. 21, 1944—Decision, Apr. 27, 1945*

Where an individual engaged in the interstate sale and distribution of cosmetic preparations under various names, including Luxe Hair Coloring, Eau Sublime, B. Paul's Compound, Herolin Skin Cream, Godefroy's Larieuse, Apex Skin Bleach, Magic Shaving Powder, Henry's Super-Light Working Oil, Working Oil, Henry's Sulphur Lanolin Treatment for Hair and Scalp, and Humania Dandruff Treatment for Hair and Scalp, and Humania Dandruff Treatment; through advertisements disseminated in catalogs and by other means, based, as asserted by him, on statements supplied to him by the manufacturers of the products involved and without his knowledge of their false or deceptive character—

- (a) Falsely represented that "B. Paul's Compound" hair dye was composed of harmless ingredients and could be used without harmful effects, and that "Herolin Skin Cream" provided a competent and effective treatment for superficial pimples and skin marks of external origin;
- (b) Falsely represented that "Henry's Super-Light Working Oil" and "Working Oil" were competent and effective treatments for itchy scalp and dandruff; that "Henry's Sulphur Lanolin Treatment for Hair and Scalp" was a competent and effective treatment for baldness, falling hair, itchy scalp and dandruff and that "Humania Dandruff Treatment" was a competent and effective treatment and cure for dandruff;

The facts being that none of said preparations was an effective treatment for many of the underlying conditions which cause itching scalp, or dandruff, and their use would not relieve itching in some scalp conditions, though said "Working Oils" and "Sulphur Lanolin Treatment" might temporarily relieve itching caused by minor scalp disorders and make loose dandruff scales less noticeable by matting them to the hair and scalp; and they would not prevent falling hair or baldness;

- (c) Failed in his advertisements of said "Luxe Hair Coloring," "Eau Sublime," "Godefroy's Larieuse," to reveal material facts with respect to the consequences which might result from their use under usual or prescribed conditions, in that said preparations were para-phenylenediamine hair dyes and potentially dangerous in that their use might cause skin irritations; they should not be used for dyeing the eyelashes or eyebrows, as to do so might cause blindness; and they should not be used in case of any disease of or eruptions on the skin or scalp, nor until after a proper patch test demonstrated that the person was not sensitive to them;
- (d) Failed in advertisements of its "B. Paul's Compound" hair dye to reveal facts material, as above set forth, in that said compound contained pyrogallie acid, which is a caustic and may cause skin irritation; should not be permitted to remain on the skin or scalp for prolonged periods of time, should never be used when the skin or scalp is broken or where an eruption is present, and should not be permitted to come into contact with the eyes;
- (e) Failed in advertisements of its "Apex Skin Bleach" to reveal facts material, as above set forth, in that it contained ammoniated mercury and might cause skin irritations; should not be applied to an area of the skin larger than the face and